DELEGATED REPORT

Application Reference:	PL/2023/09740
Application Type:	Planning Permission
Site Address:	Serendipity, Kingsdown, Corsham, SN13 8BT
Proposal:	Erection of a building to replace four buildings (shipping containers)
Recommendation:	That Planning Permission is GRANTED with Conditions

PROPOSAL

This application seeks Planning Permission for the replacement of four shipping containers to one detached outbuilding which will serve as residential storage space. The outbuilding will consist of a double door and two windows on the front elevation and is proposed in vertical timber cladding with a block plinth and GRP roof in grey. The outbuilding will be replacing four existing shipping containers on the same footprint and will measure 14.8m in width, 6.0m in depth and 2.6m in height with a slight decrease in roof slope to 2.5m.

The application sets out the following components for which permission and consent are sought:

- Erection of a detached outbuilding
- Removal of four existing shipping containers

The development and works are intended for purposes associated with the occupation and use of Serendipity, as a single residential dwellinghouse.

Unsolicited revised plans and additional information was submitted by the applicant following the expression of concerns in respect of the application as submitted. That revised and additional information changed the proposals and for that reason has not been accepted. Accordingly, the application determined on the basis of the plans and documents first received.

DESCRIPTION/CONTEXT

Serendipity, formally known as The Old Woodshed, is a detached dwelling located on the southeastern end of Kingsdown. The site is situated within a imprecise plot, and is set in different elevations decreasing in elevation on a northerly direction with the property located on lower ground than the proposal area. The site sits adjacent to an open field to the south and flanked by residential to the north, west and east. The site is accessed from a private drive that connects off Henley Lane.

The application site is part of a complex associated with “Orchard House”, which has seen various elements of authorised and unauthorised development take place; including the creation of various new dwellings. The complex is well landscaped with many mature trees sited in close proximity to the containers. It is all under the control of the same applicant.

Serendipity itself is a run-down property that appears to be of a quasi-modular construction (although now significantly larger than a caravan). Several certificate of lawfulness decision have been issued which confirmed its status as a dwelling, with a later 2015 permission granted for its extension. The application site for that 2015 permission appears to be smaller than that shown on the submitted plans.

The site is within the North Wiltshire Green Belt, the Cotswolds Area of Outstanding Natural Beauty and sits within the consultation zone for the Bradford-on-Avon bat Special Area of Conservation (SAC), as well as being in proximity to the Bath and Box Mines SSSI.

PLANNING HISTORY

18/10233/CLP	Certificate of Lawful Use (Proposed) for the permanent stationing of a caravan to provide ancillary residential accommodation.	Approved
ENF/2022/00332	Material change of use of land for the storage of containers.	Four shipping containers- classified as being in the same location for at least the past four years.
Applications made under The Old Woodshed, Prospect, Kingsdown, SN13 8AY		
15/05856/FUL	Residential extension including the replacement of a Flat Roof with pitched roof	Permission
13/06670/CLP	Certificate of Lawfulness For Proposed Extension	Approved
N/12/03630/CLP	Certificate of Lawfulness for Proposed Rear Extension	Refusal – Appeal withdrawn
N/12/01295/CLE	Certificate of Lawfulness - Use of Original & Retained Part of Existing Building for Independent Residential Use	Approved
N/11/04169/CLE	Use of Original and Retained Part of Existing Building for Independent Residential Use	Refused
N/11/03028/CLE	Certificate of Lawfulness - For Use of Building as Self Contained Independent Dwellinghouse	Refused

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 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); the 'saved' policies of the North Wiltshire Local Plan (NWLP) 2011 (adopted June 2006); and the made Corsham Neighbourhood Plan (2019).

Though the development plan is considered as a whole, those parts deemed to be particularly relevant to this application are listed below:

Wiltshire Core Strategy Policies 2015 (WCS):

Core Policy 51: Landscape
Core Policy 57: Ensuring High Quality Design and Place Shaping

National Planning Policy Framework 2023 (NPPF)

The Cotswolds National Landscape (formerly AONB) Management Plan 2023-2025 (CNLMP) is a relevant material consideration, Policy CE1 (Landscape) is particularly relevant.

ISSUES

The main issues in the consideration of this application are:

- Principle Of Development
- Impact to the Green Belt
- Impact to the AONB
- Design and appearance
- Impact to Residential Amenity
- Ecology

CONSULTATION

The following consultation responses were received:

Box Parish Council: Objection:

> *Objections. This is overdevelopment in the Green Belt and AONB. If permission were to be granted this should remain as storage and not become a residential property.*

Council Ecologist: Objection:

> *This site is a designated Habitat of Principle Importance "No main habitat but additional habitats present" which basically means it is a mosaic and there is a sub category of "deciduous woodland" so in effect any tree on site is considered to be part of the HPI.*
>
> *The site is with a bat SAC consultation zone, therefore any vegetation removal or operational impact could impact bats. Therefore, any trees need to be suitably protected by designing out any impacts and ensuring they are protected during the construction phase. I think a full ecology report would be far too onerous for this application. However, information on the tree root protection zones is required to ensure the development avoids impact any existing trees. If an impact is unavoidable suitable mitigation in the form of replacement tree planting would be required. Therefore, please can we request an Arboricultural report is submitted prior to determination which details the root*

protection areas. Hopefully the proposed siting does not impact the PRA. if it does there might need to be slight adjustments to the siting and/or mitigation planting which should be detailed in a suitable landscape plan.

Either way please can a lighting condition be applied (see text below) and some form of condition for them to avoid working in the RPA during the construction phase. a CEMP would be too onerous.

Lighting

No external light fixture or fitting will 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 will demonstrate how the proposed lighting will impact on bat habitat compared to the existing situation.

REASON: To avoid illumination of habitat used by bats.

REPRESENTATIONS

Consultation has been carried out and no comments or objections were received by neighbouring properties or third parties.

ASSESSMENT

Principle of Development

The submission of this planning application was preceded by an enforcement investigation as to the lawfulness of the four shipping containers (amongst other works and development which has been carried out at the site). That investigation concluded that they would be classed as operational development 'buildings' and that they had been in the same location on the land for at least the past four years. Although not an application seeking a certificate of lawfulness, in the absence of evidence to contradict the conclusions of the enforcement investigation, there is no reason to believe that the shipping containers are not lawful by reason of passage of time.

Regardless of the lawfulness of the shipping containers, the principle of outbuildings ancillary to domestic dwellinghouses is established as acceptable where they are positioned within the domestic curtilage. In this particular instance however, the extent and boundaries of the respective gardens serving the various properties is confused, with little definition on the ground. Further, the application site demonstrated on the 2015 application for extensions to Serendipity/The Old Woodshed is much smaller than that now being suggested, and would place the shipping containers outside of it confines. Nevertheless, in the context of the wider Orchard House complex, which is all under the control of the applicant, and is well defined from the countryside hinterland, the difference/increase in site area is not considered to be consequential. Technically, however, since the application does not seek permission to incorporate or change the use of the land upon which the new building would be sited to domestic curtilage, it would remain the applicant's responsibility to satisfy themselves as to its status and, if necessary, regularise the situation.

The detail of the proposed development must also be considered against all relevant policies within the development plan and that assessment is carried out in the sub-sections below.

Green Belt

Chapter 13 of the NPPF confirms that construction of new buildings as inappropriate in the green belt. However, of relevance in this case is paragraph 154(d), which does set out an exception for the replacement of a building, where the new building is in the same use and not materially larger than the one it replaces.

The application seeks permission for a replacement of the shipping containers which are understood to be used for domestic storage. Since the replacement building would also be for used for ancillary domestic purposes, the first party of the test set out in paragraph 154(d) would be met. Nevertheless, it is considered reasonable to make use of a planning condition so as ensure it is not used for purposes which are not ancillary to an existing domestic dwelling.

With regard to the size and scale of the replacement building, if the space between the four shipping containers is taken into account, the plans do not suggest that the existing footprint of the structure(s) would be any greater. In this case, whilst there is indeed a void between the two sets of two shipping containers, there is a form of low masonry wall and profile sheet barrier across the back edge of that void (the containers appearing to rest on the low wall element). That “wall” and profile sheet barrier does much to define the total extent of footprint of the containers and for that reason it is considered reasonable to use that measure by which to compare with the proposed building.

Similarly, at c2.6m, the maximum height of the shipping containers is not exceeded by the proposed replacement building, which would be of a flat roof profile. Furthermore, the addition would not alter the amount of open space around the dwelling and would be seen within the context of the surrounding dwellings. The development does not encroach into the countryside hinterland to the Orchard House complex or lead to the further sprawl of the built-up area.

Accordingly, and although the instincts of the Box Parish Council to express concerns about this proposal being an overdevelopment in the green belt are entirely understood (it representing the latest in a long line of applications which have been made following unauthorised development taking place at the Orchard House complex), in this case the shipping containers are regarded by the Council’s enforcement team as being lawful, and the proposed replacement building would not be materially larger and would be used for the same purpose. For these reasons, the proposal does not constitute inappropriate development in the green belt and meet with the requirements of paragraph 154(d) to the NPPF.

Landscape

In regard to impacts on the Cotswolds National Landscape, Core Policy 51 of the WCS and Policy CE1 of The Cotswolds National Landscape Management Plan (CNLMP) seek to ensure that the landscape character, scenic quality and geological features of the National Landscape are conserved, and where possible enhanced. As required by CP51 of the WCS and Policy CE1 of the CNLMP, due consideration has been given to the proposal’s potential impact upon the National Landscape.

The development is located within the confines of a complex of buildings at Orchard House which has steadily intensified over the years. However, that complex is well defined from the wider countryside by trees,

landscaping and boundary treatments. Indeed, even though the appearance of the Orchard House complex can be fairly described as being untidy and neglected, and the various buildings temporary and low quality in appearance, it is evident that little can be seen of them from the wider countryside hinterland, outside of the boundary. Indeed, even closer views from Henley Lane and Prospect are difficult to achieve. The use of timber and composite cladding for the proposed building itself is not considered to be of a particularly high quality, but neither is it out of character with that of the Orchard House complex, and arguably is an improvement over the shipping containers.

For the above reasons, it is concluded that the proposed development would not harm the scenic quality and special characteristics of the Cotswolds National Landscape. Accordingly, the proposed development will meet the requirements of policy CP51 to the Wiltshire Core Strategy, and Policy CE1 of the Cotswold National Landscape Management Plan.

Layout, scale design, appearance

Core Policy 57 requires a high standard of design in all new developments; of particular relevance to householder developments is paragraph (iii) which require development to respond positively to the existing townscape and landscape features in terms of building layouts, built form, height, mass, scale, building line, plot size, elevational design, materials, streetscape, and rooflines to effectively integrate the building into its setting.

Although perhaps appearing a little *commercial*, with a regular series of doors and windows and three internal *bays* or *units*, the outbuilding adopts a relatively simple design. The use of timber cladding and profile composite cladding could be said to also suggest a business use rather than ancillary domestic, but it is not considered to be so exceptional for this type of use and location within a well-defined complex of domestic properties. In any event, it would be possible to make use of a planning condition which expressly prohibits any use other than the domestic storage being claimed, thereby relieving any residual concerns over its mismatched appearance/expressed use.

Although sited some distance from the dwelling it purports to serve, the building remains within sufficient proximity to be perceived as an ancillary building, with the aforementioned well-defined boundaries to the wider Orchard House complex largely stopping wider views. The scale of the building closely resembles the four shipping containers are laid out on site and therefore does not present a tangible increase in bulk on the site.

Taking account of the above, it is considered that the development would not cause unacceptable harm to the character of the property in terms of design and appearance amounting to a reason for refusal. As such, the scale and design of the proposal are considered to be acceptable and comply with Core Policy 57 of the WCS.

Residential Amenity

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 ensuring that appropriate levels of amenity are achievable within the development itself. Section 12 of the NPPF also states that planning decisions should create places with a high standard of amenity for existing and future users.

In respect of the residential amenity, the proposed development would not be considered to impact upon neighbouring properties. The surrounding properties are situated on larger sized plots and are a distance away from the proposal site. The flat roof outbuilding also is proposed at a maximum height of 2.6m and would not result in unacceptable harm, significant loss of daylight or sunlight and would not be intrusive to neighbour amenity.

It is noted that during public consultation, there were no objections or concerns raised by neighbouring properties.

In the context of the nature and layout of the development, there continue to be no unacceptable impacts upon the amenities and living conditions of the neighbouring properties, thereby complying with the relevant provision of CP57 of the WCS.

Ecology

CP50 of the Wiltshire Core Strategy and the National Planning Policy Framework requires that the planning authority ensures protection of important habitats and species in relation to development and seeks enhancement for benefits of biodiversity through the planning system.

The site is situated within the Bradford-on-Avon bat SAC consultation zone and near to the Bath and Box Mines SSSI. Despite its sensitive location, the application has not been supported by any ecological assessment not any information which considers the potential effect upon the various trees that are sited near to the containers. Unsurprisingly, the Council's Ecologist objected to the proposals on the basis that any vegetation removal or operational impact could impact bats and that the application did nothing to explain the situation or propose preventative or protective measures if they were so needed.

Opportunity was given to the applicant to respond to the objections. In response a technical arboricultural report was submitted, but no agreement was given to provide additional time for that technical report to be considered and concluded upon. In light of the need to determine application expeditiously and within agreed timeframes, that report has not been taken into account.

Nevertheless, in this particular case, there are no additional foundations shown to be created on any of the submitted plans and the nearest trees are located some distance from the shipping containers (and therefore the location of the new building). Taking the submitted plans at face value, the new building is to simply rest on the existing (albeit limited) footings/wall thereby removing any potential for damage to be caused to root systems during excavations. However, there would still remain the potential for damage to be caused to those trees that are present on the wider site to be damaged during the construction phase. For those reasons, it is considered reasonable and necessary to make use of a condition that compels the installation of tree protection measures prior to development taking place and a condition that confirms the that no further excavation or foundations are to take place.

In other respects, the Council's Ecologist does not require a full ecological assessment to be carried out, although because of its effect on bat habitats, they do request the imposition of a condition that would prohibit the installation of external lighting. No such lighting is proposed and due to the sensitive location of the site, such a condition is considered reasonable.

Subject to the aforementioned conditions, the proposal is considered to comply with policy CP50 to the Wiltshire Core Strategy.

CONCLUSION

The proposal does not constitute inappropriate development in the green belt. Subject to the imposition of planning conditions, the proposed development will meet with the requirements of policies CP50, CP51 and CP57 of the Wiltshire Core Strategy and Policy CE1 of the Cotswolds National Landscape Management Plan 2023.

RECOMMENDATION: That Planning Permission be GRANTED subject to the following conditions:

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Existing & Proposed Floor Plan: DWG No. TP02
Proposed Elevations: DWG No. TP04
Block Plan: DWG No. TP05 Rev A
Location Plan: DWG No. TP01 Rev A
Existing Elevations: DWG No. TP03

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

3 The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the main dwelling, known as ‘Serendipity’ and it shall remain within the same planning unit as the main dwelling.

REASON: The building is sited in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and its location in the open countryside where a building which is not ancillary to an existing dwelling would be inappropriate; and in light of the requirements of paragraph 154(d) to the NPPF to ensure the development is not inappropriate in the green belt.

4 In accordance with the submitted plans, the development hereby approved, shall utilise the existing building foundation. There shall be no new foundation or excavation works undertaken.

REASON: In order to protect tree root system for trees on and adjacent to the site in the interest of preserving existing biodiversity and nature habitats.

5 Prior to any construction above slab level, protective fencing meeting BS5837:2012 shall be erected around all retained trees in proximity of the site of the new building. That protective fencing shall remain in place for the entire development phase and until all equipment, machinery and surplus materials have been removed from the site. Such fencing shall not be removed or breached during construction operations.

REASON: In order to protect existing trees on and adjacent to the site in the interests of preserving existing biodiversity and nature habitats.

6 No external light fixture or fitting will 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 will demonstrate how the proposed lighting will impact on bat habitat compared to the existing situation.

REASON: By reason of the application site's sensitive location, so as to avoid illumination of habitat used by bats.

INFORMATIVES:

7 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 GN08/23 "Bats and artificial lighting at night", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

8 The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply, and full payment will be required in full and with immediate

effect. Should you require further information or to download the CIL forms please refer to the Council's Website https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy.

9 Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

10 The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required, it will be necessary for the applicant to obtain the landowners consent before such works commence. If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

11 The applicant should satisfy themselves that the site area shown on the submitted plans is not being used for a purpose that requires the grant of a further planning permission. This decision does not grant, and cannot be inferred as agreement to, the use of the identified land for domestic garden.