DELEGATED REPORT

Application Reference:	PL/2023/05406
Application Type:	Full Planning Permission
Site Address:	Mill Cottage, 125 Westbrook, Chippenham, SN15 2EE
Proposal:	Retention of Summerhouse (retrospective)
Recommendation:	Planning Permission is GRANTED

PROPOSAL

This application seeks retrospective planning permission for the retention of an existing summerhouse erected in 2021. This outbuilding is one of four buildings (along with Chittoe Mill, its garage building opposite and the Pond Building) situated within the wider land holding associated with the main residential residence of Mill Cottage, to the north of the small hamlet of Westbrook.

According to the submission, the applicant understood that this summerhouse was being built in accordance with Class E of the General Permitted Development Order (GDPO) as a building incidental to the enjoyment of the dwellinghouse. This proposal originally formed a part of another recent planning application (ref. PL/2023/02388) which was submitted in order regularise tourism activities and built development across the wider site following enforcement enquiry. It was established through this application process that the summerhouse had not been built in accordance with the conditions that apply to Class E of the GDPO. Following agreement with the applicant, the summerhouse element was subsequently removed from that application to be considered separately for regularisation under this standalone application.

The existing summerhouse comprises a single storey timber outbuilding with pitched roof, clad in corrugated grey metal sheets with a timber deck and covered verandah around the building. The summerhouse is approximately 7m long, 3,5m wide, circa 4.5m in height with the surrounding timber decking extending the overall footprint to approximately 11m by 8m. Four external lights are positioned on each corner of the building pointing inwards towards the decking.

According to the submission, the building is used only as a private office space and for occasional wildlife watching activities and not used for any form of residential or overnight stay purpose. The building is connected to mains electricity and includes a toilet with foul drainage running through underground sewer pipes down to the Mill's system.

SITE DESCRIPTION/CONTEXT

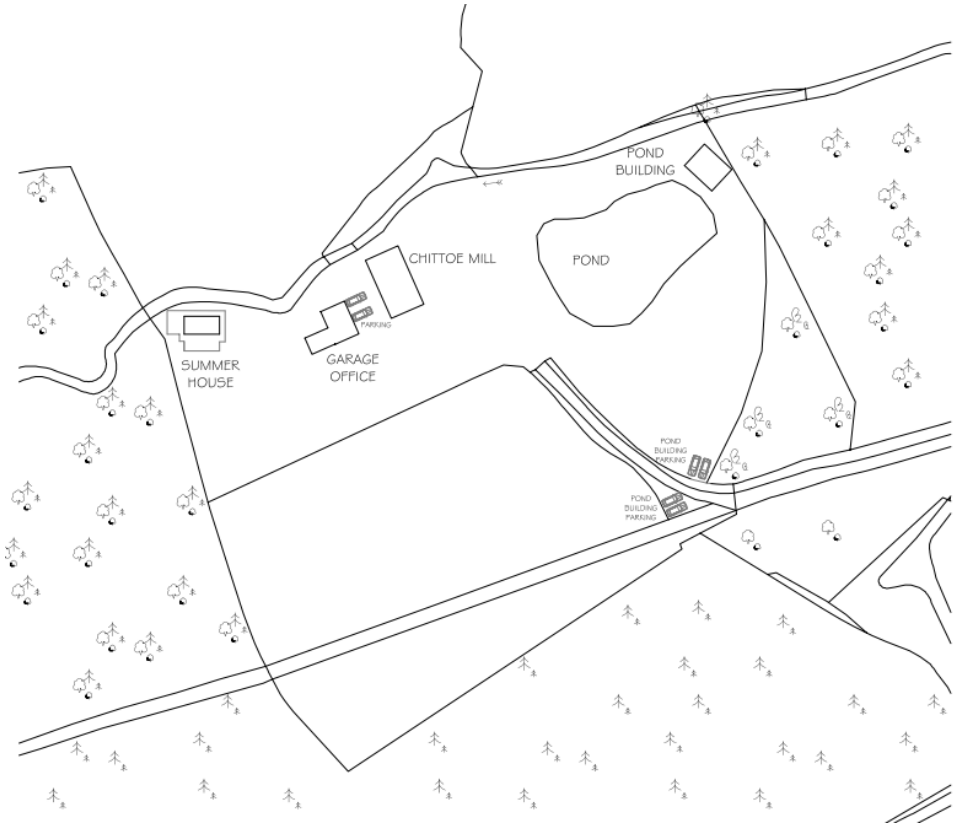
The summerhouse has been built on the top of the bank of the Mill stream watercourse. The site falls within Flood Zone 3 and is also shown to be at risk of surface water flooding according to the

Council's Strategic Flood Risk Assessment and the Environment Agency's mapping.

The summerhouse sits within a woodland setting adjacent to areas of land to the east and west designated as County Wildlife Sites. These include 'Chittoe Mill Meadow' (site ref. ST96.029); Prickmoor Wood to the west (also an ancient woodland site) and 'Colwell Copse (site ref. ST96.031) to the east, encompassing ancient woodland. There are historic records of bat species roosting in the garage outbuilding nearby and the surrounding land is prime bat habitat with bats likely to forage within and along the woodland edge habitat. According to the applicant's submissions and consultee responses, the applicants have been working in partnership with the Wiltshire Wildlife Trust and the Spye Park Estate in the habitat management of the wider site.

The main residential property of Mill Cottage is located along a track that runs northwards off the A3102 with the Summerhouse (along with Chittoe Mill and the Pond Building) situated some distance further along the track close to the mill stream and pond. The land associated with Mill Cottage extends to some five acres. These buildings are located some 600m to the south of Westbrook, a small hamlet that lies around 0.6 miles to the north of Bromham defined as a 'large village' in the Wiltshire Core Strategy (WCS). Being located outside of a defined settlement boundary the site is within open countryside for the purposes of the Wiltshire Core Strategy (WCS).

Site Plan



As shown on the Site Plan, the summerhouse sits to the west of 'Chittoe Mill', an historic three-storey stone building restored in the 2000s that is situated directly opposite to a brick-built garage with a public right of way (BROM5) running between these two buildings. Chittoe Mill was previously

granted permission in 2005 (ref. K/38526) for the change of use and restoration of the mill for use as ancillary accommodation associated with Mill Cottage. It is understood that there is a legal agreement in place that prevents the mill site being sold off separately from the Mill Cottage.

'The Pond Building' is located to the east and was erected as a summerhouse and ancillary annex in 2013 (ref. 13/03522/FUL). This building is also subject to a condition restricting occupancy to purposes ancillary to the residential use of the main dwelling, Mill Cottage. The Pond Building was recently granted retrospective permission for a change of use to enable it to continue to be used for holiday accommodation as well as ancillary residential accommodation. Through the course of that application, it was found that this building had also not been built in accordance with its 2013 approved drawings. Due to the passage of time, a Certificate of Lawful Development has recently been issued under application ref. PL/2023/07726.

PLANNING HISTORY

The following list is not exhaustive however it provides a summary of the key permissions for the conversion of the buildings on the site over time:

- PL/2023/07726 - Certificate of Lawful development Construction of ancillary residential building known as the Pond Building located to east of Chittoe Mill – Approved 20/10/2023

- PL/2023/02388- Change of use of existing ancillary residential buildings to dual uses as ancillary residential accommodation and holiday accommodation (retrospective)- Approved with conditions - 12/09/2023

- PL/2023/00602 - Application for the roof improvements and under-roof space for an existing annex comprising garage, storeroom and current office to the rear of Chittoe Mill. – Withdrawn 14/02/2023

- 13/03522/FUL - Summerhouse and occasional annex – Approved with conditions 31/10/2013

- K/34511 - Restoration of existing mill pond – Approved with conditions 08/08/1997

- K/38526 - Change of use of mill for use as ancillary accommodation to Mill Cottage – Approved with conditions 19/04/2005

- K/42454 - Replacement of old out building with a new workshop, including all other associated works – Approved with conditions 04/02/2002

- K/86/0629 - Conversion of former mill to dwelling – Refused 07/08/1986

- K/78/0330 – Re-roofing and replacing fenestration to derelict mill – Approved with conditions 22/10/1979

POLICIES

Wiltshire Core Strategy (Adopted 2015)

- CP1 Settlement Strategy
- CP2 Delivery Strategy
- CP12 Spatial Strategy for the Devizes Community Area
- CP50 Biodiversity and geodiversity
- CP51 Landscape
- CP57 Ensuring high quality design and place shaping
- CP67 Flood Risk

National Planning Policy Framework (NPPF, 2023)

DOCUMENTS SUBMITTED

The following documents were submitted for consideration:

- Site Location Plan
- Site Plan – 2301-5
- Summerhouse elevations and floor plan – 2301-6
- Streambed detailed sections –2301-7
- Planning Statement
- Ecology Technical Note
- Flood Risk Assessment
- Letter from Forestry Management

ISSUES

- Principle Of Development
- Design and landscape impact
- Ecological considerations
- Flood Risk and Drainage
- Residential Amenity, Highways and Access

CONSULTATION

Bromham Parish Council: No Objection

Ecology Officer: Comment

Thank you for consulting Ecology, I have reviewed the application and supporting documents against OS Maps and aerial photography of the site and surrounding area, together with GIS layers of statutory and non-statutory sites and existing records of protected species.

The application has been supported by an Ecology Technical Note by Malford Environmental Consulting Ltd and an email from Ayers Forestry Limited.

The documents address the site's location within Chittoe Mill Meadow County Wildlife Site (CWS) and adjacent to Prickmoor Wood CWS, priority woodland habitat and Ancient Replanted Woodland.

The ecology report concludes that there are no predicted significant impacts on habitats, designated sites or protected/notable species from construction of the summerhouse. As stated in the report this is because the building was deliberately sited in an area of least ecological value i.e., 10 m away from the woodland edge and in an area high in nutrients due to historical land use, the building was designed and constructed to be low impact and sit above ground, and the building was sited and built under the guidance of Wiltshire Wildlife Trust and Spye Park

Estate woodland manager. The email from Ayers Forestry Limited provides background for the site, including species composition and historical management of habitats within and adjacent to the site. Ayers Forestry Limited also state that the summerhouse was sited in an area of least ecological value and that the summerhouse was constructed in such a way that it has not impacted adjacent trees.

I am satisfied that sufficient information has been provided to address concerns regarding the protection of ecological features on and adjacent to the site, and I agree with the assessments by Malford Environmental Consulting Ltd and Ayers Forestry Limited that ecological features will not be significantly impacted by the construction or operation of the summerhouse.

Recommendations to remove lighting from the summerhouse, change the veranda material and provide five bat roosting features are welcomed. To secure the provision of the bat roosting boxes a condition has been included which requires the submission of a site plan with the locations of the bat boxes marked. This plan should include the following details: location, number, type (include make/model, if appropriate) and positioning (height, aspect, surrounding habitat, as applicable).

Artificial Lighting

The habitat within the proposed development site and the surrounding area is suitable for roosting, foraging and commuting bats. An increase in artificial lux levels can deter bats which could result in roost abandonment and/or the severance of key foraging areas. This will likely result in a significant negative impact upon the health of bat populations across the region. Artificial light at night can have a substantial adverse effect on biodiversity. Any new lighting should be for the purposes for safe access and security and be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note GN08-18 "Bats and artificial lighting in the UK", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

CONDITIONS:

1. The development will be carried out in strict accordance with the following documents:
- *Ecology Technical Note. Malford Environmental Consulting.*

REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.

2. No new external artificial lighting shall be installed at the site unless otherwise agreed in writing by the local planning authority.

REASON: In the interests of conserving biodiversity.

3. Details of the number, design and locations of bat roosts shall be submitted to the local authority for approval. These details should be clearly shown on a site plan. The approved details shall be implemented before occupation of the final works.

REASON: To provide enhancement for biodiversity.

Drainage Officer: Comment

It is stated that the summer house is used as an office so one can assume that there is a toilet especially as the applicant ticked STP for foul disposal. As the area is located in flood zone 3 it is highly unlikely that discharge via infiltration would be possible. Applicant is required to undertake soakaway test and provide compliance statement with all the binding rules: https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground
It is unclear how surface water will discharge - surface water discharge strategy is also required.
Development MUST NOT increase flood risk to the site itself but also to 3rd party land and downstream catchment.

REPRESENTATIONS

No other letters of representation have been received.

ASSESSMENT

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan unless material considerations indicate otherwise. At the current time the statutory development plan in respect of this application consists of the Wiltshire Core Strategy (WCS) (Adopted January 2015); and the 'saved' policies of the Kennet District Local Plan 2004.

Unauthorised Development

In accordance with the national Planning Practice Guidance (PPG), it is important for the applicant to be aware that a person who has undertaken unauthorised development has only one opportunity to obtain planning permission after the event. The LPA has the right to decline to determine a retrospective planning application if an enforcement notice has been previously issued. Furthermore,

it is now government planning policy that intentional unauthorised development is a material consideration that should be weighed in the determination of planning applications and appeals. The written ministerial statement announcing this policy stated that it applied to all new planning applications and appeals received since 31 August 2015. Intentional unauthorised development typically adds weight against the granting of permission.

Principle of Development

The site is located outside of any settlement boundary and as such is considered open countryside in terms of WCS policies and settlement hierarchy. Development is typically restricted in these locations. There are exception policies detailed within paragraph 4.25 of the WCS however the proposal does not meet within any of these.

The submission states that the summerhouse was built with the intention of being in accordance with permitted development rights. However, the submitted plans appear to show that the building has not been built in accordance with the relevant part of the GDPO (Part 1, Class E – Buildings etc incidental to the enjoyment of a dwellinghouse). For example, the building is higher, has a higher eaves height and sits on a raised platform/verandah. Strictly speaking therefore the building is unauthorised development and contrary to policy. However, given the small scale of this development and discrete location, the other material considerations are discussed below in order to consider the acceptability of the summerhouse being retained as-built.

Design and Appearance

Core Policy 57 seeks to secure good design. The policy seeks to ensure that proposals should enhance local distinctiveness by responding to the value of the natural and historic environment and requires all applications for new development to be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of the area.

As set out in the Planning Statement, the summerhouse is a modest timber building with timber cladding that will weather down to a silver-grey finish and which is relatively screened by surrounding trees and vegetation. Whilst the built structure remains a developed feature within an otherwise undeveloped woodland area, the design and appearance is considered acceptable and not out of keeping with the rural landscape character of its surroundings.

Landscape and Ecological Considerations

Core Policy 50 requires that development proposals must demonstrate how they protect features of nature conservation and that proposals shall incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species. Section 15 of the NPPF requires that the planning authority ensures protection of important habitats and species in relation to development and seeks enhancements for the benefit of biodiversity through the planning system.

Core Policy 51 expects development to protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, whilst any negative impacts must be mitigated as far as possible through sensitive design and landscape measures.

The summerhouse is located outside of the adjacent Prickmoor Wood local wildlife site (designated as ancient, replanted woodland) with the nearest tree being some 10m away. The submission, including a Statement from Ayers Forestry Limited, has set out that no trees were felled in construction of the summerhouse, apart from the removal of a few ash trees that were suffering ash die back and posing a risk to Chittoe Mill. According to the Ecology Note, the summerhouse was constructed by a qualified arboriculturist /tree surgeon using low impact techniques. The building has been set above the ground and installed using zero impact footings that do not impact upon tree roots.

The Council's ecologist has accepted that the summerhouse was deliberately sited in an area of least ecological value and concurs with the conclusions of the Malford Environmental Consulting Ltd Ecology Note. This states that there are no predicted direct (physical) or indirect (environmental) impacts on the adjacent Prickmoor Wood associated with the summerhouse. The only habitat affected included a small area of nutrient-rich soil within the curtilage of Chittoe Mill that was not integral to the structure and function of Prickmoor Wood LWS or Chittoe Mill Meadow LWS. The Note goes on to state that mitigation has been embedded within the scheme design to avoid and protect all woodland / trees by providing a minimum 10m stand-off from the woodland trees and using low / zero-impact construction techniques.

Additional mitigation measures have been agreed with the applicant to further minimise potential for adverse impacts on wildlife associated with lighting and disturbance which have been secured as conditions to this permission. These required actions include removing the existing external lights and replacing the existing veranda cover with an opaque material. Recognising that bats are likely to forage along the woodland edge habitat, required enhancements include installation of five bat boxes on suitable trees. A standard condition has also been placed preventing any new external lighting from being installed without specific permission from the Local Planning Authority to prevent further disturbance to bats.

Flood Risk and Drainage

According to the EA and Council's mapping, the summerhouse falls within Flood Zone 3 and has a medium to high risk of surface water flooding. Due to the minor nature of the development, a proportionate Flood Risk Assessment (FRA) has been submitted. The FRA demonstrates that due to the topography of the bank, the building is significantly elevated up and out of the flood plain and as such is not actually at risk of flooding. The proportionate FRA has been found acceptable however further details as to how surface water and foul drainage are to be suitably managed will be required to be submitted via condition.

Residential Amenity, Highways and Access

Core Policy 57 states that development should have regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants and ensure that appropriate levels of amenity are achievable within the development itself.

Due to the distance from any surrounding properties, it is considered that the summerhouse is not anticipated to give rise to adverse impacts to the occupiers of neighbouring properties in relation to privacy, noise, overshadowing and so forth. If visible from the public right of way, the design and appearance of the building is not considered particularly harmful to the landscape setting although it is an urbanising feature within the woodland.

The use of the building as a home working office is not considered to give rise to unacceptable levels of additional traffic movements and no alterations to the existing access or parking arrangements are proposed by way of this application.

It is a requirement that the PROW/bridleway that runs through the site is kept open at all times and not obstructed at any time by parking, storage or for other reasons. This would be a criminal offence under section 137 of the highways Act 1980 and an informative is placed in this regard.

CONCLUSION

Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The principle of the development has been found to be contrary to Wiltshire Core Strategy Policies CP1 and CP2. The unauthorised nature of the development is also a material consideration that weighs against the proposal. However, taking in to account the small scale of the proposals, the limited potential for adverse effects, the applicant's history of working in partnership with the Wiltshire Wildlife Trust and the securing of conditions, it is considered that in this case, on balance, that planning permission should be granted.

RECOMMENDATION

That Planning Permission be GRANTED subject to the following conditions:

1. The development is permitted in accordance with the following approved plans and the details set out within the following documents:

    - Site Location Plan
    - Site Plan – 2301-5 Issue 2
    - Summerhouse/Home Office As Built – 2301-6 Issue 2
    - Streambed detail–2301-7 Issue 1
    - Ecology Technical Note (Malford Environmental Consulting Ltd, 21June 2023)
    - Flood Risk Assessment (RCC)

    REASON: For the avoidance of doubt and in the interests of proper planning.

2. Within three months of the date of this permission, in accordance with the Ecology Technical Note:
    - the existing plastic veranda roof material shall be replaced with an opaque roofing material and;
    - the existing external lighting shall be removed.

The condition shall be discharged when photographic evidence of these works having taken place has been submitted to and approved in writing by the local planning authority.

REASON: In the interests of conserving biodiversity and to avoid illumination of habitat used by bats.

3. Within three months of the date of this permission:

i) The details of five bat roosts, in accordance with the Ecology Technical Note, shall be submitted to the Local Planning Authority for approval in writing. The details should be clearly shown on a site plan and the plan should include the following details: location, number, type (include make/model if appropriate) and positioning (height, aspect, surrounding habitat, as applicable).

ii) Following approval of said details, the installation of the bat roosts shall be supervised by a professional ecologist.

The condition shall be discharged when photographic evidence of the installed features have been submitted to and approved in writing by the local planning authority. These bat roosts will continue to be made available for bats for the lifetime of the development.

REASON: To provide enhancement for biodiversity.

4. No external light fixture or fitting shall be installed within the application site unless details of existing and proposed new lighting have been submitted to and approved by the Local Planning Authority in writing. The submitted details shall demonstrate how the proposed lighting will impact on bat habitat compared to the existing situation.

REASON: In the interests of conserving biodiversity and to avoid illumination of habitat used by bats.

5. Within three months of the date of this permission a scheme for the discharge of surface water (incorporating sustainable drainage details) from the site and details for the disposal of sewage shall be submitted and approved in writing by the Local Planning Authority. The approved works shall be implemented in full thereafter for the lifetime of the development.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority to ensure that the development can be adequately drained.

6. The summerhouse hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the main dwelling, known as Mill Cottage and it shall remain within the same planning unit as the main dwelling.

REASON: The additional accommodation is sited in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit a wholly separate dwelling.