

APPLICATION NO: 11/01022/FUL	OFFICER: Mr Ian Crohill
DATE REGISTERED: 29th July 2011	DATE OF EXPIRY: 23rd September 2011
WARD: Battledown	PARISH: Charlton Kings
APPLICANT:	Mr J Stanley
AGENT:	SF Planning Limited
LOCATION:	Middle Colgate Farm, Ham Road, Charlton Kings
PROPOSAL:	Continued use of part of existing barn as accommodation ancillary to residential accommodation of farm house at Middle Colgate Farm (including minor external alterations)

RECOMMENDATION: Permit



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application relates to a property known as Middle Colgate Farm on Ham Road. The application site is located to the south side of Ham Road relatively close to the Borough Boundary with Cotswold District administrative area. The site is accessed via an existing long drive/track from Ham Road which serves both the newly constructed farm house (completed 2012) and the small complex of farm buildings.
- 1.2 Planning permission is sought for the use of part of the barn as residential accommodation ancillary to Middle Colgate Farm. Part of the barn is already being used for this purpose. The 'residential accommodation' comprises, on part of the ground floor of the barn, a day room with bathroom and WC, a staircase link to part upper floor accommodation comprising living room and bedroom. The part of the barn that is the subject of this planning application is located at the western end of the barn taking up an area of 56m² with the barn itself being approximately 170m².
- 1.3 The application site is located within the Cotswolds Area of Outstanding Natural Beauty. The proposal would have no impact on the amount of building in this part of the AONB as the application relates to part of an existing barn within the group of farm buildings.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Ancient Woodland
Area of Outstanding Natural Beauty

Relevant Planning History:

84/01263/PF 26th April 1984 PER

Outline application erection farmhouse and garage block

84/00433/PF 23rd August 1984 PER

Siting Of Temporary Mobile Home

86/00852/PR 28th August 1986 PER

Renewal Of Temporary Permission For Mobile Home (Previously Granted Under Cb16763/01 Dated 23.8.86)

86/01300/PF 18th December 1986 PER

Construction Of 2-Storey Farm House With Detached Double Garage

88/01297/PR 27th October 1988 PER

Renewal Of Temporary Planning Permission For Mobile Home

90/01018/PR 25th October 1990 PER

Renewal Of Temporary Permission For Siting Of Mobile Home From 28 Oct 90

92/00636/PR 30th July 1992 PER

Application For Renewal Of Temporary Permission For Siting Of Mobile Home

01/00311/FUL 30th July 2001 PER

Use of land for the temporary stationing of a mobile home

01/00709/FUL 30th July 2001 PER

Erection of a new two storey 4 bed house

03/00693/CONDIT 1st July 2003 PER

Retention of a mobile home for a further two year period

08/01040/CLEUD 3rd November 2009 REF

Use of the barn as a single dwelling house

09/00229/CLEUD 27th March 2009 REF

Use of the barn as a single dwelling house

10/00986/FUL 23rd August 2010 PER

Erection of an agricultural workers dwelling. (Revised scheme)

10/01664/FUL 25th November 2010 PER

Minor revisions to agricultural dwelling approval 10/00986/FUL dated 19th August 2010

12/00800/CLEUD PCO

Use of part of existing barn as a dwelling

13/00351/FUL 13th August 2013 WDN

Demolition of unauthorised living accommodation in barn and erection of new garage to include incidental living accommodation at first floor level

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

CP 1 Sustainable development

CP 4 Safe and sustainable living

CP 5 Sustainable transport

CP 6 Mixed use development

CO 2 Development within or affecting the AONB

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

Cotswold Conservation Board

8th August 2011

Thank you for consulting the Cotswolds Conservation Board about this planning application. I am writing to tell you that the Cotswolds Conservation Board will not be making any comments on the planning application. This should be taken as a response neither objecting to nor supporting the proposal.

Parish Council

16th August 2011

No objection however we would request that planning conditions are applied:

- i That this is not a precedent for further conversion of the barn to create additional or larger accommodation facilities.
- ii That the accommodation is only to be ancillary and not converted to be permanent accommodation

GCC Highways Planning Liaison

1st September 2011

The proposed site has had an appeal dismissed in October 2009 under application 08/01040/CLEUD for the use of the barn as a single dwelling house. This site has various

histories (10/00986 and 10/1664) for an agricultural workers dwelling which the Highway Authority recommended conditions.

The site is accessed via a series of public right off way off the classified road Ham Road. In Highway safety terms the Highway Authority would not encourage a separate additional dwelling in the open countryside but as this residential unit will be ancillary to the main dwelling I recommend that no highway objection be raised subject to the following condition being attached to any permission granted:

The development hereby permitted shall not be used other than for purposes ancillary to the dwelling known as Middle Colgate Farm.

REASON: To ensure that no separate additional dwelling unit is established on the site requiring further vehicular access or parking provision”.

Informative:

In the interests of highway safety, the public footpath must not be obstructed or encroached upon, the surface damaged or made dangerous during or after works.

5. PUBLICITY AND REPRESENTATIONS

5.1 Five letters were sent out notifying about the application. A total of 4 letters has been received. The writers comment as follows and copies of that correspondence is circulated with the report.

1. The words ‘continued occupation’ proposed is based on a false premise and should not be accepted.

2. The barn in question is too close to the writers working farm, it immediately adjoins his farmyard and is no more than 10 metres away from livestock barns. Complaints will inevitably result from residents of the barn.

3. Blatant disregard for the Inspector’s decision.

4. No reason to even consider the application following the last refusal and appeal decision.

6. OFFICER COMMENTS

6.1 The Planning History

6.1.1 The planning history of this site is particularly involved

6.1.2 Planning permission for the erection of an agricultural workers dwelling at this site was originally granted in 1986. (ref: CB16763/04) In January of the following year it was confirmed by Cheltenham Borough Council that the proposed development had in fact commenced in terms of the planning requirements and therefore it followed that the 1986 permission would remain extant for all time. More recently planning permission was sought for the erection of an alternative design of house to that shown in the original permission. That application, reference 10/00986/FUL was granted permission by Committee in August 2010 and a further minor revision was granted under delegated authority in November 2010 (10/01664/FUL). Both those permissions (and also the 1986 permission) were subject to a condition restricting the occupation of the house to someone employed or last employed in agriculture.

6.1.3 In 2008 a certificate seeking confirmation of the lawfulness of use of part of one of the barns for residential purposes was submitted to the Council (08/01040/CLEUD). The

certificate was refused and a subsequent appeal dismissed (APP/B1605/X/09/2097334 dated 29 October 2009). At the time of the appeal the Inspector found that an “internal box” had been constructed within one of the barns. That ‘box’ consisted of two rooms at ground level (a kitchen and utility room) plus a bathroom and 2 other rooms at first floor. Interestingly the staircase that provided access between the two floors in the barn was not located within the “Internal Box”. The Inspector was satisfied that there was a dwellinghouse use in part of this barn for more than 10 years prior to 2009. However he concluded that because he was unable to define the ‘circulation area’ (that area of staircase and the open part of the barn needed to be used for movement between the two floors of the “internal box”) with sufficient precision so as to avoid any overlap with other uses that he had identified within the barn there was no clearly identifiable part of the barn that had been in use as a single dwelling house for the prescribed period. He concluded therefore that the appeal should fail and that no certificate should be issued.

6.1.4 A further application for a certificate of lawfulness was submitted in 2009 (09/00229/CLEUD). That certificate was refused in March 2009 before the date of the appeal decision in respect of the previous certificate application.

6.1.5 The application now up for Members consideration and the subject of this report was submitted in July 2011

6.1.6 In May 2012 a fresh application for a certificate of lawfulness relating once again to the use of part of the barn as a dwelling (12/00800/CLEUD) was submitted but has yet to be determined. The key difference between that application and the 2009 certificate application appears to be that some new internal walls have been added to physically define and contain that area of the barn used as the circulation space between ground and first floors. The ‘red line’ defining the planning unit was changed to identify the position of the new walls. The walls have obviously been added since the appeal decision and thus it still should not, at this moment in time, be able to argue that the sole use of the space (the double floor box and the circulation space) has been residential for the required minimum period of 4 years. The earliest point in time when the walls could have been added would be late October 2009; it follows therefore that the 4 year period could possibly be met in October 2013.

6.1.7 The most recent planning application to be submitted was 13/00351/FUL. That application sought permission to erect a new garage block adjacent to the farm house to include incidental living accommodation at first floor level. That application also included the demolition of the unauthorised living accommodation in the barn. The application was to be reported to the May meeting of the planning committee with a recommendation for refusal. The recommended refusal reason was:

The garage building with games room and store above proposed as ancillary use to the existing farmhouse on site, when viewed in combination with the recently constructed farmhouse (the approved plans for which included at the time garaging/ancillary residential accommodation), is considered to be excessive, inappropriate and harmful in this relatively isolated yet visually prominent position in the Area of Outstanding Natural Beauty. This point in the AONB, located on the urban fringe, is particularly sensitive to development pressures and whilst it is acknowledged that there was an accepted need for the dwelling associated with the farm complex, it is considered that any extension to the residential accommodation cannot be justified bearing in mind the apparent availability of existing buildings in close proximity that could be utilised to satisfy any such need without adding to the proliferation of buildings in such a sensitive location. It is considered, therefore, that the proposal fails to accord with policies CO2 and CO4 in the Cheltenham Borough Local Plan”.

However, the applicant withdrew the application immediately before the scheduled planning committee.

6.2 The Current Application

6.2.1 It is clear that part of the barn has been used for some period of time as residential accommodation whether ancillary to the farm or not. The 2009 appeal identified history of residential use going back at least to 2004 and the Inspector was satisfied with this fact. Indeed he found as a matter of fact and degree that there was use of part of the barn as a single dwellinghouse for more than 4 years. However, because the part of the barn used as a dwellinghouse could not with any certainty be identified and defined, he was not able to issue the certificate.

6.2.2 The applicants planning consultant argues that although the appeal was dismissed it would appear impossible for the Local Planning Authority to enforce against something that all parties accept. However, it should be noted that in 2012 legal advice was sought with regard to the possibility or otherwise of taking enforcement action. The advice obtained at that time was that the Council could take enforcement action in relation to the independent residential use of the barn.

6.2.3 In 2011 however, following discussions with the Council's Enforcement team the current application was submitted. The fundamental difference between the development proposed in application 11/01022/FUL and the applications for certificates that have been submitted is that the current application proposes use of part of the barn as accommodation ancillary to the farm. Such uses might involve overnight accommodation for persons associated with the agricultural dwelling/unit, or simply ancillary storage for the house. The application does not propose the establishment of a self-contained dwelling, independent of the farm, as the certificate applications had tried to prove. In planning terms there is a significant difference between an independent dwelling and a residential use based on incidental, ancillary principles.

6.2.4 This is an issue that has quite understandably failed to register with the writers of the letters of representation who all find it difficult to accept the proposal in the light of the appeal decision. However, the appeal decision adds considerable weight to the fact that there has been residential use of part of the barn for a long period of time. For reasons relating to the need to be precise the application for the certificate of lawfulness failed. It would be particularly perverse, however, not to accept the fact that part of the barn, whether precisely defined or not, has been used as an independent unit of residential accommodation. This being the case and bearing in mind the sensitive location of the application site, it is considered that permission restricted to ancillary uses could well be an appropriate resolution to the issue. Furthermore it is considered that the immediate neighbour's concerns with regard to the impact that the occupation of an independent dwelling may have on his farm practices could also be mitigated somewhat if any occupation was tied to the running of the farm.

6.2.5 It is further considered that the external alterations to the barn structure also proposed in the current application, namely stone and waney edged timber cladding and two additional windows are considered acceptable. They would result in a limited cosmetic improvement to the external appearance of the barn and could, it is argued, result in an improvement to its appearance in the AONB.

7. CONCLUSION AND RECOMMENDATION

7.1 It is recommended that planning permission involving the occupation of a clearly identified part of the barn for ancillary purposes only be granted.

8. CONDITIONS

- 1 The accommodation hereby permitted (identified in the submitted internal layout plan number 1516.B.2, as Day room, Shower, WC, Bedroom and Living room along with stairs that are not labelled) shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Middle Colgate Farmhouse. The remainder of the barn shown in the submitted internal layout plan shall be used for agricultural purposes in connection with Middle Colgate Farm.
Reason: Planning permission is required for independent occupation and the Local Planning Authority will require a further planning application in accordance with statute.
- 2 The development hereby permitted shall be carried out in accordance with drawing numbers 1516.B. Location and internal layout plan 1516.B.2 received 29 July 2011 and 22 July 2011 respectively..
Reason: To ensure the development is carried out in strict accordance with the approved drawings.
- 3 Prior to the commencement of work on the external alterations hereby approved, samples of the proposed facing stone and boarding shall be submitted to and approved in writing by the Local Planning Authority and the facing materials used in the development shall be in accordance with the samples so approved.
Reason: To ensure a satisfactory form of development in accordance with Local Plan Policy CP7 relating to design.