

REPORT OUTLINE FOR AREA PLANNING COMMITTEES

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| Date of Meeting | 11 March 2015 |
| Application Number | 15/00267/FUL |
| Site Address | Land Rear of Bay Tree Cottage The Butts Biddestone SN14 7DT |
| Proposal | New Dwelling (Resubmission of 14/10722/FUL) |
| Applicant | Mr John Penny |
| Town/Parish Council | BIDDESTONE |
| Division | BY BROOK- Cllr Jane Scott OBE |
| Grid Ref | 386068 173460 |
| Type of application | Full Planning |
| Case Officer | Mark Staincliffe |

Reason for the application being considered by Committee

The application has been called in by Cllr Jane Scott to consider the effect of the design, size and bulk of the development on the character of the conservation area, countryside setting and residential amenities of adjoining neighbours.

1. Purpose of Report

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

2. Report Summary

The main issues are:

- Principle of development
- Impact on the character and appearance of the conservation area and setting of adjacent Listed Building
- Impact on the residential amenities of adjoining properties
- Financial contributions

3. Site Description

The footprint of the new cottage is brought back from the road to allow it to reduce its visual weight on the street scene.

This application proposes the construction of a modest vernacular cottage on a section of a rear garden accessed from Challows Lane, Biddestone. The site itself is to the rear of Bay Tree Cottage which is a Grade II listed building and fronts onto The Butts and is located within the Biddestone conservation area, AONB and is clearly visible from both public and private vantage points.

The site was formally within the settlement framework boundary of Biddestone, however, these boundaries were removed on the adoption of the Wiltshire Core Strategy.

The lane begins in the center of the conservation area and its narrow nature is reflected in the single storey buildings fronting directly onto the lane, but as you continue toward this site the lane opens out and becomes more about individual houses set back from the road moving on to a more modern 'estate type' housing.

4. Planning History

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|-----------------|--|
| 13/02178/FUL | Single Storey Side/Rear Extension |
| 13/02179/LBC | Single Storey Side/Rear Extension |
| N/11/01706/LBC | Internal Alterations to Staircase, Ground and First Floor Partitions and External Alterations to a Rear Door Opening |
| N/12/03081/TCA | Fell 1 Hawthorn & 1 Laburnam Tree |
| N/13/01202/FUL | Single Storey Side & Rear Extension to Provide Garden Room |
| N/13/01203/LBC | Single Storey Side & Rear Extension to Provide Garden Room |
| 13/05502/TCA | 30% Crown Reduction To 2 Prunus, 1 Silver Birch Tree, 1 Walnut Tree and 1 Willow Tree |
| 14/01898/PREAPP | Erection of 3 Bed Dwelling |
| 14/10722/FUL | New Dwelling (Withdrawn) |

5. The Proposal

The proposed development involves the demolition of the existing outbuilding and construction of a two storey detached dwelling with two off street parking spaces.

6. Planning Policy

Wiltshire Core Strategy:

CP10- The Spatial Strategy: Chippenham Community Area

CP43- Providing affordable homes

CP49- Protection of rural services and community facilities

CP51- Landscape

CP57- Ensuring High Quality Design and Place Shaping

CP58- Ensuring the Conservation of the Historic Environment

National Planning Policy Framework 2014:

Achieving sustainable development – Core Planning Principles

Chapter 7- Requiring Good Design

Chapter 8- Promoting healthy communities

Chapter 11- Conserving and enhancing the natural environment

Chapter 12- Conserving and enhancing the historic environment

7. Consultations

Housing- We can confirm therefore, that under current policy approaches, we would not be seeking an affordable housing contribution from this application.

Biddestone Parish Council- Object to the development as proposed. However, the Parish Council would support the principle of a dwelling in this location subject to appropriate size & design.

Public Open Space- This development generates a need for £5,820 in offsite Open Space Contribution to be used to upgrade facilities at Biddestone Green

Highways- I recommend that no highway objection is raised subject to the following conditions:

No development shall commence on site until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2.4 metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 43 metres in either direction from the centre of the access in accordance with the approved plans. Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 900mm above the level of the adjacent carriageway.

No part of the development hereby approved shall be first brought into use until the parking area shown on the approved plans has been consolidated, surfaced and laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter.

Amended Plans have been received. The consultation period expires prior to the committee meeting. Any additional comments will be presented as late items.

Conservation- Object- The application will have an adverse impact on the character and appearance of the Conservation area. No objection in relation to the setting of the Listed Building.

8. Publicity

The application was advertised by site notice and neighbour consultation. This resulted in the submission of 20 objections and 0 letters of support. A summary is set out below:

- Loss of privacy
- Inappropriate size & scale
- Loss of visual amenity
- Garden grabbing
- Over bearing impact on adjacent properties
- Loss of sunlight/daylight
- Poor design
- Adverse impact on the conservation area and setting of the listed building
- Outbuilding should be retained
- Should be a single storey dwelling
- Highway safety issues, parking area is unsafe
- Positioning in the street scene is poor
- Not consistent with established planning policies
- Overdevelopment of the site
- Plans are deceptive, indicates that the site is flat/level. It is not.

Amended Plans have been received. The consultation period expires prior to the committee meeting. Any additional comments will be presented as late items.

9. Planning Considerations

Principle of Development

Section 38(6) of the Planning and Compulsory Purchase Act states that “*determination must be made in accordance with the plan unless material considerations indicate otherwise*”.

This is the starting point from a policy point of view. The Wiltshire Core Strategy forms the local component of the current development plan.

The site was situated within the settlement framework Boundary of Biddestone wherein the redevelopment of land for residential accommodation was acceptable in principle. However, the settlement framework boundary has been removed and any proposed development must be considered against core Policy 1 & Core Policy 2 of the Cores Strategy.

The proposal is for the construction of a new residential dwelling. As such, any new residential development must be considered against Policies CP1 & CP2 of the Wiltshire Core Strategy and Sections 1, 6 & 7 of the NPPF. These policies and guidance allow for residential development in principle providing the development is infill within the existing built area.

When making a decision on any application for development that affects a listed building or its setting, a local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Preservation in this context means not harming the interest in the building, as opposed to keeping it utterly unchanged.

This obligation, found in sections 16 and 66 of the Planning (Listed Buildings and conservation Areas) Act 1990 (1), applies to all decisions concerning listed buildings. Decision-making policies in the NPPF and in the Core Strategy are also to be applied, but they cannot directly conflict with or avoid the obligatory consideration in these statutory provisions.

In the consideration of this application special attention to the desirability of preserving or enhancing the character or appearance of that area must take place. The House of Lords in the South Lakeland case decided that the “statutorily desirable object of preserving the character of appearance of an area is achieved either by a positive contribution to preservation or by development which leaves character or appearance unharmed, that is to say preserved.”

A development that merely maintains the status quo, perhaps by replacing a building that detracts from the character and appearance of the conservation area with a similarly detrimental building, would satisfy the statutory consideration.

Section 11 of NPPF states that the planning system should contribute to and enhance the natural environment by protecting and enhancing valued landscapes. At paragraph 111 of the NPPF it states that policies and decisions should encourage the effective use of land, provided that it is not of high environmental value. However, this must be balanced against the need to apply great weight to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty as these have the highest status of protection in relation to landscape and scenic beauty.

Effects on appearance of building

Since the submission of the original planning application minor changes have been made to the proposed development in an attempt to overcome concerns expressed by local residents. This has included the reduction in the height of the building (600mm)

The design of the new house is considered to be appropriate. The proposed dwelling is of simple proportions with a rectangular footprint and a traditional roof form. However, it also has sufficient detailing to add interest to the design. In particular the lintel and sill details and

the staggered roof form complement the overall design. It is considered that the design and appearance of the properties creates an attractive frontage that relates well with the street scene and countryside. As such the proposed design is considered to meet the requirements CP57 of the Core Strategy and section 7 of the NPPF.

Garden Size

The proposed garden area is comparable, if not larger to the gardens within the area and adjacent properties. Bearing in mind the size of the dwelling it is considered that the outdoor space provided satisfies the guidance for outdoor amenity space for a new dwelling. The proposal would allow for some outdoor space, sitting out, bin storage and for hanging out of washing, the proposal would also provide outdoor amenity space for a family to enjoy.

To ensure that adequate amenity space is retained it is deemed necessary to remove permitted development rights for rear extensions and outbuildings. This will allow the Council to control any future extensions and ensure that adequate amenity space is retained.

Impact on Neighbours

The concerns raised by immediate neighbours in relation to privacy, loss of sunlight/daylight and the overbearing impact of the proposed development are noted. To overcome these concerns the applicant has revised the proposed development and moved it away from the boundary.

To refuse permission based on its location in relation to its relationship with 'The Byre' would be difficult to substantiate. No habitable windows directly over look 'The Byre', The Byre is located to the West of the proposed dwelling and the proposed dwelling is sufficient distance from the proposal to ensure that it is not overbearing.

It is considered that the proposed development, on balance, would not cause harm to the residential amenities of surrounding properties. The development will not result in any significant loss of sunlight, daylight or privacy for adjoining properties.

Design and Impact on the Conservation Area

The site is located within the conservation area and is located within close proximity of a grade II listed building.

The NPPF seeks positive improvement in conservation areas. Most explicitly paragraphs 126 and 131 require that local planning authorities should take into account "the desirability of new development making a positive contribution to local character and distinctiveness".

Paragraph 9 says that pursuing "sustainable development involves seeking positive improvements in the quality of the...historic environment...". The design policies further reinforce the objective of enhancement of an area's character and local distinctiveness, concluding that "Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area..."

Compliance with both the statutory consideration and the NPPF policies therefore, generally speaking, requires account to be taken of the desirability of taking opportunities to enhance the character and appearance of a conservation area.

The Council's Conservation Officer has raised an objection to the proposal and concluded that the proposed development would not have an adverse impact on the settling of the listed building but would have a detrimental impact on the character of the Conservation Area.

The existing single storey building is of poor quality design and in a condition of poor visual appearance. As set out above the proposed dwellings, though of a different design to the dwellings either side of the site is of a high quality design and sits comfortably within the street scene.

Paragraph 120 of the NPPF requires that development should preserve or enhance the established character of the conservation area. The existing site has already been separated from the existing listed building and is not attractive. The NPPF states that good design should contribute positively to making places better.

This part of the Conservation area and buildings beyond it have a diverse range of uses and buildings which span many centuries. This part of the conservation area has, over time, been developed by way of infill dwellings and conversion of existing outbuildings and has no distinct character, unlike the dwellings fronting onto the Butts. In general dwellings and buildings fronting onto Challows Lane do just that and there is very little relief from the public highway. However, some properties are set back from the road.

It is this diverse range of buildings and uses, together with the sloping topography, soft landscaping and expansive views beyond the settlement, which contribute to the character and appearance of this Conservation Area.

Whilst the properties fronting onto Butts comprises traditional housing the properties fronting onto Challows Lane are quite different. It comprises a traditional outbuildings, bungalows, chalet bungalows and mock barn conversions all of varying design, sizes and scale, appearance and materials. In particular, they include a variety of pitched roofs of various pitch, finish and ridge height.

The site is currently occupied by a part original, part poorly restored outbuilding of no particular architectural merit and the land is currently being used for informal external storage. Visually this site and the building has a degrading impact on the site, the street scene, the setting of the AONB and Conservation Area.

The proposed dwelling would respect the informal building lines that have been adopted within the street, and overall proportions and of context of the dwellings within the immediate street. The proposed dwelling would be of traditional proportions both vertically and horizontally and its fenestration would have a strong vertical emphasis. At second floor level this would include windows, which would be consistent with the modest sized windows on other properties within the locality. Similarly the proposed pitched roof would pick up on the design characteristics within the locality and conforming to principles set out within the Cotswold Design Guide (this is not a Wiltshire Council DPD but does set out good design principles for development within the AONB).

Overall the proposed dwelling would respect the topography of the street, the character of the area, and would improve the visual character of the area. It is acknowledged that the ridge height would be greater than that of the adjacent property, however, the proposal would form an interesting and appropriate transition between this, what appears to be a former outbuilding, and the varied and predominantly modern developments further to the West.

It is recognised that some of the modern buildings in the immediate area are uninspiring and in some instances have a negative impact on the character or appearance of the Conservation Area. However as with all buildings, whether traditional or contemporary, the success with which they blend in with and make a positive contribution to the street scene is dependent on the quality of the design and the precise nature and quality of the materials used.

In this instance the scheme is for a high quality building, which responds to local character and history and reflects the identity of local surroundings and materials. Provided it is constructed from high quality materials it would make a positive contribution to the character and appearance of the Conservation Area and would enhance the conservation area and AONB. It would therefore comply with the National Planning Policy Framework, both in relation to its design and its impact on the identified heritage assets/AONB. It would also comply with the conservation policies and advice set out in the Core Strategy.

Local residents have concerns with this approach and consider the proposed design, prominence within the street scene and conservation area result in negative impacts on the character of the area thus contrary to local and national planning policies. There is no predominant housing type fronting this road. The NPPF indicates that good design is fundamental to using land efficiently. For the reasons set out above the development is considered to be acceptable.

Setting of the Listed Building

The House of Lords in the South Lakeland case decided that the “statutorily desirable object of preserving the character of appearance of an area is achieved either by a positive contribution to preservation or by development which leaves character or appearance unharmed, that is to say preserved.”

The existing structure, boundary treatment and condition of the land is considered to be poor and as such has an adverse impact on the setting of the listed building. The proposed dwelling will be visible from the listed building but views of the listed building within the wider street scene context will be limited. Irrespective of the above it is considered that the proposed dwelling is of high quality and relates well to the context and setting of the adjacent listed building and thus improves the character of the area over and above the existing situation.

The proposal is considered to accord with CP58 of the Core Strategy and the NPPF.

Financial Contributions

On 28 November 2014, changes were made to the collection of s106 contributions and are now incorporated into the NPPG with effect from that date.

The changes mean that affordable housing and tariff-style contributions are no longer payable if the development site has 10 houses or fewer *and* a maximum combined gross floorspace of no more than 1000 sqm.

Following this change, the Council can no longer seek financial contributions towards affordable housing and tariff contributions on schemes of 1-9 units with a gross area of no more than 1,000sqm

RECOMMENDATION

Planning permission be **GRANTED** subject to the planning conditions set out below:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 No development shall commence on site until all the existing buildings on site have been permanently demolished and all of the demolition materials and debris resulting there from has been removed from the site.

REASON: In the interests of the character and appearance of the area.

- 3 No development shall commence on site until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: In the interests of visual amenity and the character and appearance of the area.

- 4 No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-

- a) location and current canopy spread of all existing trees and hedgerows on the land;
- b) full details of any to be retained, together with measures for their protection in the course of development;
- c) a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- d) means of enclosure;
- e) all hard and soft surfacing materials;
- f) minor artefacts and structures

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 5 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part

of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 6 The development hereby permitted shall not be occupied until the the access and parking area has been consolidated and surfaced (not loose stone or gravel). The access and parking shall be maintained as such thereafter for the parking of vehicles associated with the use of the dwelling hereby approved.

REASON: In the interests of highway safety.

- 7 No development shall commence on site until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2.4 metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 43 metres in either direction from the centre of the access in accordance with the approved plans. Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 900mm above the level of the adjacent carriageway.

REASON: In the interests of highway safety

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-F shall take place on the dwellinghouse hereby permitted or within their curtilage.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.

- 9 No development shall commence on site until details of the storage of refuse, including details of location, size, means of enclosure and materials, have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved refuse storage has been completed and made available for use in accordance with the approved details and it shall be subsequently maintained in accordance with the approved details thereafter.

REASON: In the interests of public health and safety.

- 10 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use/first occupied [DELETE as appropriate] until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained.

- 11 No works shall commence on site until details of all rainwater goods and their means of fixing to the building have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

REASON: In the interests of preserving the character and appearance of the conservation area.

- 12 No development shall commence on site until details of the proposed ground floor slab levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels details.

REASON: In the interests of visual amenity.

- 13 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drg No: 436/PL/S/1a

Drg No: 436/PL/3c

Drg No: 436/PL/7a

Drg No: 436/PL/8a

Drg No: 436/PL/D1

Drg No: 436/PL/D2

Drg No: 436/PL/D3

Drg No: 436/PL/D4

REASON: For the avoidance of doubt and in the interests of proper planning.

INFORMATIVE TO APPLICANT:

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

INFORMATIVE TO APPLICANT:

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

