DELEGATED REPORT

Application reference: PL/2023/09152
Application type: full planning permission
Site address: Barn 2, Bremhill House Farm, Bremhill, Calne, SN11 9HN
Proposal: Erection of new dwelling in lieu of Barn No 2 - Approved for residential conversion pursuant to Class Q Application Ref: PL/2022/01578.
Recommendation: refuse.

SITE AND PROPOSAL

The site comprises a detached agricultural barn situated in the open countryside to the north of Bremhill House Farm. It is accessed via a lane to the west, which is also a Public Right of Way (PRoW) ref. BREM8. A further PRoW ref. BREM12 is a footpath that passes just to the north of the site. It is therefore perceptible in public views.

The site benefits from a Class Q prior approval ref. PL/2022/01578 to convert the barn (known as 'barn 2') at the application site into a four-bed dwelling. This application seeks to knock down the barn and erect a five-bed dwelling of a different design in its place. Annotated excerpts of the proposed elevations are provided in figure 1 below.



Figure 1: proposed elevations: top – north; middle – east and west (identical); bottom – south

The submitted application form says that the proposed wall materials are the same as existing, i.e. rubble stone; however, the approved scheme is for concrete and cladding. The roof would also be a different finish, in a ‘stone style slate’ as opposed to the approved zinc, but no product specification has been supplied.

In addition, the curtilage would be enlarged beyond the size permitted under the Class Q, to include an area of hard surfacing to the north. This would function as shared parking with the neighbouring barn, known as barn 1.

RELEVANT PLANNING HISTORY

The barn is one of a pair sited in close proximity. It appears it was erected in the mid-1970s under ref. 74/425.

In 2019, a Class Q prior approval application ref. 19/11777/PNCOU was approved to convert the barn into a dwelling. This was accompanied by a sister application ref. 19/11746/PNCOU relating to the neighbouring barn.

In May 2022, a further single Class Q application ref. PL/2022/01578 encompassed both barns, effectively renewing the previous consents. An excerpt of the approved elevations is provided in figure 2 below.



Figure 2: approved elevations excerpt

This application is accompanied by a sister application ref. PL/2023/09156 relating to the neighbouring barn 1. If granted, that scheme would maintain the conversion element, but with the addition of a flue, the enlargement of the curtilage and a change to the roof material.

POLICIES

Under the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. At the current time, the relevant statutory Development Plan Documents in

respect of this application consist of the Wiltshire Core Strategy (WCS) (adopted January 2015); saved policies of the North Wiltshire Local Plan (adopted 2006); and the Bremhill Neighbourhood Plan ('made' 2018).

Though the Development Plan is considered as a whole, those parts deemed to be particularly relevant to this application are listed below.

Development Plan

Wiltshire Core Strategy:

- Core Policy 1: Settlement Strategy
- Core Policy 2: Delivery Strategy
- Core Policy 8: Spatial Strategy: Calne Community Area
- Core Policy 48: Supporting Rural Life
- Core Policy 50: Biodiversity and Geodiversity
- Core Policy 51: Landscape
- Core Policy 57: Ensuring High Quality Design and Place Shaping
- Core Policy 60: Sustainable Transport
- Core Policy 61: Transport and New Development
- Core Policy 64: Demand Management

Saved policies of the North Wiltshire Local Plan:

- NE18: Noise and Pollution
- H4: Residential Development in the Open Countryside

Bremhill Neighbourhood Plan:

- Policy 1.

Material considerations

National Planning Policy Framework (2023):

- Paragraphs 8, 135, 139, 140, 157 and 189.

ISSUES

The main issues in the consideration of this application are:

- Principle of development;
- Impacts on the character of the locality;
- Impacts on neighbour amenity;
- Contaminated land;
- Highways; and
- Other matters.

CONSULTATION

Bremhill Parish Council: support.

Council Highway Engineer: no objection.

Council Drainage Engineer: no comment.

Council Rights of Way Officer: no objection, subject to informatives. Notes that:

'*Access to the site is via an existing track recorded as a bridleway (BREM8). This is not recorded as a public vehicular highway. The only recorded public rights along it are on foot, horseback and bicycle. In order to drive a vehicle along here, the applicant would require a demonstrable private right of vehicular access. Without this private right they would be committing an offence under Section 34 of the Road Traffic Act 1988. The granting of planning permission does not give the applicant or householder a vehicular right of access over the bridleway. The applicant is advised to take private legal advice to ensure they have a right of access*'.

Council Archaeologist: no comment.

REPRESENTATIONS

None.

ASSESSMENT

Principle of development

The application relates to a site that benefits from an extant consent for a barn conversion. That barn conversion has not been implemented, such that this application for a new dwelling is inherently contrary to Core Policies 1 and 2 of the Core Strategy, which restricts new dwellings in open countryside locations such as this. It is also in conflict with Core Policy 8, which seeks compliance with Core Policy 1, and Core Policies 60 and 61, both of which aim to reduce the need to travel by private car. It is also contrary to saved Policy H4 of the North Wiltshire Local Plan, which only permits new dwellings in the countryside where it is in connection with an essential business need or it constitutes a replacement dwelling. As no dwelling has been built, this proposal cannot be considered a replacement. Finally, this proposal also does not comply with any of the allowances of Policy 1 of the Bremhill Neighbourhood Plan.

The proposal is therefore unacceptable in principle. However, the conflict with the Development Plan can be outweighed by material considerations, as discussed below.

Impacts on the character of the locality

The applicant has gone to considerable lengths to cite previous appeal decisions and case law to support their case that the Class Q carries full weight as a fallback position.

The applicant's submitted statement refers to two allowed appeals in particular. Alongside one of those appeals at Halfway Firs (LPA ref. 18/00691/FUL), the appellant in that case submitted counsel advice, which has been appended to the applicant's supporting statement as further justification for this proposed development. However, the counsel opinion admits at paragraph 15 that the proposal in that instance was a '*minor alteration*' compared with the fallback position. Meanwhile, the second of the appeal decisions in the supporting statement (LPA ref. 20/05588/FUL) shows how the inspector concluded that:

'*Overall, the effects of the development would be almost identical to the approved schemes*'.

Consequently, in both of those cases, weight was attributable to the Class Q as a fallback position, along with the fact that the differences compared with the proposed rebuilds were minor.

However, whilst it is not disputed that an extant Class Q approval can offer a legitimate fallback position, it is not the case that the appeal decisions relied on by the applicant confirm that they automatically, and unthinkingly, pave the way for an alternative scheme as is being suggested by the applicant. For example, in appeal ref. APP/Y3940/W/21/3282224 relating to LPA ref. PL/2021/05742 for a site in Farley, the inspector commented:

'*I agree with the Council that permission granted by Class Q should not automatically be taken to demonstrate a fallback position which justifies an alternative proposal. I have considered those cases brought to my attention, but each has its own unique circumstances. Where a fallback position has been deemed to be significant in a decision to grant planning permission there are clear reasons for so doing. In this case the permitted development is so different from the proposal before me that it cannot realistically operate as a fallback which would result in similar impacts*'.

Although that scheme was somewhat of an extreme case involving a two-storey dwelling in place of single-storey buildings, it was nonetheless a proposal for a materially different scheme that would have materially different impacts.

Similarly, in appeal ref. APP/Y3940/W/20/3250122 relating to LPA ref. 19/10455/FUL, the inspector noted how the Class Q would have retained much of the building's character, whereas the proposed replacement building would have led to differences in scale, design and the extent of the curtilage proposed.

It is thus important to understand the how materially different a proposed rebuild would be compared with an extant Class Q, not only in terms of considering the impacts of the fresh proposal, but also the strength of the fallback position.

In this case, the plan excerpts in figures 1 and 2 above clearly show that what was approved at the Class Q stage is materially very different from what is now proposed. The key differences include:

- Eaves height now lower (c.4.9m compared with c.5.6m).
- Ridge height now higher (c.7.3m compared with c.6.9m. The proposal is more in the region of 7.5m high if the parapets are counted).
- Roof pitch now notably more acute.
- Parapet gables are proposed.
- Domesticating feature gables now proposed on the north and south elevations, with added bulk to the roof on both sides.
- Wall and roofing materials would be entirely different.
- The footprint would deepen from around 9.9m to 10.15m.
- The arrangement and hierarchy of fenestration on the north and south elevations would markedly change.
- The east and west elevations would be heavily glazed, as opposed to the approved blank elevations.
- Five bedrooms are sought, as opposed to the four approved.
- The curtilage would be around twice the size.

As such, this is deliberately designed to appear like an entirely different building in comparison. In light of the PL/2021/05742 appeal decision, I consider that '*the proposal before me… cannot realistically operate as a fallback which would result in similar impacts*'. I therefore conclude that the Class Q covering this building cannot be used as a legitimate fallback to justify this materially different proposal, such that the weight attributable is diminished.

With the above in mind, in several respects it is not convincing that the proposed development is acceptable.

Core Policy 51 of the Wiltshire Core Strategy says that development should protect, conserve and, where possible, enhance landscape character. It must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. In particular, due consideration should be given to:

'*iii. The separate identity of settlements and the transition between man-made and natural landscapes at the urban fringe…*

vi. Important views and visual amenity'.

Core Policy 57 requires development proposals to achieve a high standard of design, creating a strong sense of place through drawing on the local context and being complementary to the locality. Development is expected to make a positive contribution to the character of Wiltshire through:

'*i. …relating positively to its landscape setting and the existing pattern of development…*

iii. responding positively to the existing townscape and landscape features in terms of building layouts, built form, height, mass, scale… streetscape and rooflines to effectively integrate the building into its setting…

vi. making efficient use of land whilst taking account of the characteristics of the site and the local context to deliver an appropriate development which relates effectively to the immediate setting and to the wider character of the area'.

Policy 1 of the Bremhill Neighbourhood Plan requires all development in the countryside to have an acceptable effect on rural character.

At the national level, paragraph 135 (a-c) of the NPPF requires development to add to the overall quality of an area; be visually attractive; and be sympathetic to local character, including the surrounding landscape setting.

Paragraph 140 then directs LPAs to '*ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme*'.

The Class Q barn would be perceived as a simple conversion, reading in an equal hierarchy to barn 1 in visual terms and retaining a semi-agricultural appearance and thereby reflecting its rural, countryside location. However, this full application is looking to alter that hierarchy with a design that very much looks like a dwelling – indeed, paragraph 3.1 of the submitted supporting statement talks about creating a built hierarchy at the site. Its front and rear feature gables would not be commensurate with a lowkey agricultural conversion, and they would add incongruous bulk to the building, which would be visible from the adjacent PRoW network. Meanwhile, the heavily glazed western gable would look very stark and domesticating in views from the PRoW (especially at night). Indeed, the architectural style of the proposal is confused: incorporating feature copings, yet a low eaves; dominant glazed gables, yet highly suburban fenestration on other respects. Perhaps most jarringly is the very wide depth of the property resulting in a strange, shallow pitch roof and somewhat suburban gauge of end gable depth. None of the elements are considered to be of a high quality (as is advocated by the NPPF), quite the opposite in fact, and the proposed building would not be appropriate to the rural, countryside location within

which it would be sited. Accordingly, it is not convincing that the proposal presents a betterment compared with the Class Q scheme.

The supporting statement mentions an enlarged garden as a benefit, but this is demonstrably of no benefit at all for the purposes of the planning balance. This is because although the curtilage would be enlarged, it would simply use an existing area of hard surfacing for communal parking. No additional soft landscaping or biodiversity-rich planting is proposed. There would thus be no benefits for future occupants in terms of private outdoor recreation space, nor any landscape or ecological benefits from planting.

The spirit behind Class Q is to allow more sustainable forms of development by using an existing stock of buildings under the right circumstances. The grant of the Class Q consent shows that the circumstances were judged to be met, and there appears to be no reason why the barn could not be converted as approved. Paragraph 157 of the NPPF chimes with this objective by being supportive of development that uses existing resources, including existing buildings.

Consequently, an important material consideration is that the existing building will contain embodied carbon that would be released upon demolition, then would need to be exported from the site and exposed. Meanwhile, new materials would need to be manufactured, imported to the site and installed thus amplifying the environmental impact of this proposal. The applicant has argued that they would use rubble, reclaimed stone and timbers from elsewhere in the applicant's ownership. However, even taking that at face value, the process would still involve demolishing the existing frame, concrete panels and cladding, which the structural report approved at the Class Q stage confirmed could and would be kept.

The Council declared a climate emergency in 2019, which is a material consideration that was not considered in the appeal decisions appended to the applicant's statement, but to which I attribute weight. Embodied carbon has also come to the fore nationally after the Secretary of State's recent decision on a called-in application to demolish the Marks and Spencer building on Oxford Street in London[1], which also postdates the decisions referenced in the applicant's statement. The SoS in fact cited the former paragraph 152 of the NPPF, which is now paragraph 157 in the updated version. Crucially, the SoS referenced the sustainability credentials of the proposed replacement building, as well as carbon offset payments that would fully offset the embodied carbon in the existing building, yet he still concluded that:

'*Weighing against the proposal is the Secretary of State's finding that in terms of paragraph 152 of the Framework, the proposal would in part fail to support the transition to a low carbon future, and would overall fail to encourage the reuse of existing resources, including the conversion of existing buildings, which carries moderate weight. He has also found that harm arising from the embodied carbon carries moderate weight*'.

After communicating this concern to the applicant's agent, they have responded by email dated 02/02/24 to rebut this reasoning, downplaying the M&S case as not comparable. This includes the fact that the decision is subject to a legal challenge. However, the results of any legal challenge are as yet unknown, and the SoS's decision will, until such time as the decision may be overruled, carry substantial weight. Whilst I also acknowledge that that development was of a much more significant scale, there is nonetheless a clear parallel in terms of the need to consider reusing existing buildings and embodied carbon as a material planning consideration. In that case, the SoS attributed moderate weight to the issue, despite the fact that, significantly, the embodied carbon would be fully offset. In the case of barn 2 at the application site, there is no evidence to suggest that the proposal would fully offset the embodied carbon. But even if it did, the SoS's decision shows that the issue would still attract moderate weight.

[1] Westminster Council ref. 21/04502/FULL; DLUHC ref. APP/X5990/V/3301508

There is also no argument within the applicant's supporting statement about any improved energy performance on offer, but even if there were, this should attract only neutral weight. This is because both the Class Q and a rebuild would in any event need to meet the relevant requirements of the Building Regulations.

Drawing the above together, the proposed development would not achieve good design. It would attempt to introduce a built hierarchy that is currently absent at the site and the architectural language of a converted rural building would be lost in this rural, countryside location. Considerable weight must be attached to the harm caused to the local character. The development would fail to utilise the existing building and it would lead to the loss of embodied carbon, along with the need to import new materials, which carries moderate weight against the proposal. The proposed development is therefore in conflict with Wiltshire Core Strategy Core Policies 51 (general aims and parts iii and vi) and 57 (general aims and parts i, iii and vi); Bremhill Neighbourhood Plan Policy 1; and paragraphs 135 (a-c), 139, 140 and 157 of the NPPF.

Impacts on the amenity of adjacent occupiers

The outlook for the Class Q scheme would be entirely to the north and south, whereas this proposal would feature habitable room windows on all elevations and across both floors. However, this would not materially impact upon the relationship with the planned barn conversion to the north. The separation from this neighbouring building is sufficient to mitigate against any material harm to outlook or light arising from the proposed increase in ridge height.

Contaminated land

The previous Class Q approval was accompanied by a contaminated land statement, which was conditioned to the consent, along with a condition pertaining to the appropriate steps to take should contamination be encountered. I see no reason why it would not be appropriate to continue this approach, and appropriately worded conditions could have been added to any grant of planning permission, had the proposal been acceptable in all respects.

Highways

The proposed enlarged curtilage would not adversely affect the site access, and there would be sufficient parking provision. The Highway Authority raises no objections to the proposals.

Other matters

The applicant's supporting statement essentially sets out at paragraph 3.2 that a key purpose of this application is to "buy" them more time. However, this is not a relevant issue if the applicant can indeed implement the conversion of barn 2 as stated: they could simply apply to renew their Class Q, whereas an application to completely redesign the scheme for an entirely different looking building does not fit with this narrative. Indeed, if the position of the applicant were to somehow be taken at face value, it would perhaps cast doubt on whether the so-called fallback position is realistic at all.

This application is accompanied by a sister application ref. PL/2023/09156 relating to the neighbouring barn 1. If granted, it is important for the applicant to recognise that the resulting outcome would not give them a full planning permission for barn 1 and a Class Q fallback for barns 1 and 2 to pick and choose from. This is because under paragraph W(12) of the PD regs, a developer is dutybound to build in full accordance with a Class Q approval. In this case, that Class Q encapsulates both buildings as one site. Therefore, any implementation of a full planning permission on barn 1 would make it impossible to complete the development permitted under Class Q on barn 2 because the developer would not be building in accordance with the Class Q

approved plans. This would place it contrary to paragraph W(12) and open to enforcement action. An informative note attached to the decision notice can draw this to the applicant's attention.

CONCLUSION

The proposed development would be inappropriate for the site and surroundings. Accordingly, it conflicts with the provisions of the Development Plan and relevant material considerations and planning permission should be refused**.**

RECOMMENDATION: that planning permission be REFUSED for the following reason:

1. The proposed development would fail to achieve a high standard of design. It would attempt to introduce a built hierarchy that is currently absent at the site and the architectural language of a converted rural building would be lost. The development would lead to the release of embodied carbon, coupled with the need to import new materials, which would be contrary to the sustainability aims of utilising the existing building stock. The proposal is therefore in conflict with Wiltshire Core Strategy Core Policies 51 (general aims and parts iii and vi) and 57 (general aims and parts i, iii and vi); Bremhill Neighbourhood Plan Policy 1; and paragraphs 135 (a-c), 139, 140 and 157 of the NPPF.

INFORMATIVE TO APPLICANT

This application is accompanied by a sister application ref. PL/2023/09156 relating to the neighbouring barn 1. If granted, it is important for the applicant to recognise that the resulting outcome would <u>not</u> give them a full planning permission for barn 1 and a Class Q fallback for barns 1 and 2 to pick and choose from. This is because under paragraph W(12) of the PD regs, a developer is dutybound to build in full accordance with a Class Q approval. In this case, that Class Q encapsulates both buildings as <u>one</u> site. Therefore, any implementation of a full planning permission on barn 1 would make it impossible to complete the development permitted under Class Q on barn 2 because the developer would not be building in accordance with the Class Q approved plans. This would place it contrary to paragraph W(12) and open to enforcement action.