

Parish: Birdham	Ward: West Wittering
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BI/19/00351/FUL

Proposal Replacement dwelling. Alterations to house design - window to utility and minor increase in projection of south balcony. Re-use of existing building to provide multipurpose store. Erection of 3 bay garage and construction of swimming pool and hot tub - Variation of Condition 2 of planning permission BI/08/04567/FUL (APP/L3185/A/09/2093508 - Multi purpose store to include residential annex ancillary to dwelling house.

Site Birdham Fruit Farm Martins Lane Birdham Chichester West Sussex PO20 7AU

Map Ref (E) 482674 (N) 100437

Applicant Mr S Crossley

RECOMMENDATION TO DEFER FOR SECTION 106 THEN PERMIT



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1.0 Reason for Committee Referral

- 1.1 Parish Objection - Officer recommends Permit

2.0 The Site and Surroundings

- 2.1 The application site is located within the parish of Birdham, in a back land plot to the rear of properties known as Martins Lea and Martins Five. The property is a 2 storey detached dwelling, with the first floor set within the roof, served by dormer windows and rooflights. The existing property was permitted as a replacement dwelling, via an appeal, in 2009. A detached garage is located to the west of the dwelling. There is also a single storey building to the east which was the former dwelling on the site; when permission was granted for the replacement dwelling the retention of this building and its use as a multi-purpose store for purposes incidental to the main dwelling was also approved.
- 2.2 The site is accessed via a shared drive from Martins Lane. The area is semi-rural in character with residential properties to the south which fall within the settlement boundary of Birdham. Immediately to the east, west and north of the site are agricultural fields.

3.0 The Proposal

- 3.1 The application seeks permission to vary condition 2 of planning permission BI/08/04567/FUL, appeal decision reference APP/L3185/A/09/2093508, to use part of the approved multipurpose store as a residential annex ancillary to the dwelling house.
- 3.2 The multipurpose store was the former dwelling on the site, permission was granted for its retention as a multipurpose store incidental to the replacement dwellinghouse. It is subject to a s106 agreement for its use as a multipurpose store/boat store/garage and there is a clause which requires it to not be used for any form of sleeping accommodation.
- 3.3 This application seeks to vary that condition and the s106 so that it can be used as a store and provide ancillary residential accommodation to the main house for use by the applicant's family.
- 3.4 The building has a shallow ridged roof, with a height to the ridge of 3.6m, length of approximately 12.5m and depth of 10.2m. It is timber clad with white metal windows. There would be provision for a store; and further store with wc, both accessed from the exterior only, plus an annex with bedroom, living area, shower room and kitchenette. No amenity space or access separate from the main house is proposed.

4.0 History

03/03041/FUL	WDN	Demolition of existing dwelling and outbuildings. Erection of replacement dwelling, garaging and boat store/stable.
04/00049/FUL	PER	Demolition of existing dwelling and outbuildings. Replacement dwelling, garaging, boat store and stable.
04/00759/FUL	REF	Change of use of vacant farmland to residential access and drive (using existing access) through field to residential curtilage and associated paddock known as Birdham Fruit Farm.
05/00972/FUL	REF	New barn store.
05/00973/FUL	REF	2 no. camping pitches for 28 days per annum.
05/00960/PLD	WDN	New access.
05/01382/PNO	WDN	Creation of drive/access, utilising access from Lock Lane.
05/01481/PNO	YESPAR	Creation of agricultural farm track off existing access from Locks Lane.
05/01943/AGR	WDN	Creation of agricultural farm track off existing access from Locks Lane.
05/02132/PNO	NOPA	Culvert ditch.
05/02801/COU	REF	Two camping pitches for 42 days per annum.
05/02930/FUL	REF	Creation of access utilising existing access from Lock Lane.
05/04879/FUL	PER	Amendments to approved application BI/04/00049/FUL - demolition of existing dwelling and outbuildings. Replacement dwelling, garaging, boat store and stable.
06/00871/FUL	REF	Amendments to approved plans/application BI/04/00049/FUL and BI/05/04879/FUL. Re-use of existing building to provide multipurpose store and separate two bay garage and installation of solar panels to west elevation of approved dwelling.

06/01407/PLD	PER	Temporary use (28 days maximum in one calendar year) of agricultural access from Lock Lane for plant, machinery etc in connection with construction of development permitted under BI/04/00049/FUL and BI/05/04879/FUL.
06/01973/FUL	PER106	Re-use of existing building to provide multi-purpose store and separate two bay garage. Amendments to approved plans no. BI/04/00049/FUL and BI/05/04879/FUL.
06/04047/FUL	PER	Replacement drains/service trench.
07/01023/FUL	DECDET	Creation of access and closure of existing accesses.
08/04567/FUL	REF	Replacement dwelling. Minor alterations to house design - window to utility and minor increase in projection of south balcony. Re-use of existing building to provide multipurpose store. Erection of 3 bay garage and construction of swimming pool and hot tub.

5.0 **Constraints**

Listed Building	NO
Conservation Area	NO
Rural Area	YES
AONB	YES
Tree Preservation Order	NO
EA Flood Zone	NO
Historic Parks and Gardens	NO

6.0 **Representations and Consultations**

6.1 Parish Council

The Parish Council OBJECT to this application as to raise no objections would in fact fly in the face of the decisions made previously by an Inspector at appeal.

6.2 Chichester Harbour Conservancy (summarised)

Objection; uncertainty as to whether planning condition could be adequately enforced to require the accommodation to remain ancillary to the replacement house.

6.3 Natural England

No objection

6.4 West Sussex Highways (summarised)

No objection

7.0 Planning Policy

The Development Plan

7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029 and all made neighbourhood plans. The Birdham Neighbourhood Plan was made on the 19th July 2016 and forms part of the Development Plan against which applications must be considered.

7.2 The principal planning policies relevant to the consideration of this application are as follows:

Chichester Local Plan Key Policies 2014-2029 (CLP)

Policy 1: Presumption in Favour of Sustainable Development

Policy 2: Development Strategy and Settlement Hierarchy

Policy 33: New Residential Development

Policy 39: Transport, Accessibility and Parking

Policy 40: Sustainable Design and Construction

Policy 42: Flood Risk

Policy 43: Chichester Harbour Area of Outstanding Natural Beauty (AONB)

Policy 45: Development in the Countryside

Policy 46: Alterations, Change of Use and/or Re-use of Existing Buildings in the Countryside

Policy 48: Natural Environment

Policy 49: Biodiversity

7.3 Birdham Parish Neighbourhood Plan (BPNP):

Policy 4 Landscape Character and Important Views

Policy 5 Light Pollution

Policy 16 Housing Density and Design

National Policy and Guidance

- 7.4 Government planning policy comprises the National Planning Policy Framework (NPPF). At the heart of the NPPF is a presumption in favour of sustainable development, For decision-taking this means:
- a) approving development proposals that accord with an up-to-date development plan without delay; or
 - b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 7.5 Consideration should also be given to Sections 1 (Achieving Sustainable Development) 4 (Decision-Making), 9 (Promoting Sustainable Transport), 11 (Making effective use of land), 12 (Achieving well-designed places), 14 (Meeting the challenge of climate change, flooding and coastal change), 15 (Conserving and enhancing the natural environment),

Other Local Policy and Guidance

- 7.6 The following documents are material to the determination of this planning application:

- Planning Obligations and Affordable Housing SPD
- Joint Chichester Harbour Area of Outstanding Natural Beauty Supplementary Planning Document
- Surface water and foul drainage SPD

- 7.7 The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Promote and increase sustainable, environmentally friendly initiatives in the district
- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

8.0 Planning Comments

- 8.1 The main issues arising from this proposal are:

- i) Principle of development
- ii) Impact on visual amenities and character of the area

Assessment

i) Principle of development

- 8.2 In February 2006 application BI/05/04879/FUL was approved for the replacement of the existing single storey dwelling with a new house. This permission was conditional upon the existing dwelling being demolished and removed from the site when the replacement dwelling was either substantially completed or first occupied.
- 8.3 The scheme underwent a number of subsequent alterations and planning application BI/06/01973/FUL was submitted which sought to construct a replacement dwelling and to reuse the existing dwelling to provide a multi-purpose store and separate two-bay garage. At that time it was noted that it would have a smaller footprint than the replacement garage/stable/boat store that had been previously approved and it would have a lesser visual impact on the wider area. Members of the committee resolved that planning permission should be granted subject to the applicants entering into a s106 agreement that would limit the uses of the building, prohibiting the occupation of the former dwelling as an independent dwellinghouse. The building is presently subject to restrictions by that s106 agreement.
- 8.4 A subsequent application for an amended proposal comprising a replacement dwelling and the retention of the existing dwelling to be used as a general store and for recreational accommodation, including gym, sauna, changing/shower room was then submitted (BI/08/04567/FUL). The application was refused and subject to appeal decision APP/L3185/A/09/2093508 which granted planning permission for the proposal. In allowing the appeal the Inspector acknowledged the concerns about using the building as a separate dwelling, but did not consider 'that this is in itself tantamount to the provision of a new dwelling. It is normal to incorporate recreational uses in an outbuilding incidental to the enjoyment of a dwellinghouse'. The Inspector concluded that in view of the completed Unilateral Undertaking preventing future residential use of the building, that the proposed uses would be acceptable.
- 8.5 The Inspector's decision does not prevent the future alteration of the building to provide ancillary accommodation, but requires planning permission to first be sought and a deed of variation entered in to for such a use, if found to be acceptable. Ancillary residential accommodation to the primary residential use of a main dwelling is generally considered acceptable and policy compliant, but would be subject to considerations including design, form, relationship with the main house and the level of accommodation provided internally.
- 8.6 It is not the intention for the applicants to use the building as independent residential accommodation. No subdivision of the wider site is proposed and the building would remain reliant on the main house for services. The applicants have agreed to complete a deed of variation for the buildings use; so that it is not used for independent residential accommodation. In addition it is recommended that a condition be imposed stating that the accommodation shall only be used for purposes ancillary to the main dwelling, and that it shall not be let for commercial purposes; thereby ensuring that the accommodation could not be rented out as b&b accommodation, or via any other rental arrangement, without a separate grant of planning permission.

- 8.7 The building is existing on site; it appears subservient due to its size and form; it is well linked to the main house through the shared access drive and its siting adjacent to the main house. The level of accommodation proposed is proportionate to the main house and for accommodation normally found within ancillary buildings, particularly for large properties in rural locations whereby the annex accommodation would be subservient to the main dwelling on the site. For example, the Council recently refused planning permission (18/00945/DOM) to convert a detached garage into an annex that comprised 2 bedrooms, 2 bathrooms, a hallway and an open plan kitchen, living and dining space at Merston Cottage, West Wittering. The building to which the application related was close to the main dwelling but was capable of being accessed independently of the main dwelling, and the Council considered that due to the scale of accommodation proposed and because it could easily be accessed separately from the main dwelling that the proposal would constitute a new dwelling in the countryside contrary to policy, rather than be an acceptable form of ancillary accommodation. The proposal was subsequently allowed on appeal (APP/L3815/W/18/3215377), and officers have had regard to the outcome of this appeal.
- 8.8 In allowing the appeal, the Inspector stated that “In this case the annexe would be located very close to Merston Cottage, would be accessed off the same driveway as at present, would be clearly subservient in terms of both its physical scale and the scale of accommodation contained, and would share utilities. Therefore, notwithstanding the fact that it would be generously sized, and irrespective of where the external doors would be positioned, there is no particular reason to consider that the proposed annexe would fail to credibly function as an annexe.” Officers are of the view that whilst in the appeal case quoted the building was closer to the main dwelling on the site than the current proposal, the argument set out by the Inspector is relevant to the assessment of the proposal at Birdham Fruit Farm, particularly as the annex would provide less accommodation than the one allowed at Merston Cottage. As stated in paragraph 8.7 above, it would be linked to the main dwelling by a shared access, there are no physical boundaries between the main dwelling and the proposed annex, nor are any proposed, and it would be of a significantly lesser scale than the main dwelling on the site.
- 8.9 The Chichester Harbour Conservancy raise concerns about the ability to control the use of the building as ancillary accommodation and prevent its independent occupation due to its location away from public vantage points. The proposal is however for ancillary accommodation and not independent residential accommodation, it would be subject to a s106 agreement and planning condition to control its use herewith. Previously, in granting permission for the retention of the building on the site and limiting its use the Planning Inspector considered that a condition and S106 would be an enforceable, and reasonable in all other respects, mechanism to prevent residential occupation. In allowing the annex at Merston Cottage, the Planning Inspector also decided that a condition was a suitable mechanism to control the occupation of the annex stating “The ancillary nature of the approved use could be further clarified by imposition of a suitably worded condition which could be reasonably enforced. As such, whether or not plot severance would be practical or desirable in practice, and despite the fact that the accommodation would be ‘self-contained’, any subsequent material change in the approved use of the building would require planning permission.”

8.10 Although the application site is relatively secluded it is considered that it would be possible to identify and enforce any breaches of the recommended condition. It is possible that neighbouring properties would notice increased activity to and from the site by additional residents if the building became a separate dwelling, in addition if registered for council tax as a dwelling this would flag up with the Council that its use had changed, and any marketing of accommodation to let out as holiday accommodation or for other residential use would be publicly available. Officers therefore consider the use of a condition and S106 would be an appropriate way to control the use of the building and there would be no reasonable justification to argue that permission should be refused because it would not be possible to enforce the recommended condition.

8.11 Overall the proposed use of the existing building for a multipurpose store and for ancillary accommodation is considered to comply with local and national development plan policies and would be acceptable subject to conditions and a deed of variation regarding its use.

ii) Impact upon Visual Amenities and Character of the area

8.12 The proposal seeks permission for the conversion of the existing building plus small fenestration changes, including the insertion of doors, and general upgrade of the building. The existing building would not be extended and the changes would be reflective of the existing building and rural character of the area. Any vehicular parking would be accommodated on existing hardstanding to the front of the residential property and there would no separate garden area or an extension of the existing garden. Therefore the character and appearance of the site would not be substantially altered as a result of the proposed development.

8.13 Overall due to the nature of the proposal and the limited changes to the form of the existing building the proposal would not result in harm to the visual amenities and character of the area, nor harm to the Chichester Harbour AONB. The proposal would therefore comply with policies 33, residential development, and 43 of the CLP which seeks to ensure the protection of the Chichester Harbour AONB.

Significant Conditions

8.14 The application proposal is a variation of condition and therefore a fresh planning permission. As such all conditions attached to the original permission for the dwelling, and the retained multi-purpose store would be applicable to this current application and as such have been carried forward in the recommendation for this application.

Section 106 Agreement

8.15 The applicants have agreed to enter into a deed of variation to the existing s106 that exists on site.

Conclusion

8.16 Based on the above assessment it is considered the proposal complies with development plan policies and therefore the application is recommended for approval.

Human Rights

8.17 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been taken into account when reaching this recommendation and it is concluded that the recommendation to permit is justified and proportionate.

RECOMMENDATION

DEFER FOR SECTION 106 THEN PERMIT subject to the following conditions and informatives:-

1) The development hereby permitted shall not be carried out other than in accordance with the approved plans: 08069/108 REV B1,

Reason: To ensure the development complies with the planning permission.

2) The building hereby permitted for use as a multi-purpose store (hereafter referred to as 'the outbuilding') shall be used for purposes ancillary to the enjoyment of the dwelling house granted conditional planning permission under refs BI/04/00049/FUL and BI/05/04879/FUL (hereafter referred to as 'the dwellinghouse') or for purposes incidental to the working of the land at Birdham Fruit Farm only and at no time shall the outbuilding be used or let out for commercial purposes.

Reason: The site is in an area where new dwelling would not normally be permitted except in the demonstrable needs of the case.

3) The residential curtilage of the dwellinghouse is to be defined as the area lying within the red line drawn on the submitted plans 08069/105A and 08069/106A reference BI/08/4567/FUL the northern boundary of the curtilage being delineated by the post and rail/wire fence shown on plan 08069/107A reference BI/08/04567/FUL. The dwellinghouse shall not be occupied until this fence has been erected and the fence shall thereafter be retained.

Reason: In the interests of the visual amenities, character of the area and the protection of the Chichester Harbour AONB

4) At no time shall the access marked 'agricultural access only' on the submitted plan 08069/107A reference BI/08/04567/FUL be used to gain access from the public highway to the curtilage of the dwellinghouse.

Reason: To accord with the terms of the planning permission and in the interests of the visual amenities of the rural area and the Chichester Harbour AONB.

5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, the approved parking and garaging shall be retained and used only for those purposes, in perpetuity.

Reason: To accord with the terms of the application and with the policies of the Council, and to ensure adequate parking provision

For further information on this application please contact Caitlin Boddy on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PMEDGYER0PD00>