

Applicant: Miss C Tucker

Proposal: Alterations to existing building to form single dwelling house;
demolition of unlisted buildings in the Conservation Area

Ward: Cropredy, Sibfords And Wroxton

Councillors: Cllr Ken Atack
Cllr George Reynolds
Cllr Douglas Webb

Reason for Referral: Cllr Reynolds Call in Request

Expiry Date: 3 January 2018 **Committee Date:** 14 December 2017

Recommendation: Refuse

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site comprises land to the rear of 5 Colony Road (which was most recently used for the purposes of agriculture) and is accessed via a track between 5 Colony Road and Little Acre. The Colony itself is a group of isolated dwellings outside of and to the south west of the village of Sibford Gower and is connected to the village by Colony Road (which is absent of a footpath).
- 1.2. The site is occupied by a single storey (with storage space above) building of a concrete block construction under an asbestos sheet roof. There are a number of other smaller scale outbuildings surrounding the main building which are of a similar construction.
- 1.3. The site does not contain any listed buildings, but is within the designated Sibford Gower with Burdrop Conservation Area. Approximately 125m to the south is a watercourse, but the site is not within flood zones 2 or 3. The site is approximately 200m to the north of the 347/1/10 public right of way and would be visible from this distance (due to the Sib Valley and a gap within the vegetation at the south of the site).

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The application seeks permission for the conversion of the main building to a residential property and the demolition of some of the smaller outbuildings.
- 2.2. The building would retain the existing footprint of the main building (with a slight infill to the north eastern corner - which is currently open sided). The building would have new windows and doors, utilising many of the existing openings. However, there would be a set of new patio doors on the rear (southern) elevation of the building. Two new high level windows would also be installed in the gables of the eastern and western elevations.
- 2.3. A small outbuilding would be retained on the site (to the south east of the main building) and would be used for the storage of logs and garden equipment. This was shown on an amended plan (drawing no. 5347.02 A) submitted on 29/11/2017

- 2.4. The land around the building equates to approximately 144sqm and is roughly the same as the space utilised by the retained building.
- 2.5. Access is provided from the existing position on Colony Road. No further details have been provided on the surface, materials or construction of this access.

3. RELEVANT PLANNING HISTORY

- 3.1. There is no planning history directly relevant to the proposal. It is, however, noted that a number of applications have been determined on land to the rear of other properties along the Colony which are of relevance to this application. Specifically, CHN.687/87, CHN.879/79, CHN.502/91, and 98/01014/OUT refer.

4. PRE-APPLICATION DISCUSSIONS

- 4.1. The following pre-application discussions have taken place with regard to this proposal:

<u>Application Ref.</u>	<u>Proposal</u>
17/00160/PREAPP	Proposed alterations to redundant piggery to form a single dwelling house

- 4.2. The applicants were advised under the above pre-application reference number that the principle of the conversion of this building from agricultural to residential is considered to be inappropriate and unacceptable. The proposal was to extend the existing building which was considered to go beyond conversion - with the increase in footprint and increase in height causing harm to the rural character of the area and the character and appearance of the Conservation Area. Furthermore, it was noted that the existing building is not considered worthy of retention or suitable for conversion, and no evidence had been provided to suggest that the building was structurally capable of this 'conversion'.

- 4.3. The pre-application concluded that:

The proposal would be situated outside of the built limits of the village of Sibford Gower (which has been established twice through appeal) and therefore the proposal would also be contrary to Saved Policies C8 and H18 of the CLP 1996; Policy ESD1 of the CLP 2031 (Part 1); and Government guidance contained within The Framework. It is also advised that the proposal do not fall within the remit of Policy Villages 1 of the CLP 2031 (Part 1) as it is outside of the built limits of the village.

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments is 28.12.2017.
- 5.2. 10 letters of support for the proposal had been received at the time of writing this report. Given that the consultation period is due to expire after the date of the committee, Members will be advised of any additional responses received after the writing of this report.
- 5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

6. RESPONSE TO CONSULTATION

- 6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. No comments had been received from Sibford Gower Parish Council at the time of writing this report.

STATUTORY CONSULTEES

- 6.3. Oxfordshire County Council as Local Highways Authority advises that they raise no objections to the proposal subject to two conditions.

NON-STATUTORY CONSULTEES

- 6.4. The Environmental Protection Officer raises no objections in regard to noise, air quality, odour or light. The EPO has, however, requested conditions in respect of contaminated land – should the proposal be granted.

- 6.5. The Ecologist advises that:

Regarding the above application, the bat survey of the existing building proposed to be converted has been undertaken appropriately and I can have confidence with the conclusions drawn and the proposed bat mitigation measures. However I note the proposals also include demolition of the smaller buildings adjacent which did not appear to be included in the scope of the bat survey... In light of the roosts present in the main building and the proposed works for demolition, an assessment of these buildings should also be undertaken...

- 6.6. The Building Control Officer advises that fire brigade access need to be in accordance with Approved Document B Volume 1 Section B5. Solid waste storage also to be in accordance with Approved Document H Section H6

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- Policy Villages 1 – Village categorisation
- PSD1 – Presumption in Favour of Sustainable Development
- ESD10 – Protection and Enhancement of Biodiversity
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: New dwellings in the countryside
- H19: Conversion of buildings in the countryside
- C8: Landscape Conservation – sporadic development
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- ENV1: Pollution Control
- ENV12: Contaminated Land

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

8. APPRAISAL

8.1. The key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highway Safety

Principle of Development

- 8.2. Paragraph 6 of the NPPF states that: “*The purpose of the planning system is to contribute to the achievement of sustainable development*”. Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking and Paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system. The NPPF goes on to say that, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
- 8.3. Paragraph 12 of the NPPF notes that the development plan is the starting point of decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015. Cherwell District Council can also demonstrate a five-year supply of deliverable housing sites, therefore the presumption in favour of sustainable development, as advised by the NPPF, will therefore need to be applied in this context.
- 8.4. Policy PSD1 reflects the Government’s aims of achieving sustainable development and states that the Council will work proactively, where possible, to secure development that improves the economic, social and environmental conditions in the area.
- 8.5. The NPPF promotes sustainable transport and at paragraph 34, states that decisions should ensure that developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. In this case, the site cannot be said to be located within a sustainable location, being located some distance from the main settlement and without good access to public transport connections. Furthermore, the application has no footpath connection to the Village (Colony Road being absent

of a footpath until within the limits of the village) and therefore any future occupiers are likely to be wholly depended on the use of private motor vehicles.

- 8.6. Further to the above, Policy ESD1 of the CLP 2031 (Part 1) states that measures will be taken to mitigate the impact of development within the District on climate change. This includes development which seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars. In this regard, the proposal would not support these aims (as advised above).
- 8.7. Whilst Sibford Gower is classed as a Category A Village (with potential for minor development, infilling and conversions) within the CLP 2031 (Part 1), the site itself cannot be said to be located within the built up limits of the settlement. It instead forms part of an isolated group of dwellings, built as a single build in the 1800s, to the south of the village of Sibford Gower. The group retains its isolated rural character, with large, undeveloped gaps remaining between the cottages, and between 'The Colony' and Sibford Gower itself.
- 8.8. The Council has consistently held the view that 'The Colony' is located beyond the built up limits of the settlement, within the open countryside and that gaps between the cottages should not be filled by development. The principle of development to the rear of Colony Road has been resisted in applications CHN.687/87; CHN.879/79; CHN.502/91; and 98/01014/OUT. The Council's position in this respect has been upheld twice at appeal on two different sites: the gap between 4 and 5 The Colony and the gap between 2 and 3 The Colony (applications CHN. 897/79 and CHN. 502/91 respectively, refers).
- 8.9. The proposal seeks permission for the conversion of the agricultural building to form a dwelling. Policy H18 relates to proposals for new dwellings in the countryside and states that unless the dwelling is essential for agricultural use or for low cost affordable housing, then it will conflict with this policy. Given that the dwelling is not required for either purpose, the proposal clearly conflicts with Policy H18. Thus, on the matter of principle, the proposal is considered to constitute unjustified and undesirable new housing development in an isolated location, remote from services and facilities and where there would be a reliance on the private car, contrary to Policy ESD1 and saved Policy H18 of the Local Plan.
- 8.10. Notwithstanding the above, it is noted that the proposal applies for the 'conversion' of the building. Therefore, Policy H19 of the CLP 1996 applies. This Policy deals with the conversion of buildings in the countryside and is intended to encourage the conversion of traditional farm buildings of some architectural or historic merit. It also states that its purpose is to encourage the conversion of rural buildings, 'whose form, bulk, and general design is in keeping with its surroundings'. It is not intended to apply to buildings of modern construction, of little aesthetic merit.
- 8.11. Having regard to the above, it is considered that the existing building has little architectural merit and is of a utilitarian design and appearance. It is not the type of building which would be covered by the intension of this policy and would therefore not be suitable for conversion under the provisions of Policy H19. Furthermore, no structural survey has been submitted with the application to determine whether or not the existing structure is capable of 'conversion' (given the additional loading of a slate roof).
- 8.12. The above view was taken in the determination of application CHN.687/87 (for the conversion of the same building) and concluded that it is unlikely that the barn could be converted without substantial rebuilding.

- 8.13. The applicant suggests in their covering letter that Policies H18 and H19 are 20 years old and 'are not consistent with up-to-date national planning policy'. However, Members are advised that these are retained policies within the Council's current Development Plan and Inspectors have determined recent appeals in accordance with these Policies, giving weight to these policies as forming part of the development plan. Members are therefore advised that they carry full weight and should be applied in this instance.
- 8.14. In addition to the above, the agent has suggested that the proposal would have been eligible for prior approval under Class Q, Part 3 of the GPDO, had the site not been located within the designated Conservation Area. However, as the proposal is situated within the designated conservation area, there is no genuine 'fall-back' position available to the applicants and thus, in accordance with Paragraphs 11 and 12 of the NPPF, the starting point for assessing the merits of the proposal is the Development Plan. Notwithstanding this, based on the evidence presented in the application and the condition of the building on site, it appears highly unlikely that the building could be converted in a manner that would meet the strict requirements of Class Q in any case.
- 8.15. Having regard to the above, the proposal is considered to amount to an inappropriate form of development by resulting in the consolidation of the existing isolated and sporadic development in the open countryside beyond the built up limits of the village of Sibford Gower. It would also set an undesirable precedent for similar proposals in the other existing gaps in 'The Colony' which would be equally vulnerable to this form of development and would be increasingly more difficult to resist. The proposal would be thus contrary to Saved Policies H18 and H19 of the CLP 1996; Policies ESD1 and ESD13 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within The Framework.

Visual Amenity

- 8.16. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 8.17. Policy ESD15 of the CLP 2031 further reinforces this view, in that new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. It also states development should contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features.
- 8.18. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the rural or urban context of that development.
- 8.19. Policy ESD 13 seeks to secure the enhancement of the character and appearance of the landscape, through the restoration, management or enhancement of existing landscapes, features or habitats. At the same time, the Policy requires development to respect and enhance local landscape character, stating that proposals will not be permitted if they would, inter alia, cause undue visual intrusion into the open countryside
- 8.20. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority

in respect of development in a conservation area: special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Conservation Areas are designated heritage assets, and Paragraph 132 of the NPPF states that: when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm loss should require clear and convincing justification. Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.

- 8.21. The site lies within the countryside and retains a very rural character. Whilst the building already exists, it is not considered to be of a design or appearance which would contribute positively to the character and appearance of the conservation area. The open, loose knit, character of this small group of cottages and their rural setting would be unduly disrupted by the conversion and alteration of this building to a dwelling, given the domestication of the building itself and the rural land to the rear of the site. It is further noted that Public Bridle Way 347/1/10 runs across the field to the rear (south), with views to the site possible from these locations. Should permission be granted, there would undoubtedly be pressure for the further proliferation of the residential paraphernalia of this dwelling which would have an urbanising effect on the open character of the landscape.
- 8.22. This is a conclusion regularly reached by the Council and by Planning Inspectors at appeal in relation to other, similar sites.
- 8.23. The existing building forms an agricultural building that is of modern construction and is of no particular architectural merit. The proposal is to repoint and paint the external walls of the building. The pre-application submission proposed to clad the existing building in stone work. It was advised at that stage that this would result in the slight improvement on the current situation. Nevertheless, this element has now been omitted from the current proposal and the proposed materials are not considered to enhance the character and appearance of the Conservation Area.
- 8.24. The proposal is situated to the rear of 5 The Colony and would be accessed by a track along the side of the property. The building is wholly within land to the rear of the property and its curtilage. The properties along The Colony predominantly front the street and have some relationship with the street. The current proposal is considered to be back-land development which is at odds with the prevailing pattern of development, which would be harmful to the open and rural nature of the site and its surroundings.
- 8.25. The applicant has advised in their covering letter that as part of this development she would put the overhead cables underground. It is noted that an 'action' within the Conservation Area appraisal is to 'encourage underground power cables to reduce visual pollution'. Whilst there would be some benefit in doing so in this area, no details have been provided of the extent of wires which would be put underground. Furthermore, no confirmation has been submitted from the utilities company to advise that this is a realistic possibility (and therefore may not actually be possible).
- 8.26. Even if details were forthcoming, it is not considered that this could be conditioned in any planning permission. When applying conditions, the Government's guidance is to apply all of the 6 tests: is it *'necessary; relevant to planning and; to the development to be permitted; enforceable; precise and; reasonable in all other respects'*. In this instance, a condition requiring the applicants to put the cables underground would be unreasonable, unrelated to planning and unrelated to the

development. Should Members be minded to approve the application (contrary to the Officer's recommendation), such a condition would not make the development acceptable. If a condition is imposed and the applicant's later apply to remove the condition, then it is likely that the application would be approved (as it is unlikely to be defensible at appeal having regard to the 6 tests). If Members are minded to approve the application, then regard should be had as to whether or not the development is acceptable regardless of the removal of the overhead cables.

- 8.27. No details have been provided on the works required to upgrade the existing track to the site. The proposal is also likely to require the removal of some of the hedgerow along the Colony (as per the pre-application advice) to allow the necessary vision splays and safe access to the site. The removal of these hedgerows is likely to compound the visual impact of the development and further domesticate the visual appearance of the site. This loss of hedgerow is also considered to result in demonstrable harm to the character and appearance of the Conservation Area by eroding the rural setting of the historic buildings within 'The Colony' and the relationship between the properties (former small holdings) and the land.
- 8.28. Having regard to all of the above, the proposal, by way of its backland position, fails to address the street in which it would be accessed from and would be wholly to the rear of 5 The Colony. The proposal would, thus be at odds with the prevailing pattern of development which would be harmful to the open and rural nature of the site and its surroundings and fail to preserve the character and appearance of the Conservation Area. The proposal is therefore contrary to Saved Policy C28 of the CLP 1996; Policy ESD 15 of the CLP 2031 (Part 1); and Government guidance contained within The Framework.

Neighbour Amenity

- 8.29. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.
- 8.30. Given the proposed siting of the property and isolated nature of the site, it is unlikely that there would be any harm caused to neighbour's amenity. Whilst there is a window on the side (east) elevation, this is unlikely to result in any overlooking of the neighbouring property (as any views are likely to be screened by the vegetation between the properties). Furthermore, the high level windows in the gables would not allow views out of, or into, the building and therefore would not result in a loss of privacy to the neighbouring occupiers or the future occupiers of the application site.

Highway Safety

- 8.31. Policy ESD15 of the CLP 2031 Part 1 states, amongst other matters, that new development proposals should: be designed to deliver high quality safe...places to live and work in. This is consistent with Paragraph 35 of the NPPF which states that: developments should be located and designed where practical to...create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.
- 8.32. The Local Highway Authority (LHA) raises no objections to the proposals, subject to certain conditions. Whilst it is noted that there have, in the past, been issues regarding the provision of access to the site, in this instance the LHA did not raise any objections to this application. It is therefore, considered that a reason for refusal on this basis could not be sustained at appeal.

Ecological Impact

- 8.33. Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states that: *It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.*
- 8.34. Paragraph 109 of the NPPF states that: *The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity where possible.* This requirement is echoed by Policy ESD10 of the CLP 2031 Part 1.
- 8.35. The applicant has provided a Bat Assessment with the submission of the application. The Ecologist has advised that they raise no objections to the proposal (following clarity that the smaller outbuildings have also been surveyed). The proposal is, therefore, considered to be acceptable in this regard.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. Having regard to all of the above, the proposal is considered to result in the creation of a dwelling outside of the built limits of the village of Sibford Gower and therefore the proposal would also be contrary to Saved Policies C8 and H18 of the CLP 1996; Policy ESD1 of the CLP 2031 (Part 1); and Government guidance contained within The Framework. The proposals do not fall within the remit of Policy Villages 1 of the CLP 2031 (Part 1) as it is outside of the built limits of the village.
- 9.2. Notwithstanding the above, the proposal, by way of its back land position, fails to address the street in which it would be accessed from and would be wholly to the rear of 5 The Colony. The proposal would, thus be at odds with the prevailing pattern of development which would be harmful to the open and rural nature of the site and its surroundings and fail to preserve the character and appearance of the Conservation Area. The proposal is therefore contrary to Saved Policy C28 of the CLP 1996; Policy ESD 15 of the CLP 2031 (Part 1); and Government guidance contained within The Framework.

10. RECOMMENDATION: That permission is refused, for the following reason(s):

- 1) The proposal would amount to an inappropriate form of development by resulting in the consolidation of the existing isolated and sporadic development in the open countryside beyond the built up limits of the village of Sibford Gower. This would set an undesirable precedent for similar proposals in the other existing gaps in 'The Colony' which would be equally vulnerable to this form of development and would be increasingly more difficult to resist. It would also result in development which is at odds with the prevailing pattern of development - which is harmful to the open and rural nature of the site and its surroundings and fails to preserve the character and appearance of the Conservation Area. The proposal would be thus contrary to Saved Policies C8, C28, H18 and H19 of the CLP 1996; Policies ESD1, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within The Framework.