DELEGATED REPORT

Application Reference: PL/2023/10727

PROPOSAL

The proposal is for the erection of wooden cabin for residential use and wooden storage unit at All Oaks Farm, Heddington, Calne.

SITE DESCRIPTION/CONTEXT

The application site relates to land which is in the open countryside and has no planning history. The application site name that has been given is All Oaks Farm. The applicant has erected buildings at the site and is understood to be resides within one of them without planning permission. It is understood the applicants have created a smallholding farm on the site. The application constitutes unauthorised works and is retrospective. The applicant has made the planning application in the attempt to regularise the works, following enforcement action by Wiltshire Council.

The application site is situated to the west of the village of Heddington, and south of the market town of Calne. It is within the Avon Vale Countryside Character Area. It is approximately 680m to the west of North Wessex Down National Landscape (formerly AONB). It is situated within Flood Zone 1, in an area at low risk of surface water and groundwater flooding. There is a Right of Way that crosses the blue land HEDD16 and another further south of the site HEDD11.

PLANNING HISTORY

None

POLICIES

Wiltshire Core Strategy 2015 (WCS)

CP 1 Settlement Strategy
CP 2 Delivery Strategy
CP8 The Spatial Strategy: Calne Community Area
CP48 Supporting Rural Life
CP50 Biodiversity and Geodiversity
CP51 Landscape
CP57 Ensuring High Quality Design and Place Shaping
CP60 Sustainable Transport
CP61 Transport and New Development
CP64 Demand Management

North Wiltshire Local Plan 2011 (NWLP)

H4 Residential Development in the Open Countryside

National Planning Policy Framework 2023 (NPPF)

ISSUES
The principal considerations in the determination of this application are:

- Principle of the development;
- Impact on the character and appearance of the area;
- Impact on neighbour amenity;
- Highways and parking;
- Rights of way;
- Ecology; and
- Other matters
- Planning balance and conclusion

CONSULTATION

Heddington Parish Council: "Heddington Parish Council wishes to record its strong opposition to Planning Application PL/2023/10727 at All Oaks Farm, Heddington. The history of this site is one of complete disregard for correct planning procedures which has resulted in the issue of an enforcement order to remove an illegal residential building and associated buildings. Approval of buildings on this site would set a precedent for anybody to purchase a small parcel of land in Heddington, ignore planning regulations, build a residential property on arable land and then fight a rearguard action to try to retain the property.

The proposed farming enterprise should have been thoroughly researched before any building was started and a business plan submitted as part of the planning application. This application ignores the fact that buildings and parking on the site are illegal and states there is no gain of a residential unit, no gain of non residential unit and no additional parking spaces.

The application states there will be no commercial process; surely farming is a commercial process.

Information relating to pre-application advice has been redacted however this should be made available to enable all parties to understand the logic of the planning officer's pre-application discussions.

The NFU letter seems rather disjointed but nowhere does it advocate building without planning permission and generally flouting planning laws. The letter is not on NFU headed paper, is undated, unsigned and the typed name at the bottom of the letter is somebody the Parish Council believes ceased to be an NFU adviser some time ago."

Officer comment – Pre-application advice is confidential so information on this cannot be disclosed.

Highways Engineer: "The proposal seeks to establish a dwelling in the open countryside remote from any development boundary and served from a vehicular access along a public right of way HEDD16.

I note there has been no consultation of the Rights of Way team who would be able to establish if there are any vehicular access rights.

I would suggest this is a poor location for a dwelling as national and local policies encourage development within sustainable parameters with other methods of transport than private cars available to all future occupiers of a residential dwelling.

Therefore, if you are minded to refuse, I would recommend a highway refusal on the following grounds.

The proposal, located remote from a range of services, employment opportunities and being unlikely to be well served by public transport, is contrary to the key aims of local and national sustainable transport policy guidance which seeks to reduce growth in the length and number of motorised journeys. The proposal is therefore not considered to be a sustainable form of development and is contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and Section 9, paras 110, 111, and 112 of the National Planning Policy Framework 2021
Reason: In the Interests sustainable transport"

Rights of Way "The first 165 metres of the access from the road is recorded as a public footpath. The only recorded public rights along it are on foot. In order to drive a vehicle along here, the applicant would require a demonstrable private right of vehicular access. Without this private right they would be committing an offence under Section 34 of the Road Traffic Act 1988. The granting of planning permission does not give the applicant or householder a vehicular right of access over the footpath.

The path has a sealed surface in good condition and gives the appearance of a single track country lane. It is fairly straight with good forward visibility of around 100 plus metres. The predominant use of the lane will be pedestrians using the public footpath so I have to consider how increased vehicle use affects their safety and enjoyment of the path. While the lane has a varying width of between 6 and 9 metres, this full width is not available for vehicles to pass each other due to vegetation and ditches. There are 4 gated accessways along the lane (5 including the gateway into the site) that could serve as informal passing places and as areas of refuge for pedestrians. However, I do accept that vehicles may occasionally have to reverse along the lane. While this is not ideal, if the vehicular use is purely residential and for one additional property I do not feel the effect would be enough to warrant an objection. I would therefore not raise an objection to the proposal subject to the use of the site being only for one small dwelling for residential purposes."

Arboricultural Officer: "The application form and Ariel photographs indicate trees on site. No information has been provided in relation to trees. To enable me to give an informed response, the following should be provided as part of the planning process:-

Tree Survey;
Plan to show trees to be removed and retained;
Plan to show trees to be retained along with canopy spread and root protection areas shown on the proposed layout;
Arboricultural Method Statement (if required) to demonstrate how this proposal will be achieved without having a negative impact on trees on site."

Officer comment: more information is requested but the Arboricultural Officer confirmed that this would not be a reason for refusal.

Council's Archaeologist: No objection

Council's Ecologist: No objection. The habitat within the site is seemingly a small holding so there is no significant change from the agricultural use to warrant further information. The following conditions are suggested:

Lighting:
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.

Biodiversity Mitigation and Enhancement Plan:
Biodiversity Mitigation and Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan should include but not be limited to the soft landscaping and the location and specification of protected species features such as but not limited to bird and bat boxes to be installed. The approved details shall be implemented no later than three months after planning approval.

The soft landscaping will be maintained, and the protected species features will continue to be available for wildlife for the lifetime of the development.

REASON:
To mitigate for impacts to biodiversity arising from the development.

REPRESENTATIONS

6 objections received, concerns summarised:

- Unauthorised development/unfair methods of pursuing planning permission/disregard for the planning system
- No application for a septic tank/concern for the disposal of human waste
- Highway safety and traffic concerns
- Concern over precedent
- No regard for protecting green spaces
- No site notice/consultation queries *Officer comment: letters were sent out to nearest neighbours*
- Errors in application form
- Some business use taking place

9 comments in support summarised:

- Building a valuable addition to the village
- No negative affect on views
- General comments on support for the applicants and their farming business
- Applicants essential to live on the site for animal care, deter criminal activity and reduce co2 emissions travelling to work

1x comment from Dorset and Fire Rescue: Comments in relation to building regulations and recommendations to improve safety and reduce property loss in the event of a fire

The application was called to be determined at planning commitee by Cllr Sam Pearce-Kearney if the application recommendation is for approval on the basis of scale of development, visual impact upon the surrounding area, relationship to adjoining properties, design – bulk, height, general appearance and environmental/highway impact.

ASSESSMENT

Principle

Residential use:
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. In this case, the Wiltshire Core Strategy (WCS), including those saved policies of the North Wiltshire Local Plan, form the relevant development plan. The NPPF is a relevant material consideration.

Development plan policies guide development to sustainable locations. CP1 “Settlement Strategy” of the Wiltshire Core Strategy sets out where sustainable development will take place across the plan period. CP2 “Delivery Strategy” of the Wiltshire Core Strategy states that other than circumstances as permitted by other policies within the plan, development will not be permitted outside the limits of development. CP8 “Spatial Strategy: Calne Community Area” sets out the hierarchy of settlements within the area to which some development is anticipated. The application site is situated outside of any development framework boundary, within the open countryside. This is a location where development is strictly controlled unless other policies within the development plan provide justification or material considerations apply.

In consideration of the development plan policies, Core Policy 48 “Supporting Rural Life” of the WCS supports dwellings required to meet the employment needs of rural areas, or the conversion and re-use of rural buildings subject to a number of criteria. Core Policy 48 states that proposals involving the erection of new rural workers dwellings must be accompanied by supporting evidence in order to demonstrate the essential need of workers to live in the vicinity of their places of work in the countryside.

It is understood the “log cabin” building has been erected for the purposes of residential use. The application is supported by a brief business summary which suggests that the applicants are undertaking some agricultural activity at the site. The application is also supported by a letter from the National Farmers Union (NFU) which suggests this to be an agricultural workers dwelling. However, the description of the proposal is “wooden cabin for residential use”, which infers the application is for an unrestricted market dwelling. The application form does not indicate otherwise, albeit it is noted there are some errors within this. Where the application form asks if the application involves the creation of a new dwelling the applicants have selected “no”. The initial submission id not explicitly state that the proposal is for an agricultural workers dwelling,

however having queried this the applicants have submitted an agricultural planning/justification statement for functional and financial need, setting out the proposal as an agricultural workers dwelling. Consequently, the application is considered against Core Policy 48 of the WCS.

An exception for rural workers dwellings within the countryside is also made within national policy. Paragraph 80 (a) of the NPPF states that “Planning policies and decisions should avoid the development of isolated homes in the countryside unless……there is an essential need for a rural worker…..to live permanently at or near their place of work in the countryside.” For a dwelling to be acceptable as an agricultural workers dwelling, justification would be required to establish there is an essential agricultural need for a dwelling at the site. It is established that Annexe A of the PPS7, although no longer government policy, sets out a useful and established methodology for assessing whether there is an essential need for a rural workers dwelling at an agricultural unit.

The criteria contained within PPS7 sets out methodology on functional and financial viability testing for assessing whether there is an essential need for a rural worker’s dwelling on a holding, as a new permanent accommodation cannot be justified on agricultural grounds unless the farming enterprise is economically viable. PPS7 Annex A states the criteria requires the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so.

Based on the limited information provided, the application form states the change of use occurred between 30/11/21 and was completed 31/07/22. The Council’s Enforcement Notice was issued 19/04/23, and took effect on 25/05/23. The information of the business from the applicant states that the business comprises of chicken breeding, sell eggs, pygmy goat breeding, pork sales and seasonal produce.

Given the applicants have submitted information in support of there being an essential need for a rural worker to live on site, the Council have sought an Agricultural Consultant to review the proposals. The Agricultural Consultant has visited the site and reviewed the information available about the applicants and their activities. Smallholding activities and animals are identified at the site. There are proposals to increase the goat and poultry enterprise in future. This is understood to be a relatively new business. No planning applications have been received for agricultural buildings previously.

Under the NPPF, it is relevant to consider the requirements of the current enterprises and whether those requirements present an essential need for a worker to live at or near the enterprises. The Agricultural Consultant identifies there being aspects of current enterprises that presents elements of essential need, however these are small scale and the current scale of the operation does not meet the financial aspects of the assessment. The NPPG (July 2019) states financial viability is a consideration in determining the need for a rural worker's dwelling. The current business is concluded to not demonstrate either profitability or viability. There is no detailed financial information to show the performance of the business and a significant expansion is required to justify a commercial return.

Consequently, there is no essential need demonstrated for an agricultural workers dwelling to be required on site. No sufficient functional and financial evidence has been provided. Consequently, it is not considered the proposal would comply with the exception policy Core Policy 48 of the WCS, or Paragraph 80 of the NPPF. The Parish Council have questioned the validity of the NFU letter, but regardless of this, the letter does not provide any justification for the proposals.

Saved policy H4 of the NWLP provides justification for new dwellings in the open countryside where they are in connection with the essential needs of agriculture or forestry or other rural based enterprise, and for replacement dwellings subject to conditions. As concluded above, this proposal provides no justification for an agricultural workers dwelling, and it is not a replacement dwelling.

There are no development plan policies that would support the principle of a new build dwelling in this location. It is considered to be unacceptable in principle in accordance with Core Policies 1, 2, 8 and 48 of the WCS, Saved Policy H4 of the NWLP and Paragraph 80 of the NPPF. It is not considered the proposal would constitute sustainable development.

Wooden storage unit:
No justification has been provided with the application as to what the proposed use of the wooden storage unit. From the submission it can be assumed that this is either used in relation with the residential use at the site or the agricultural enterprise at the site. As the residential use is considered to be unacceptable in principle as set out above, so would all associated works and residential paraphernalia.

An agricultural storage building may be acceptable in association with an agricultural use at the site. However, there is insufficient information to clarify what the purposes of the storage unit is for at present. No justification has been provided as to what the storage building is used for. Without

any accompanying justification it is considered unacceptable in principle regardless of whether this is to be used for residential or agricultural use.

Impact on the character and appearance of the area

The application site is situated within the open countryside and Avon Vale Countryside Character Area which is characterised by an undulating, low-lying landscape of mixed, predominantly pastoral agriculture and small limestone-built towns. It is a rural location surrounded by agricultural use. It is approximately 680m to the west of North Wessex Down National Landscape (formerly AONB).

The Location Plan shows a significant sized red line plan. It is unclear whether the whole of the site is proposed as residential use, or whether some of this is intended for agricultural. The introduction of a new dwelling within the open countryside with a large residential curtilage, new hardstanding, multiple structures and associated paraphernalia is considered to be harmful and intrusive to the character and rural nature of the area and contrary to Core Policies 51 and 57 of the WCS.

Residential amenity

The proposed residential use is not likely to result in harm to the neighbouring residential uses given separation distances. However, there is some uncertainty in respect of what the business is at the site. Should the applicant submit any future applications more clarity is required as to this as impact from the number of trips associated with a new enterprise in the countryside as has the potential to impact residential amenity. On the basis that the application is for a dwelling and storage building it is not considered a refusal is warranted in respect of residential amenity in respect of Core Policy 57 of the WCS. However, should a business be proposed on site which incurs additional traffic movements there would be potential for harm to the amenity of neighbours.

There are no amenity concerns in respect of the amenity of the proposed dwelling. The agricultural activities are understood to be tantamount to a small holding.

Highways/Parking

The application site would be served from an access along a public right of way HEDD16. The Council's Highways Engineer has been consulted on the application and objects in respect of the site being in an unsustainable location given the site is remote from a range of services, employment opportunities and being unlikely to be well served by public transport, and is contrary to the key aims of local and national sustainable transport policy guidance which seeks to reduce growth in the length and number of motorised journeys. The proposal is not considered to be a

sustainable form of development and is contrary to Core Policies 57 (xiv), 60(i) and 61 of the Wiltshire Core Strategy and Paras 108-110 the NPPF (2023).

Rights of Way

The first 165 of the access from the road is recorded as a public right of way (footpath) HEDD16. In order to drive a vehicle along this route, the applicant would need to demonstrate private right of vehicular access. Without this private right they would be committing an offence under Section 34 of the Road Traffic Act 1988. However, it is noted that this is separate legislation from planning and any granting of planning permission would not give the applicant a vehicular right of access in legal terms. The Council's Rights of Way Officer has no objection to the proposal based on the premise that the use is for residential and for one additional property.

Ecology

The Council's Ecologist has stated that they do not have any significant ecology concerns. Given the site is used for a small holding there is no significant change from the agricultural use to warrant further information. However, conditions are recommended to ensure the functionality of the area is retained in respect of controlling external artificial lighting and a biodiversity mitigation and enhancement plan. Subject to these conditions it is considered the proposal would be acceptable in respect of Core Policy 50 Biodiversity and Geodiversity of the Wiltshire Core Strategy.

Other matters

There are no details of the proposed septic tank which may need planning permission. There are inconsistencies on the application form such as the proposal would gain a new residential unit, but the form states that the application would not. There is a proposed increase in employees but a lack of information about the business operating from the site and future expansion plans for the business. The red line plan as previously stated is of significant size and it is unclear if this is proposed wholly for residential use or some as agricultural use.

To note for the applicant, the application form does not reference the provision of hard-standing and sheds also referenced in the Council's Enforcement Notice. Any unauthorised works should be sought to be regularised by a planning application which has clear and unambiguous information. It is noted that the application description does not state that the proposal is retrospective, but this is the case.

Planning Balance and Conclusion

In terms of housing land supply, Paragraph 77 of the NPPF states that Local Planning Authorities must identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years, or four years' if the provisions in paragraph 226 apply. For the purposes of the revised NPPF Wiltshire Council is a 'paragraph 77 authority'; and, because Wiltshire Council has an emerging local plan that has now passed the Regulation 19 stage of the plan-making process. Consequently, Wiltshire Council have a housing land supply that exceeds the 4-year threshold, and the relevant policies of the WCS are up-to-date and significant weight are given to these policies.

The proposed "wooden cabin for residential use and wooden storage unit" are considered to be unacceptable in principle in this location as it would be contrary to the settlement and delivery and community area strategies CP1, CP2 and CP8 of the WCS, and no sufficient justification has been provided for the proposals to comply with any exception policies including CP48 of the WCS, Saved Policy H4 of the NWLP, and Paragraph 80 of the NPPF.

Parts of the submission are unclear and do not provide sufficient clarity on what uses are being proposed in respect of the extent of the red line and the wooden storage unit. There is concern that the extent of the proposed change of use, associated buildings and residential paraphernalia would cause a harmful and intrusive to the character and rural nature of the area and contrary to Core Policies 51 and 57 of the WCS.

In respect of highways, the proposal is not considered to be a sustainable form of development and is contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and Section 9 and the NPPF (2023).

The proposal is considered to be acceptable in ecology terms subject to conditions. There are no concerns in respect of archaeology. With regard to residential amenity, it is not considered the introduction of one dwelling and smallholding would cause harm to neighbouring properties. However, should the applicant propose a larger scale business than indicated, any applications for additional agricultural buildings and associated trips to the site will be considered in respect of neighbour amenity.

In terms of planning balance, significant weight is given to development plan housing policies. There are no material considerations or benefits associated with the proposal that would outweigh the harm incurred due to the conflict with development plan policies. The proposal would not constitute sustainable development.

The application was to be determined at planning committee should the Planning Officer recommendation be for approval. However, as the recommendation is for refusal, this can be determined under delegated powers.

RECOMMENDATION

That Planning Permission be REFUSED for the following reasons:

1. The proposed development, by reason of its location outside of any defined settlement boundary within the open countryside, would be contrary to the settlement, delivery and community area strategies of the Wiltshire Core Strategy. The proposed development is deemed to be unsustainable as it would conflict with the Council's plan-led approach to sustainable development and is unacceptable in principle. The proposal would not constitute sustainable development and would conflict with the principle aim of the National Planning Policy Framework which is to be genuinely plan-led.

   There is insufficient functional and financial evidence to justify the essential need of an agricultural workers dwelling at the application site. This is unacceptable in principle.

   The proposal fails to accord with Core Policies 1 'Settlement Strategy', 2 'Delivery Strategy', 8 'Spatial Strategy for the Calne Community Area', and 48 'Supporting rural life' of the adopted Wiltshire Core Strategy (Jan 2015); Saved Policy H4 of the NWLP (June 2006); and Paragraph 80 of the National Planning Policy Framework (2023).

2. The proposal, located remote from a range of services, employment opportunities and being unlikely to be well served by public transport, is contrary to the key aims of local and national sustainable transport policy guidance which seeks to reduce growth in the length and number of motorised journeys. The proposal is therefore not considered to be a sustainable form of development and is contrary to Core Policies 57 (xiv), 60(i) and 61 of the Wiltshire Core Strategy (Jan 2015) and the NPPF 2023 paras 108-110

3. The introduction of a new dwelling within the open countryside with a large residential curtilage, new hardstanding, multiple structures and associated paraphernalia is considered to be harmful and intrusive to the character and rural nature of the area and contrary to Core Policies 51 and 57 of the Wiltshire Core Strategy (Jan 2015)