 

**PLANNING STATEMENT**

Proposal:

Subdivision of a single dwelling to two separate dwellings, new access and outhouses.

Site address:

The Poplars. Lower Road, Hardwick, Aylesbury, Bucks. HP22 4DZ

Type of application: Full planning and listed building consent

 Minor

Planning portal ref: pp-09428834 date: 18/12/2021

Local Planning Authority: Aylesbury Area - **Buckinghamshire Council**.

Applicant: Mr K. Skinner

Site area: 2020 sq.m

Agent: ACH Planning Ltd Email: office@achplanning.co.uk

 Tel: 01297 728274 Mobile: 07774 200026

**Presenting the information:**

Paragraph 44 of the NPPF (Feb 2019):

***Local planning authorities (LPA’s) should publish a list of their information requirements for applications for planning permission. These requirements should be kept to the minimum needed to make decisions and should be reviewed at least every two years. LPA’s should only request supporting information that is relevant, necessary and material to the application in question.***

Minimum requirements for applications including drawings with scale bar and PDF paper size:

1. Forms and certificates of ownership or tenure.
2. The correct planning application fee £462
3. Location plan scale 1:1250/2500 with north sign, site edged red, any surrounding land owned by the applicant edged blue and at least two nearby roads.
4. Site plan scale 1:500 showing boundaries, roads, paths, patios, trees and hedges.
5. Existing and proposed dimensioned plans and elevations scale 1:100 showing nearby buildings and demolished areas.
6. Environmental impact assessment.
7. Design and Access Statement (DAS).
8. Heritage Statement.
9. Planning statement.

This statement should be considered in association with the list of documents set out below. The documents presented with the application should be taken as a whole, representing the necessary information required to validate and determine the application, namely:

**Validation:**

Affordable Housing Statement N/A to minor development

Biodiversity Survey and Report N/A

Land Contamination Assessment There is no evidence of contamination

Economic Development Statement N/A to minor development

Retail Impact Assessment N/A to minor residential development

Flood Risk Assessment N/A - Flood zone 3

Foul and Surface Water Drainage Statement Local public sewer

Engineering Works Statement N/A to a conversion of an existing building

Landscaping Strategy Please refer to submitted documents

Lighting Assessment N/A

Noise/Extraction Assessment N/A to minor development

Bin Storage and Collection Provision Please refer to documents

Parking Plan Please refer to drawings

Planning Application Summary Please refer to submitted documents

Street Scene Please refer to documents

Structural Survey & Conversion Method Statement Please refer to documents

Telecommunications Development Statement N/A

Transport Assessment/Travel Plan N/A

Transport Statement N/A

Tree Survey and Arboricultural Implications N/A

Environmental Assessment NO existing public sewer system

Validation Checklist SUBMITTED

Plan and Drawing Requirements SUBMITTED

Historic Environment Records Search SUBMITTED

Draft S106 legal agreement N/A

Heritage Statement SUBMITTED

Biodiversity Check ListJanuary 2021

Bats: No evidence

Barn owls: No evidence

Breeding birds: No evidence

Badgers: No evidence

Dormice: No evidence

Great crested newts: Limited ground disturbance, therefore, no suitable habitats

**CHECK LIST**

Type Drg. No. Scale: Paper size:

Location plan PFH.LP1250 1:1250 A4

Site plan PFH.SP.500 1:500 A2

Access detail PFH.SP.500 1:100 A2

Existing floor plans PFH.PLAN 1Exg 1:100 A3

Proposed floor plans PFH.PLAN 1PP 1:100 A3

Elevations PFH.PLAN 1EL1 1:100 A3

Elevations PFH.PLAN 1EL2 1:100 A3

Design and Access Statements including photographs.

Planning Statement.

Heritage Statement.

Forms:

Certificate A: Provides details of the sole ‘owner’ of the application site edged red and adjoining land, not included with the application site, but within the same ownership edged blue and confirms that there are no other owners or agricultural tenants. An ‘owner’ is anyone with a freehold interest, or leasehold interest, the unexpired term of which is not less than 7 years.

**Pre-application discussion:**

In accordance with paragraph 40 of the NPPF, applicants are only encouraged to use a pre-application advice service (PAS). LPA’s cannot require a developer to engage with them before submitting a planning application. Choosing not to use the PAS is not a material consideration in determining a planning application, nor should not be used as a ransom to granting consent or even commented upon as if it represents an inappropriate failure to abide by the system.

Choosing not to use the pre-application advice service does not relieve a LPA of their duty, set out in paragraph 38, namely:

* to approach decision making in a positive and creative way;
* work proactively with an applicant/agent to secure development; or
* seek to approve development for sustainable development.

Accordingly, LPA’s should not withhold information or refuse to cooperate or engage with an applicant/agent because they chose not to use the pre-application advice service.

No formal pre-application advice has been sought.

**Relevant Planning History**

The only record of planning applications in respect of the ‘Poplars’ relates to the erection of a conservatory to the rear of the property which was approved, subsequently built and remains to this day, namely:

A/96/1925 and ALB/96/1924 - Erection of conservatory to rear of property

Validated - 11/10/1996 Approved - 27/11/1996

The case officer described the site features as:

*Detached listed cottage with farm buildings to sides – Secluded site.*

*Bell PH next door not visible from site – open countryside*

Policies/guidance applicable – RCD 13 and RCD 27

Case officer’s comments and recommendation:

*This is a conservatory extension to the rear of a large detached listed building. The extension would not be visible from any public highway and hidden to the rear. It is an appropriate design for building and CA.*

**Site description**

The site is located in the northwest corner of the built settlement of Hardwick bounded by the A413 to the west, The Bell PH (Grade II listed) and residential development to the east, Lower Road and Hardwicke Place (Grade II listed) to the south and Yard’s End and open countryside to the north. ‘Poplars’, (Grade II listed) building comprises two distinct elements, namely: ‘The Farmhouse’ and ‘The Range’. The Farmhouse is distinctly residential in character while The Range has a more working or utility character, but in recent times served the residential character of The Farmhouse.

To the north of the site lies a designated Area of Attractive Landscape and the application buildings and curtilage lie within the Hardwick Conservation Area, although the relatively modern barn located to the west and northwest of the application buildings are purposely excluded from the Conservation Area.

The Farmhouse is served by domestic garden, while the area immediately behind The Range to the north, between The Range and the barns is laid to tarmac with brick wall enclosures. A brick garden wall separates The Farmhouse and The Range.

**Policy**

The emerging Local Plan is not yet formally adopted, therefore, paragraph 11 (d) of the NPPF is engaged, namely:

*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:*

1. *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*
2. *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.*

In accordance with paragraph 78 of the NPPF, the emerging VALP proposes a settlement hierarchy to housing development, identifying Hardwick as a smaller less sustainable village which has relatively poor access to services and facilities. But it is expected that some small-scale development could be accommodated without causing unreasonable harm. This level of development is also likely to help maintain existing community. Hardwick has no current neighbourhood plan with any site allocations, therefore, the only sites likely to come forward to contribute to the housing supply relate to individual ‘windfall’ planning applications, such as this.

While the application site is not isolated, paragraph 79 of the NPPF accords with two of its circumstances that allow the development of homes, namely:

b) the development represents the optimal viable use of a heritage asset to secure its future.

d) the development involves the subdivision of an existing residential dwelling.

Paragraph 117 of the NPPF requires policies and decisions to promote the effective use of land in meeting the need for homes. Paragraph 118 requires LPA’s to give substantial weight to the value of using brownfield sites (c) and to promote and support the development of under-utilised buildings (d).

Notwithstanding the accepted principle of development, the application site is designated a Grade II listed building lying within the Hardwick Conservation Area, the details of which can be found in the ‘Heritage Assessment’ submitted with the application. The site’s status means that the proposed development must be considered within the policy context of Section 16 of the NPPF, where the overriding consideration must take into account the impact of the proposal on the designated heritage asset and its conservation. In determining applications, LPA should take account of paragraph 192, namely:

1. *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
2. *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
3. *the desirability of new development making a positive contribution to local character and distinctiveness.*

The drawings and statements demonstrate that the proposed development will not result in total or significant loss of any historic fabric or structure of the protected building. Any alterations are limited to later modern introductions. Therefore, the proposal can be considered in the context of leading to ‘less than substantial harm’, which should be weighed against the public benefit of providing an addition home to the housing supply and securing its optimum viable use.

Paragraph 200 of the NPPF requires LPA’s to look for opportunities for new development within Conservation Areas and within the setting of heritage asset. In accordance with the policy, this proposal preserves those elements that make a positive contribution to the asset which should be treated favourably.

**Conclusion**

The building lends itself well to accommodate two dwellings, avoiding any significant or substantial loss or replacement to the historic fabric. The only minimal external alterations relate to modern elements that occur on the rear elevation hidden from public view within the Conservation Area. The proposed outhouse/garage will be located at the rear of the property approximately 10m behind an existing brick garden wall set to the rear of the house. The proposed new drive will have limited impact on the Conservation Area and must be considered in the context of the adjacent open pub car park.

The proposed development is acceptable in principle and in accordance with the relevant policies, accordingly, there are no policies that justify refusal of the development proposal and the applicant respectfully asks the Council to grant planning permission.

**PLANNING CONDITIONS**

NPPF Feb 2019 - Paragraph 55.

Planning conditions should be kept to a minimum and only imposed where they are **necessary,** relevant to **planning** and to the **development** to be permitted, **enforceable, precise and reasonable in all other respects.** Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

Planning guidance requires conditions to be fair, reasonable and practicable with the aim of addressing specific problems, rather than standardisation or broad control. Clear and precise reasons must be given for imposing the condition which need to be construed in the context of the permission. Planning conditions that fail to meet any one of the 6 tests outlined in the framework are unlawful.

1. **Necessary**

* A condition must not be imposed unless there is a definite planning reason to make the development acceptable.
* If a condition is wider in scope than necessary to achieve the objective, it will fail the test.
* A condition requiring the re-submission and approval of details that have already been submitted as part of the planning application fails to meet the test of necessity.
* Conditions restricting PDR’s will rarely pass the test of necessity and should only be used in exceptional circumstances and the scope of such conditions needs to be precisely defined so that it is clear exactly which rights have been limited or withdrawn.
* With the exception of ‘article 4 orders’, area wide or blanket removal of PDR’s are unlikely to meet the tests of reasonableness and necessity.

2. **Relevant to planning**:

* A condition must not be used to control matters that are subject to specific control elsewhere in planning legislation (for example, advertisement control, listed building consents, or tree preservation).
* Specific controls outside planning legislation may provide an alternative means of managing certain matters (for example, works on public highways often require highways’ consent).

3. **Relevant to the development to be permitted**:

* It is not sufficient that a condition is related to planning objectives: it must also be justified by the nature or impact of the development permitted.
* A condition cannot be imposed in order to remedy a pre-existing problem or issues not created by the proposed development.

4. **Enforceable:**

* Unenforceable conditions include those for which it would, in practice, be impossible to detect a contravention or remedy any breach of the condition, or those concerned with matters over which the applicant has no control.

5. **Precise:**

* Poorly worded conditions are those that do not clearly state what is required and when they must not be used.

6. **Reasonable in all other respects:**

* Conditions which place unjustifiable and disproportionate burdens on an applicant will fail the test of reasonableness.
* Unreasonable conditions cannot be used to make development that is unacceptable in planning terms acceptable.

**Pre-commencement conditions: (PCC’s)**

A PCC is defined as a condition imposed on a grant of planning permission (other than outline planning permission) which must be complied with before any building or operation is begun, or where the development consists of a material change of use of any buildings or other land, before the change of use is begun.

A PCC that does not meet the legal and policy tests may be found to be unlawful by the courts and therefore cannot be enforced by the local planning authority if it is breached. Development carried out without having complied with a PCC would be unlawful and may be the subject of enforcement action.

When using PCC, LPA’s should be satisfied that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

From 1 October 2018, planning permission may not be granted subject to a PCC without the written agreement of the applicant to the terms of the condition (except in the circumstances set out in the Town and Country Planning (Pre-commencement Conditions Regulations 2018).

**Comment:**

*General conditions:*

1. Despite best practice, LPA’s do not have the time or recourses to agree conditions before granting permission.
2. Following the ordeal of securing a consent, few have the appetite to vary or remove conditions under Section 73 that requires another application to the LPA, whose officer is unlikely to rectifying a condition by admitting an error.
3. The only impartial option to vary or remove a condition lies in an appeal and applying for costs.
4. ‘Above damp-proof level conditions’ do not require the applicants consent, but are just as onerous as a PCC’s, by allowing temporary commencement before coming to an abrupt holt at damp proof level in the absence of an approval.

*Pre-commencement conditions (PCC’s):*

1. A PCC effectively reduces a detailed planning consent to an outline consent, requiring a second approval before any development can take place.
2. A PCC must be so fundamental that it would have been otherwise necessary to refuse the permission, thus providing the LPA with a loophole that restores their liberal use by waiting until the last minute to insist on PCC’s or risk refusal.
3. If the information required is so fundamental, it should be requested during the determination process and not a last-minute demand. Accordingly, requests for PCC’s are unnecessary and should not normally be agreed by the applicant.

To assist the LPA and to keep conditions to the minimum necessary, all drawings are be accompanied with a note that states:

*“The details and specification shall be installed and carried out in accordance with this drawing and completed before the occupation of the buildings and be permanently retained and maintained thereafter in perpetuity for the duration of the development”.*

This note should remove the need to impose conditions relating to re-submitting or reiterating details that have already been approved with the imposition of a single condition, stating:

*“The development hereby permitted shall only be carried out in accordance with the approved drawings, identified by drawing numbers: …………………”*

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