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Report

SUBJECT: Planning application S/2007/2229
at Cowshed Barn, Milford Farm, Petersfinger Road, Salisbury

REPORT TO: Planning and Regulatory Committee

DATE: 12 February 2008

AUTHOR: Oliver Marigold, Senior Planning Officer

Reason for Report:

The purpose of this report is to consider a planning application for the retrospective erection of a new dwelling. The dwelling proposed is on the site of a cow shed and would be formed partly from the retention of the remaining two walls of the original building (with rebuilding of the other two walls and roof), an extant (rebuilt) single storey section, a new 2 storey extension, and associated works.

The application has been brought before the Planning and Regulatory Committee because the Southern Area Committee's recommendation is considered to be a material departure from Saved Policies H23, C2 and C7 of the Adopted Salisbury District Local Plan (June 2003).

Background:

The application was recommended for refusal by officers and was considered by members at Southern Area Committee on 8th January 2008. Following a site visit members resolved to recommend approval for the following reasons:

"It is considered that there are exceptional reasons in this case for planning permission to be granted despite non-compliance with Local and National Planning policies in the countryside, given the very specific site and case circumstances. In particular, it is considered that the appearance of the resultant dwelling will not cause significant demonstrable visual harm in comparison to the earlier approved conversion proposal, it is in a sustainable location, and the resultant dwelling will retain a cohesive group of buildings and courtyard appearance that will contribute to the appearance of the area. It is not considered that this would set a precedent for any other site. The retention of the development as built and proposed would

not harm highway safety, archaeological interests, protected species or any other material planning considerations. “

The setting of conditions was delegated to the Head of Development Services. The recommended conditions are therefore:

(1) Notwithstanding the provisions of Classes A to H of Schedule 2 (Part 1) to the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order with or without modification), there shall be no extensions or alterations to the dwelling(s) nor the erection of any structures within the curtilage unless otherwise agreed in writing by the Local Planning Authority upon submission of a planning application in that behalf. (V15A)

Reason (1) in the interests of the character and appearance of the countryside and Special Landscape Area

(2) The landscaping of the site shall be as agreed in connection with application S/2004/0948. Landscaping shall be undertaken as agreed before the first occupation of the dwelling hereby approved.

Reason (2): in the interests of the character and appearance of the area

(3) If within a period of 5 years any planting as so approved is removed uprooted destroyed or dies or becomes in the opinion of the local planning authority seriously damaged or defective new planting of the same species and sizes as that originally planted shall be planted in the same place unless the local planning authority gives its written consent to any variation

Reason (3): in the interests of the character and appearance of the area

(4) Prior to any further work taking place on site, details of the means of mitigating the impact of development on protected species (for example ‘bat boxes) shall be submitted to and approved in writing by the Local Planning Authority. Development shall be undertaken in accordance with those details.

Reason (4): in the interests of protected species

(5) The materials used in the development of this site shall be those re-claimed from the existing barn where possible. Within one month of the date of this permission, a schedule of materials shall be submitted to and approved in writing by the Local Planning Authority. Development shall be undertaken in accordance with the approved schedule.

Reason (5): in the interests of the character and appearance of the area

(6) The dwelling shall not be occupied until the visibility splays shown on drawing no 1333 5 rev C (as submitted with application S/2004/0948) have been constructed provided with no obstruction to visibility at or above the height of 1m above the nearside carriageway level. The visibility splays shall thereafter be maintained free of obstruction at all times.

Reason (6): in the interests of highway safety

(7) Any entrance gates erected shall be hung to open away from the highway only and shall be set back a minimum distance of 4.5m from the carriageway edge

Reason (7): in the interests of highway safety

(8) Development and works shall be undertaken in accordance with the specification for archaeological works and the 'watching brief' by AC Archaeology approved as part of planning application S/2004/0948.

Reason (8): in the interests of archaeology

The report of the Head of Development Services is provided below, together with the schedule of additional correspondence that was previously circulated at the Southern Area Committee (attached at Appendix A). Appendices B and C (the original planning appeal and the officer's report that was considered during an earlier application) are also attached. The officer's report has been updated to take account of subsequent additional information (both before and after the meeting, primarily in relation to protected species).

Options for consideration:

- (a) approve the application, as recommended by members of the Southern Area Committee;
- (b) refuse the application, as recommended by officers.

Officer's Report to Southern Area Committee on 8th January 2008

REASON FOR REPORT TO MEMBERS

HDS does not consider it prudent to exercise delegated powers in this instance.

SITE AND ITS SURROUNDINGS

The site consists of the remains of an agricultural building, a former cowshed. The cowshed building was originally a concrete block and cob building, under a tiled roof. Most of the building was single storey, but at the eastern end there was two storey section (of painted brick).

The building is sited parallel to Petersfinger Road and forms one of a group of three buildings that made up Milford Farm.

The adjoining buildings consist of a former weatherboard barn to the west (for which permission was also granted to convert into a dwelling – see below), and a granary and farmhouse to the east (which is partly in use for a catering business). Both these buildings are now in separate ownership, though the buildings historically formed part of one complex.

In planning policy terms the site lies outside of any Housing Policy Boundary and therefore in the countryside. The site is however adjacent to the built up area with a footpath providing a link via Milford Nursing Home to Southampton Road.

The site also lies within the Landscape Setting of Salisbury and Wilton area, and adjacent to a Scheduled Ancient Monument.

THE PROPOSAL

The proposal is best described by outlining the background to the case.

An application was submitted in 2004, for the conversion of this building together with the adjoining weatherboard barn to form two dwellings – with one dwelling in each barn. Officers recommended approval but at Southern Area Committee on 8th July 2004 members resolved to refuse for the following reason:

“Due to the lack of marketing of the property, the Local Planning Authority remains unconvinced that every reasonable attempt has been made to secure a suitable agricultural, community or business re-use of the buildings. Furthermore, due to the close inter-relationship and awkward juxtaposition between the proposed residential use of the barn and cowshed and the adjacent farm buildings, which are still in commercial use, the proposal is likely to result in a conflict between the adjacent uses, and significantly reduce the amenities of existing and future residents. As a consequence the proposal is considered to be contrary to policies C22 and G2 of the Salisbury District Local Plan”

The applicants appealed against the refusal. After a public inquiry the Inspector allowed the appeal and granted planning permission.

However, because the site is in the countryside (outside of a Housing Policy Boundary), planning permission was only granted on the basis that the new dwellings were created through the *conversion* (and extension) of the existing buildings under policy C22. The Inspector's decision notice is included at **appendix B**.

It subsequently transpired, however, that the cowshed could not be converted. In March 2007 the applicants submitted a structural engineer's report to the Authority, identifying that while conversion work could take place around the existing two storey structure, the single storey section was not in good repair and it would be more economical to take down and re-build that section from new.

Despite being warned by officers that works would require planning permission, and could result in the refusal of permission, much of this building was demolished, with only the eastern end (the two storey section) remaining.

On site the three walls of the main single storey part of the building had been largely demolished and re-built, and the roof has been re-tiled (using the original tiles). At this point, the two storey section was the only substantial part of the original building left standing, albeit that the roof covering at the section of the building had been removed.

The resultant building was therefore not a *conversion* but effectively a new-build dwelling. This goes beyond the scope of the original permission and retention and continuation of works required a fresh planning permission.

Members may recall that a retrospective application was submitted in October 2007 (S/2007/1604) for 'erection of new dwelling including conversion of part of existing barn, extension and associated works'. This application sought retrospective approval for the re-building of much of the barn, but also included 'conversion' of the remaining original two storey section.

This was recommended for approval by officers and was due to be heard at Southern Area Committee on 4th October 2007 (a copy of this report is at **appendix C**).

However, at the Committee Site Visit, members and officers realised that, despite assurances given by the applicants, further work had been undertaken to the barn and much of the two storey section of the building (two walls and the roof) had also been demolished.

As the retrospective application was for retention of what existed at the time it was made, this change in circumstances rendered the application invalid and also changed the planning merits of the scheme. This is discussed further below.

The application now before members is for the retrospective erection of a dwelling that would be no greater in size than the original building and in appearance it would be virtually identical to what would have been achieved through conversion. However, nearly all of the original structure has been or would be re-built – only two walls of the two storey section would remain as part of the dwelling.

At the present time works have stopped pending the outcome of this application, with the 'single storey' part having been re-built in blockwork and re-used tiles (this aspect is therefore retrospective). The former two storey section has not been further developed beyond the removal of the two walls and roof (this part is therefore proposed, in addition to finishing the external appearance of the development as a whole, fitting out etc). The building has not been occupied as a dwelling.

PLANNING HISTORY

S/1984/1690 Conversion of existing farm building to horse and rider centre (sale of saddlery clothing feedstuffs, **Refused** on 30th January 1985.

S/2001/864 Erection of building for storage use and food preparation, **Approved** with Conditions on 3rd July 2007.

S/2003/2261 Conversion of redundant farm buildings to three dwellings construction of garages open parking area and formation of gardens, **withdrawn** on 14th November 2003.

S/2004/0948 Conversion of redundant farm buildings to two dwellings provision of garage and amendments to highway access, **Refused** on 16th July 2004. **Allowed** on appeal.

S/2007/0919 Retrospective mixed residential and business use for catering preparation and adjacent parking for vans. Application Currently Awaiting Determination.

S/2007/1604 Erection of new dwelling including conversion of part of existing barn, extension and associated works, **withdrawn** on 26th October 2007.

CONSULTATIONS

Highway Authority	No objection
WCC Archaeology	<p>The application lies immediately adjacent to the Scheduled Monument comprising Medieval kilns SM740. A desk based assessment for a previous application indicates that the area of the farm has been cut into the natural hill slope thus removing any likely archaeological features in the area. What remains are the barns of historical significance.</p> <p>Having checked with the archaeological unit carrying out the works, the watching brief (required as a condition of the earlier application) has been taking place and is still on-going so that the below ground works and parts of the barn have been recorded.</p>
Environmental Health	No observations
Wessex Water	Lies outside of a sewered area
Biological Records Centre	Presence of protected species is a material consideration
Natural England	Natural England have not objected but have commented that under the Habitats Regulations, there may be a significant effect on important interests features of the River Avon SAC and/or the River Avon System SSSI. They are concerned that there is insufficient information with regard to the disposal of foul drainage. Recommend condition regarding protected species.

REPRESENTATIONS

Advertisement	Yes – expired 20/09/07
Site Notice displayed	Yes – expired 20/09/07
Departure	Yes - If approved, a final decision would need to be made by Planning and Regulatory Panel.
Neighbour notification	Yes – expired 31/08/07
Third Party responses	No
Parish Council response	Yes – Object . Whilst this was a difficult decision and there might have been genuine problems retaining existing walls in the old barn, this is new build. We must object on principle, as we do not want a precedent set for further new development along Milford Mill Road. The reference to front damage to walls was difficult to accept, as there had been no frost.

MAIN ISSUES

Whether the proposal would be acceptable in principle
If not acceptable in principle, whether permission should nevertheless be granted
Other issues (highway safety, archaeology, protected species)

POLICY CONTEXT

Adopted Salisbury District Local Plan

C1, C2	Development in the countryside
C7	Landscape Setting of Salisbury and Wilton
C12	Protected Species
C22	Conversion of buildings in the countryside
H22/H23	New dwellings outside of Housing Policy Boundaries
G1	Sustainability
G2	General Development Criteria
CN20	Development affecting Schedules Ancient Monuments

Adopted Wiltshire County Structure Plan

DP9	Re-use of buildings in the countryside
DP14	Development in the countryside

Other policy advice

Supplementary Planning Guidance: *The Conversion of Historic Farm Buildings in the Countryside*.

Planning Policy Statement Seven

PLANNING CONSIDERATIONS

Whether the proposal would be acceptable in principle

The starting point for the determination of all planning applications is the Adopted Development Plan – principally in this case the Salisbury District Local Plan and the Wiltshire Structure Plan.

The site lies outside of any Housing Policy Boundary and therefore in the countryside, in terms of planning policy. This status is further enhanced by its designation as being within the Landscape Setting of Salisbury and Wilton. As a general rule new development should be strictly controlled in the countryside.

In particular, Policy H23 of the Local Plan is clear in saying that the erection of new dwellings in the countryside should only be permitted where there is a special justification – for example for affordable housing or for agricultural workers dwellings.

Where there is no special justification then permission should normally be refused as a matter of principle, to protect the overall character and appearance of the countryside, which would otherwise be damaged by sporadic and unrestrained development. This stance is supported by Structure Plan Policy DP14 (although this does refer to ‘isolated’ new dwellings), and by the advice in paragraph 9 (ii) of PPS7.

Normally, the only other circumstance where permission might be granted for a new dwelling in the countryside is where the proposal involves the conversion of an existing building. The Local and Structure Plans and PPS7 do make an exception to the normal rule against new dwellings in the countryside where there is an existing building that can be converted without substantial alteration or extension. This exception is made because, as the building is already there, a conversion can result in an addition to the housing stock without the additional harmful built form.

To benefit from this exemption the Authority needs to be satisfied that the building can be converted without needing to be re-built or extended (amongst other things - policy C22 and the SPG sets out the relevant criteria). Otherwise, as a new build, the justification for allowing an exception falls away.

During the 2004 application and appeal, permission was only granted for residential development on the basis of a conversion of the cowshed. Now that it has been shown that the building cannot be converted and that much of it has had to be re-built, no benefit can be gained from the conversion

policy.

This retrospective application must be considered on the basis of being for a completely new-build dwelling in the countryside, rather than just a minor 'tidying up' exercise, or just being simply for the re-erection of existing walls – its implications are much wider than this.

As an application for a new dwelling in the countryside without special justification, it would be clearly contrary to Local and National Planning policies and unacceptable in principle. Normally this would be sufficient for permission to be refused.

Should permission nevertheless be granted bearing in mind the merits of the case?

In considering the earlier 2007 application, officers accepted that the finely balanced merits of the case exceptionally justified recommending approval. This was based on a number of factors, primarily the fact that the two storey section of the building would have remained had enforcement action been taken to remove the parts of the building unlawfully built.

However, these merits have changed because of the work that has subsequently taken place, in removing two of the walls and the roof of the two storey section. The fact that much of the two storey section has now been removed means that the concerns about the harmful results from enforcement action (ie the remaining derelict two storey section and the possibility of that being converted) no longer apply – only two walls are now standing and these would be unlikely to remain if the surrounding walls etc were removed through enforcement action.

The other reasons for granting permission identified in the previous report still apply; the group of buildings is still of some historic interest (although clearly as the amount of original material is reduced some of that historic integrity is lost), and the site is still adjacent to the built up area, at the end of a 'finger' of development stretching from Southampton Road north-eastwards which includes retail/industrial buildings, the nursing home and a gypsy caravan site.

It is accepted that this site is not an isolated barn in the open countryside that is normally envisaged by local and national policies and that the site is 'sustainable' (ie one that is located close to a range of goods, services and facilities that can be accessed by a range of transport options). The points raised previously in relation to other Local Plan policies, and the similarity of the building as re-built to the building conversion approved on appeal also have some relevance.

The argument in relation to the handling of the earlier application (and the original structural engineer's report) now has less validity. The applicants themselves submitted a structural engineer's report in March 2007 making clear that the two storey part of the building could still form the basis of a conversion, yet despite officers' warning that any further works would be at their own risk, they still demolished much of that two storey section of the barn.

The applicant's agent has made reference to two appeal cases from elsewhere in the UK, one where a 're-build' replacement barn was allowed (resulting from unforeseen circumstances), and another where a larger barn than the original was allowed, where that Council had failed to seek structural information at the outset. However neither of these cases are relevant to this case and each case should be considered on its own merits.

This case is finely balanced, and it is considered that these supporting arguments made previously are not enough on their own to justify granting permission, in the absence of the primary concern in relation to the remnants of the original building appearing harmful. It is noted that the Parish Council now also object (they had supported the withdrawn application).

On balance, it is considered that the merits of granting permission do not now outweigh the clear planning policy objections to a new-build dwelling in the countryside and Landscape Setting Area.

Other issues

Highway Safety

In relation to highway safety, the County Council has raised no objection. Indeed, during the 2004 application, they had raised no objection to the application on the basis that a residential use would be a low-key use with relatively little traffic generation.

The level of traffic generated from the development would be no different from that generated as a result of the approved conversion, and therefore no objection could be raised on the grounds of highway safety provided that the same access etc conditions are imposed as those made by the Inspector.

Archaeology

In relation to archaeology, the site lies adjacent to a Scheduled Ancient Monument and during the course of the 2004 application Wiltshire County Council Archaeology had recommended a condition requiring a site investigation. The Inspector imposed a condition requiring this.

Before work commenced, the applicants did submit a method statement from AC Archaeology setting out how an archaeological investigation would be undertaken during the course of development. It is understood from the County Archaeologist that the investigation and recording has been ongoing. A condition could be used to ensure that this continues, and/or that a new methodology and watching brief is undertaken before any further works (for example on the re-built two storey section) are undertaken.

Protected Species and Impact on River Avon SSSI and SAC

Natural England have confirmed that the already-installed sewage treatment plant is sufficient for their initial concerns to be overcome.

They have no objection and confirm that, under Regulation 48(3) of the Habitats Regulations 1994 the development (either alone or in combination with other plans or projects) would not be likely to have a significant effect on the important interest features of the River Avon Special Area of Conservation (SAC), or any of the features of special scientific interest of the River Avon System Site of Special Scientific Interest.

In relation to protected species, an initial survey indicated that both buildings (ie the cowshed and weatherboard barn) could potentially have been a roosting place for bats and recommended that roosting opportunities for bats should be maintained. A subsequent survey for just the weatherboard barn found no recent use by bats of that building.

In accordance with Natural England's advice, a condition is recommended to ensure that adequate bat boxes are provided, in the interests of this protected species.

Recreational Open Space

A recreational open space contribution is necessary for all new dwellings, in accordance with policy R2. A contribution was made in connection with the 2004 application, and the wording of the agreement is such that the Authority retains the monies if and when a subsequent application is made and implemented. No further contribution is therefore necessary.

CONCLUSION

On balance, it is considered that the merits of granting permission do not now outweigh the clear planning policy objections to a new-build dwelling in the countryside and Landscape Setting Area. It is recommended that retrospective planning permission is refused, and that enforcement action be taken to remove those building works that are unlawful.

RECOMMENDATION: REFUSAL OF PLANNING PERMISSION, AND THAT HEAD OF DEVELOPMENT SERVICES IS AUTHORISED TO USE HIS DELEGATED POWERS TO PURSUE ENFORCEMENT PROCEEDINGS IN ORDER TO SECURE REMOVAL OF THE UNAUTHORISED BUILDING

Reason for refusal:

“The retention of what is tantamount to a new dwelling in the countryside, for which insufficient exceptional justification has been made, would be contrary to policies C2, C7 and H23 of the Adopted Salisbury District Local Plan, policy DP14 of the Adopted Wiltshire County Structure Plan and the advice in PPS7, which strictly control new dwellings in the countryside as a matter of principle, in the interests of the overall character and appearance of the countryside and the Landscape Setting of Salisbury and Wilton”

INFORMATIVE

This decision has been taken having regard to the following policies of the Adopted Salisbury District Local Plan and the Wiltshire County Structure Plan:

Adopted Salisbury District Local Plan

C1, C2	Development in the countryside
C7	Landscape Setting of Salisbury and Wilton
C12	Protected Species
C22	Conversion of buildings in the countryside
H22/H23	New dwellings outside of Housing Policy Boundaries
G1	Sustainability
G2	General Development Criteria
CN20	Development affecting Scheduled Ancient Monuments

Adopted Wiltshire County Structure Plan

DP9	Re-use of buildings in the countryside
DP14	Development in the countryside