

# REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	<b>13 July 2011</b>		
<b>Application Number</b>	<b>11.01501.FUL</b>		
<b>Site Address</b>	<b>Barn 3, Common Farm, Quemerford, Calne, Wilts. SN11 8UB</b>		
<b>Proposal</b>	<b>Conversion of Barn to Single Dwellinghouse and Ancillary Works (Retrospective) (Revised Proposal)</b>		
<b>Applicant</b>	<b>Mr &amp; Mrs J Miller</b>		
<b>Town/Parish Council</b>	<b>Calne Without</b>		
<b>Electoral Division</b>	<b>Calne South &amp; Cherhill</b>	<b>Unitary Member</b>	<b>Councillor Alan Hill</b>
<b>Grid Ref</b>	<b>401282 169887</b>		
<b>Type of application</b>	<b>FULL</b>		
<b>Case Officer</b>	<b>Brian Taylor</b>	<b>01249 706 683</b>	<b>Brian.taylor@wiltshire.gov.uk</b>

## Reason for the application being considered by Committee

The application is to be determined by Committee at the discretion of the Area Development Manager (with the agreement of the Chairman of the Northern Area Development Control Committee and the Division Member) in order that the unusual history of this site can be assessed and considered by Members of the Committee.

### 1. Purpose of report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions.

### 2. Report summary

The main issues in the consideration of this application are as follows:

- Principle of development
- Issues raised by the Planning Inspector

The application has generated no comment from the Town Council and no objections from the public, although comments have been received from the immediate neighbours.

### 3. Site Description

The building is a single storey building (originally an agricultural building part of Common Farm). It is largely completed in terms of its "conversion". It sits between Unit 2 (a large converted "threshing barn") and Units 4 and 5 (an L shaped single storey converted building).

#### 4. Relevant Planning History

NB: There are a number of other applications that relate solely to other units (Units 1, 2, 4 and 5) within the Common Farm complex which are not detailed below.

Application Number	Proposal	Decision
05/0342/COU	Conversion of Equestrian Outbuildings & Stables to Five Residential Units	PERMIT March 2006
08/01974/FUL	Conversion of Barns 2 and 3 To One Unit Involving Extensions and Alterations ( <i>proposing demolition and rebuild of Unit 3 to form annex to Unit 2</i> )	REFUSED November 2008
09/01926/FUL	Conversion of Barn 3 to Single Dwelling (Including Partial Reconstruction) - Retrospective	REFUSED December 2009  Appeal DISMISSED November 2010

#### 5. Proposal

The proposal seeks retrospective planning permission for a conversion of a barn (within a complex of barn conversions which is nearing completion). Planning permission had been granted for the conversion of the barn (along with others in the group), but during implementation a significant amount of the barn was incrementally demolished and rebuilt. Officers took the view that, as the barn had been in effect replaced by new build rather than converted as indicated in the permission granted, the building was unauthorised. A subsequent application to regularise the position was refused (under delegated powers) and a subsequent appeal dismissed. This application again seeks to regularise the situation.

#### 6. Planning Policy

North Wiltshire Local Plan: policies C3, H4 and BD6

#### 7. Consultations

#### 8. Publicity

The application was advertised by site notice, press advert and neighbour consultation.

One letter of comment was received.

- Unsure how parking for three vehicles will be accommodated on the area shown without impeding access to Barns 4 and 5
- Would rather see existing wall retained rather than extending the 'hacienda' style wall/fence approach.
- Would wish to see reclaimed tiles rather than new tiles on the roof.

#### 9. Planning Considerations

As will be apparent from the comments above and the planning history there is a long and involved series of applications and an appeal that relate to this particular building. This report attempts to set out the context within which Members need to consider the current proposal.

The Council's Policy that specifically refers to the re-use of rural buildings (and applied therefore to 'barn conversions') is Policy BD6. This is a generally permissive policy subject to a number of criteria or caveats. The first criteria is that 'the proposed use will be contained within the building and **does not require extensive alterations, rebuilding and or extension.**' The Council have consistently and successfully argued that a development that results in the substantial or complete demolition of an existing building, even if the resultant building is of the same dimensions and appearance of the permitted 'conversion', cannot be considered to comply with this policy. Members will be aware of examples of this approach and that this has been successfully defended at appeal.

In relation to this particular building permission was granted for its conversion, Officers became aware that parts of the building had effectively been rebuilt during implementation and took the view that the building no longer had the benefit of planning permission (being a new build not a conversion). An application (09/01926/FUL) seeking permission for conversion of the building (with amendments) was refused (broadly on the grounds that it was not a conversion but a new build) and the appeal was dismissed. A copy of the Inspectors decision is attached as an appendix.

It is important to the consideration of this case to examine carefully the whole of the Inspectors decision and the implications for the Council in seeking to resolve this matter.

The Inspector (in his letter 23<sup>rd</sup> November 2010) draws a number of conclusions that support the Council's approach to development at this site. At paragraph 13 he concludes that "the development for which permission is sought does not comply with the development plan Policies on the re-use of rural buildings and is more akin to the construction of a new dwelling". He concludes at paragraph 17 that the Council has done nothing to imply a lack of consistency of approach. At paragraphs 14 and 15 he addresses the matter of the planning application submitted in 2006 which indicates that the development *is* a conversion in the description, supporting documents ("*The only alterations will be the necessary repair work....these works will mainly be internal*") and plans, which "*do not detail any major alterations*".

The Inspectors conclusions are clear and unambiguous, Barn 3 has not been built in accordance with the approved plans and to all intents and purposes is a new house in the countryside.

It is, however, left for the Council to determine what action would be required to address this unauthorised development. On the matter of taking enforcement action the Inspector states that he has not been informed of the nature of any enforcement notice that may subsequently be served and so makes no comments on what action may be necessary to 'rectify' the situation. In coming to a conclusion Officers have taken into account the *whole* of the Inspectors decision letter, so not only the very clear conclusions reached in relation to the development as built (summarised above) but also the perhaps more negative comments relating to the decisions taken by the Council on earlier applications and other development on the site.

The Inspector in commenting on the conversion of Barns 4 and 5 (immediately adjacent to Barn 3 which are largely complete and occupied) writes that the proposals were "at best...borderline of falling within the requirements of Policy BD6 in terms of the extent of re-build and alterations" (paragraph 20). Also the Inspector comments on the permissions granted on barn 1. Despite Officer's reservations that, following the grant of permission (05/03242/COU), the barn had largely been demolished and rebuilt the Development Control Committee granted retrospective planning permission (09/01538/FUL). The Inspector comments, "it is not entirely clear why this decision was made" and in his view "what was permitted, given what had occurred to the building, amounted to an extensive rebuilding" (paragraph 24). At paragraph 25 he goes on "The degree of works that were permitted to barn 1 makes it difficult to distinguish greatly between that proposal and the case before me in a way that supports the Council taking a different stance between them". The Inspector indicates that the case officer acknowledged this issue and on this ground alone may initially have been favourably disposed towards the proposals for barn 3.

Therefore, whilst the Inspector dismissed the appeal he makes it clear in his decision that other barns in the complex have also been subject to a considerable amount of rebuild and the Council has authorised this in respect of barn 1 and barns 4 & 5.

Following the Inspectors decision there were perhaps three options available to the Council.

Firstly, the Inspector clearly indicates that the Council could consider enforcement action (although he very deliberately makes no judgement or comment on what the outcome may be). If enforcement action is undertaken Officers believe the only comprehensive way of addressing this would be to seek the removal of the building in its entirety and the site to be returned to a state to be agreed. This would be a major step for the Council to take and members should not underestimate the implications for both Council and applicants. It should be anticipated that any enforcement notice would be appealed and any moves to remove the building would be resisted strongly by applicants. The Council does take a strong line in terms of its enforcement function and does not shirk these responsibilities. However, the Council also has to take a view as to whether enforcement action would be expedient, assess the likelihood of success at any appeal and consider what it is aiming to achieve. Uppermost in Officers minds when considering this case has been the likelihood of succeeding in removing the building and the length of time the process would take and the continued uncertainty and resultant stress for the applicants and neighbouring owners (particularly of Barns 4 and 5).

Secondly, the Council could consider taking a more limited enforcement to rectify some of the works that have been undertaken that do not reflect the permissions granted, particularly refer to the roofing material issue mentioned by the Inspector.

The third approach was to invite an application to authorise the 'rebuilt' barn conversion and to identify the works that need to be undertaken to bring the development as built more in line with that approved (in appearance at least).

The view of Officers is that taking enforcement action to seek the removal of the building from the site would be unlikely to be successful. Despite the conclusion of the Inspector in agreeing with the Council that the existing dwelling does not comply with Policy, the decision makes it clear that other properties on the site have been substantially altered (in most cases not as substantially as barn 3, but still 'at the borderline' of policy [barns 4 and 5] or representing 'extensive rebuilding' [barn 1]). In these circumstances it would be hard to justify taking such a hard line on barn 3.

Officers discussed options with the applicants and their agent. It was determined that the best way forward would be for an application to be submitted to propose amendments to the barn as built which would make it more in keeping (in visual terms at least) with the barn as originally permitted.

The Inspector makes number of comments that he clearly feels were fundamental to his consideration of the scheme. In particular the Inspector notes that the roof covering was originally triple roman tiles and these have been replaced by stone tiles. The applicant has shown in this application that it is the intention to replace the existing tiles with double roman tiles. This would go a long way to 'reintegrating' the barn into the wider complex.

This application therefore proposes to re-roof the barn in double roman tiles and to replace some of the boundary treatments with a mix of walling and fencing. The plans also indicate hard surfacing and parking areas.

Whilst the roofing material (subject to agreement of samples) is acceptable proposals for the fence/wall to replace the existing wall appears even more suburban than the existing wall. The immediate neighbours have indicated that they would prefer to see the existing wall retained. Amended plans to remove the fencing proposed (and to leave the boundaries as existing) have been sought.

## 10. Conclusion

This is a very unusual case. Essentially an application to retain a barn (which had been largely demolished and rebuilt (albeit incrementally) was refused permission and an appeal was dismissed. The Inspectors decision, whilst clear and unambiguous in its conclusion, implies some criticism of the way the Council has dealt with this building, particularly in relation to Barn 1 (which was granted permission following a similar amount of demolition). Officers consider that enforcement action seeking the removal of the building entirely would be unlikely to be successful. Therefore it would appear the only option open to the Council is to grant permission for the retention of the building (with amendments to more closely reflect the permissions granted)

## 11. Recommendation

Planning Permission be GRANTED for the following reason:

The proposal is for the retention of an unauthorised building. The Council has carefully considered the circumstances relating to this building and other buildings within the complex. The Council has concluded that the building does not strictly comply with Policies H4 or BD6 of the North Wiltshire Local Plan. However, it is not considered expedient to take enforcement action seeking its removal. The removal of the building would be unlikely to have any significant beneficial effect upon the setting of adjacent buildings or the wider landscape. Because of the specific circumstances that have lead to this decision is not considered that retention of this building will set a precedent that could be applied more widely. Therefore whilst the building does not comply with Policies H4 and BD6 of the North Wiltshire Local Plan 2011 there are material circumstances that have lead the Council to grant permission.

Subject to receipt of amended plans showing amended boundary treatment and the following conditions:

1. Within six months of the date of this permission the existing roofing material shall have been replaced with clay roman tiles, samples of which shall first been submitted to and agreed in writing with the local planning authority.

Reason: To ensure the building is more appropriate in appearance to its surroundings and neighbouring buildings in accordance with Policy C3.

2. The development hereby permitted shall be implemented in accordance with the submitted plans and documents listed below. No variation from the approved plans should be made without the prior approval of the local planning authority. Amendments may require the submission of a further application.

Drawing Numbers 2205/01 and 2205/02 received 21<sup>st</sup> April 2011.

REASON: To ensure that the development is implemented as approved.



1.22m RH

1.22m FF

1.22m RH