CASE OFFICER'S REPORT

Application Reference:	PL/2023/10427
Application Type:	Full planning permission
Site Inspection:	
Consultation ends:	13 February 2024
Case officer:	Callan Powers

Site Address:	Home Farm, Burton Hill, Malmesbury, SN16 0EW
Proposal:	Alterations to buildings (to be determined in relation to the concurrent Class R prior approval application).
Recommendation:	Refuse

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Application Reference: PL/2023/10427
Date site notice posted: 22/12/2023

POLICIES
National Planning Policy Framework December 2023 Paras 2, 11, 38, 47, 123, 128, 131, 157, 158, 165
Wiltshire Core Strategy Jan 2015 CP1 CP51 CP57 CP67
Malmesbury Neighbourhood Plan February 2015
ISSUES
Principle of development
Impact on the character and appearance of the area and the landscape
Impact on residential amenity
Highways
Drainage
REPRESENTATIONS
Neighbour Representations – One received in objection, raising the following concerns with respect to the application:

- Flood risk at the site;
- Potential for flood risk being raised on adjacent sites.

St Paul Malmesbury Without Parish Council – Objection, as follows:

"The council wishes to maintain its strong objection to this application and its associated applications. Of primary concern is the impact on highway safety of siting a facility with the proposed high level of vehicular movements so close to the end of the national speed limit on the adjacent section of the A429. It is normally accepted that traffic leaving a 60 mph restriction does not immediately slow to conform to the next speed restriction. Additionally traffic from the north wishing to turn into the facility will need to be stationary in this busy high-speed section of the road. To allow an entry/exit at this point is highly likely to increase the probability of accidents, in an area with a history of road traffic accidents, including the multi vehicle accident in January

2023 - see attached photos. Further, if this application is approved and the site developed with a café, the owners will no doubt seek permission for signs on the road advertising it. If granted these will be an additional distraction for drivers with all the attendant risks. The council request that this application is refused."

SITE DESCRIPTION
The application site relates to Home Farm, between the settlements of Corston and Malmesbury. It comprises land and buildings within an established agricultural holding extending over 220 acres. The site is to the west of the A429 with 2 points of access both gained from the main road.

The agricultural buildings currently under consideration are located on the southeastern part of the site with satellite structures and residential units clustered along the northern part. The wider views are of fields and open countryside. A structure to the south of the site which has formed part of various historic application on site is to be demolished and two agricultural units used for ancillary storage have been identified as part of this current application. The overall dimensions of all of the buildings have not been given, but it is stated in the covering letter that the application relates to 446 sq. m of floor space.

The site is unconstrained by landscape or ecological designation. The nearest designated heritage asset is the grade II listed Pike House, which sits at the roadside 30 metres north. A public right of way, Bridleway MALW91, approaches the rear of the site from the south east. The site is within Flood Zone 1, wherein there is not known to be a heightened risk of flooding from fluvial sources.

Relevant planning history
Relevant to this application are recent refusals of prior approval, first under the following application:

PL/2022/02070: Agricultural buildings to a flexible commercial use (Retail / Cafe with ancillary Storage). Prior approval refused 05 May 2022

Prior Approval was refused on the basis that insufficient information had been provided in order to grant prior approval in respect of highways matters. The decision made in this regard was issued outside of the 56 days allotted for this type of application and with no extension of time agreed, and the applicants have therefore claimed a right to proceed according to Paragraph W(11)(c) of Part 3 of the Order. Nevertheless, the development shown in previous applications at this site is not permitted under Class R, and regardless of the Prior Approval process there is no lawful basis on which to proceed with development.

Second, the following application:

PL/2023/05640: Retail/Café with ancillary storage (re-submission of application PL/2022/02070)

The above application contained operational development that could not be considered in a Class R application. The development was outside of permitted development under this class and the application was duly refused.

Also of relevance is the recently refused application No. PL/2023/10426, submitted alongside this application and, taken together with this application, seeking to overcome the previous refusals. This was refused, however, as the application still contained development falling without the scope of the permitted development.

Other planning history is as follows:

17/12546/PNCOU Notification for Prior Approval Under Class Q - Conversion of Agricultural Buildings to form 3 Dwellings and for Associated Operational Development. Prior approval refused 7th February 2018.

18/06302/PNCOU Notification for Prior Approval under Class Q - Change of Use of Agricultural Buildings to Form Three Dwellinghouses (Use Class C3) and for Associated Operational Development. Prior notification refused 24th August 2018.

20/02375/CLE Certificate of Lawfulness for the Existing Occupation of Dwelling Without Compliance with Agricultural Occupancy Condition. Certificate of lawful existing use approved 30th June 2020.

20/06771/PNCOU Notification for Prior Approval Under Class Q - Conversion of Agricultural Building to form 2 Dwellings and for Associated Operational Development. Prior notification refused 14th September 2020.

THE PROPOSAL
This application seeks planning permission for development associated with a change of use for the site. The application is submitted alongside an application made under Part 3, Class R of the General Permitted Development Order, for commercial use of the building at the site following demolition of the adjacent building. The use is to entail a retail/café use (Class E) The proposal involves blockwork and glazed infilling of the open sides of the building, as well as raising the roof at the lowered end so that the full length of the roof has a consistent eaves and ridge height.

The proposal would utilise the existing access point at which there is a five-bar gate attached to a stone wall, leading directly from the A429 at the eastern end of the site. This would also include an area of parking as well as an area for cycle parking to be located nearby. Emergency access is to be available at the back (west) of the site. Other adjacent buildings, apart from that to be demolished, are to be used as storage ancillary to the use of the main building as a café.

ASSESSMENT:
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, and the provisions of the NPPF i.e. para 2, applications for planning permission must be determined 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); the Wiltshire Housing Site Allocations Plan (WHSAP) (adopted February 2020) and the Malmesbury Neighbourhood Plan (Made February 2015).

Principle of development

The application site is in the countryside wherein development will not normally be permitted other than in accordance with exceptions set out in the development plan.

Although not a named exception to the general policy of restraint in the countryside, the establishment of permitted development rights would be a significant material consideration affecting the planning balance in addressing the principle of development.

Although this application was made alongside a separate application seeking prior approval for the change of use of the agricultural buildings to commercial use, prior approval has been refused due to conflict in the details of the proposal with the scope of permitted development under the relevant Class of the Order. As a result this does not provide the applicant with a material consideration in favour of approval capable of outweighing the conflict with the development plan.

The Council therefore must conclude that there is no justification for the development proposed as an exception to the policies of the development plan and the development is therefore unacceptable in principle.

Local character and appearance and landscape
The proposal has no justification in terms of its use as prior approval for the proposed change of use has not been established.

The works proposed to the buildings in question are relatively minor and not likely to have a significant impact on the local character.

The proposed development involves a substantial parking forecourt between the buildings and the site access. This proposal for parking would have an urbanising effect, harmful to the rural landscape and the character of this small cluster of development outside of the edge of Malmesbury.

Absent of any justification, the harm to the rural landscape is considered to fail to adequately conserve the landscape qualities of the area and would harm the rural character of the area, thereby falling contrary to Core Policies 51 and 57 of the WCS.

Flood risk
A neighbour has raised the question of flood risk in relation to this site. The site is with Flood Zone 1, where there is not known to be a heightened risk of flooding from fluvial sources according to the Government's Flood Map for Planning Service. There is, however, known to be an area at a higher than usual risk of flooding originating from surface water sources located at the front of the site and also elsewhere within the vicinity.

Given that no change of use is proposed in this application, the agricultural use of the site is not one with a high level of vulnerability to flooding events. The main concern in respect of the flood risk is with regard to whether the development would increase the risk of flooding elsewhere. Whilst no flood risk assessment has been provided in this application, it appears likely that appropriate measures can be taken to minimise the extent to which this would occur. General standing advice with respect to flood risk may, if necessary, be attached to any approval as an informative. As a result flood risk does not in this instance give rise to a reason for refusal of this application.

Highways
The Highways Officer has not specifically commented on this application but has provided advice in respect of the accompanying application seeking prior approval. The advice given is that the Council does not foresee a severe impact on the highway network, and that the site access would not give rise to safety concerns.

The parking to be provided is redundant given that the proposed use has not been accepted. Had the change of use been established then the level of parking proposed would not give cause to an objection from a highways standpoint.

Conclusions
The proposed development is contrary to the policies of the development plan and there are no significant material considerations indicating that the conflict with planning policy should not be determinative in this application. The proposal would unjustifiably contrast with the local character and would fail to conserve landscape character. The application is therefore recommended for refusal.

RECOMMENDATION:
Refusal, for the following reasons.

Refusal Reason(s): (2)

1 The proposal would constitute development in the countryside for which there is no justification, and is therefore found to be contrary to principles of sustainable development and the overarching strategic objectives of the development plan set out at Core Policies 1 and 2 of the Wiltshire Core Strategy.

2 The proposed development, absent any justification, would introduce parking in a manner alien to the rural landscape and would therefore harm landscape quality and fail to respect the local character. The development is therefore contrary to Core Policies 51 and 57 (iii) of the Wiltshire Core Strategy.