

## REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	9 <sup>th</sup> March 2011		
Application Number	11/00385/FUL		
Site Address	Ratford Hill Farm, 3 Ratford Hill, Ratford, Calne, Wiltshire SN11 9JY		
Proposal	Erection of Agricultural Storage Building		
Applicant	Mr D Mehaffy		
Town/Parish Council	Bremhill		
Electoral Division	Calne Rural	Unitary Member	Christine Crisp
Grid Ref	398104 172221		
Type of application	FULL		
Case Officer	Brian Taylor	01249 706 683	Brian.taylor@wiltshire.gov.uk

### Reason for the application being considered by Committee

Cllr Crisp has requested that this application be considered by the Planning Committee in order that Members can consider the impact of the proposed building on the surrounding area and because the applicant's partner is a member of staff within planning services.

### 1. Purpose of report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions.

### 2. Report summary

The main issues in the consideration of this application are as follows:

- The need for the proposed building
- Design of the building
- The impact of the building upon residential amenity and privacy
- The impact of the building upon the setting of listed buildings and the landscape

The application has generated support from Bremhill Parish Council (subject to some comments), 4 letters of objection and 3 letters of support from the public. A petition objecting to the application signed by 13 individuals from 8 addresses has also been received.

However, the consultation period does not 'expire' until 3<sup>rd</sup> March (that is after this report was drafted) and any additional comments or observations will be reported via the additional information pages.

### 3. Site Description

The site is part of an agricultural holding associated with Number 3 Ratford Hill (known as 'Ratford Hill Farm'). It comprises a number of agricultural buildings which are in generally traditional in character (excepting a nissen hut used for storage) and in varying states of repair. It is understood that these buildings were originally the farm buildings associated with No 4 Ratford Hill (now known as 'Dovetail Cottage') but at some time in the past the farm and house were separated.

The owners of No 3 Ratford Hill now own the buildings and associated areas of land and have started to operate an agricultural business.

The site is located on land that rises up from Ratford Bridge (to the south). Numbers 2 and 3 Ratford Hill (semi detached thatched cottages), No 4 and No 6 are all listed buildings located close to the road. Land to the east of the road is generally open countryside with only the existing agricultural buildings extended eastwards into the landscape.

An access track leads from a gateway to the south of No. 1 Ratford Hill to the land and buildings at the rear of No. 3 Ratford Hill. Whilst a gateway had always existed here the access track was implemented in 2010 following the granting of planning permission in December 2009.

<b>4. Relevant Planning History</b>		
<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>
<b>09//01986/FUL</b>	Improvements to and widening of existing access, surfacing of farm track and creation of hardstanding for cars for adjoining dwelling	<b>Permit</b>
<b>10/03259/AGN</b>	Erection of Shed for Storage of Farm Produce & Associated Machinery and associated access.	<b>VOID*</b>
<b>10/04427/AGN</b>	Erection of Shed for Storage of Farm Produce & Associated Machinery and associated access.	<b>VOID*</b>
* Void AGN (agricultural notification) see explanation in following paragraphs		

## **5. Proposal**

The application is for an agricultural building (with associated hardstanding and access). The issues raised are not unusual nor particularly complex when compared to many similar applications the Council deals with.

However determination of the proposal has perhaps been complicated by the recent history on the site, which is explained in the following paragraphs.

The applicant owns a house along with some agricultural buildings and land at 3 Ratford Hill. Which, with his partner, he is developing an agricultural business. In 2009 a planning application was submitted for permission to widen an access and to create an access track. The application was permitted with no objections having been received (09/01986/ful).

Members will be aware but certain works carried out for 'agricultural purposes' do not require planning permission. The Town and Country Planning (General Permitted Development) Order 1995 – which has been amended several times over the years – sets out in Part 6 (Agricultural Buildings and Operations) what is defined as 'permitted development (that is development that does not require planning permission).

The relevant parts of the order indicate that on an agricultural unit of 5 hectares or more in size the erection of a building is 'permitted development' subject to certain conditions being satisfied. The principal conditions, set out under Section A.1, in this case would be that it must be used for agricultural purposes (c); it should not exceed 465 sq metres (d); it should not be higher than 12metres (f); it should not be within 25 metres of a classified road (g). One additional condition set out in Section A.2 requires that before beginning the development the 'developer' has to apply to the local planning authority for a determination as to whether prior approval of the authority will be required for the siting, design or external appearance of the building. This is not the same as applying for planning permission (as permission already exists) it is a process whereby the

planning authority can require further details on the 'siting, design or external appearance of the building'. This is known as an agricultural notification and there is no requirement to consult in the same way as there is for a planning application. The local planning authority must make a decision within 28 days of receiving the notification, if not then the developer can commence work in any event. Being a time-limited, notification procedure the scheme of delegation does not provide for these applications to be determined by the Area Planning Committee.

In 2010 the applicant submitted an agricultural notification (AGN) to erect a building on the site to store hay and machinery (10/03529/AGN). The case was dealt with by one of the Area Team Leaders. To ensure that the application was rigorously assessed the team leader took independent advice from an agricultural advisor, who concluded that the building was appropriate (in its design and size) for a holding of that size. The AGN was therefore approved and no further details required.

However, when construction started on site, a neighbour contacted the Council raising concerns to the effect that construction was taking place and they were not aware of any permissions being applied for or granted. Officers explained that the building did not need planning permission and had been dealt with under the 'notification' procedure which does not involve neighbour notification or site notice.

The neighbours then engaged a planning consultant who identified that (contrary to the conclusions of the Council's planning team) the building would have required planning permission. The consultant highlighted that in calculating the area of the 'building' the Council had omitted to include the hardstanding and access track to the building. In addition, to the extracts of the regulations set out above paragraph D2 explains that in calculating the area of a building in section A1 this should include *"the ground area which would be covered by the proposed development, together with the ground area of any building..., or any structure, works, plant, machinery...within the same unit which are being provided and any part of which would be within 90 metres of the proposed development."* When the area of hardstanding around the proposed building and the proposed access track were taken into account the ground area exceeded the 465 sq metres limit, and therefore the proposal could not be dealt with as a notification, but a planning application would be required. Officers accepted that an error had indeed been made and apologised to both applicant and complainants.

Officers met with the applicant and it was agreed that if the size of the building were reduced and some of the hardstanding omitted this could reduce the new works below the 465 sq metre threshold and this revised proposal could then be dealt with as a notification (rather than a planning application). A revised notification for a building of 331 sq metres and a total 'ground cover' (including track and hardstanding) of 461 sq metres, was received on 29<sup>th</sup> November 2010 (10/04427/AGN).

However, the neighbour's consultant picked up a further error in this approach. The regulations not only require that the ground area of any works proposed should be taken into account, but also any works which "have been provided within the preceding two years and any part would be within 90 metres of the proposed development." As referred to above, planning permission had been granted for an access track to the farm in December 2009 and implemented in early 2010. When the area of this track was taken into account the resultant 'ground area' again exceeds 465 sq metres.

So even in its reduced form, the agricultural building and its associated track and hardstanding required planning permission.

Unfortunately, the applicant, acting in good faith (based on the initial 'permission' given under reference 10/3529/AGN and the advice of officers), had already commenced work on the building (ground works have commenced and some materials had been delivered to the site).

The applicant was advised that in order to regularise the situation a planning application should be submitted for the agricultural building. Work at the site halted as soon as the Council advised the applicant of the situation (3<sup>rd</sup> December 2010).

The applicant has been particularly co-operative through out this process, despite the fact that the situation has arisen through errors made by the Council. The regulations are particularly tortuous and even the complainant's advisor acknowledges that a large proportion of agricultural notifications are wrongly administered by local authorities. In effect neither notification should have been accepted or determined.

An application has now been received for an agricultural building of 30.65m x 11.5 m (352 sq.m) with associated concrete hardstanding (85.7 sqm) and access track (around 87 sq m). The building will be 4.26 m to the eaves and 5.3 m to ridge. The building itself is slightly smaller (in footprint) than that proposed in the original AGN, but slightly larger than that proposed in the second AGN.

## **6. Planning Policy**

North Wiltshire Local Plan: policies C3 Development control Core Policy); NE15 (Landscape character) HE4 (development affecting the setting of a listed building).

The site lies within the countryside with no specific landscape designation.

Central government planning policy: PPS7

## **7. Consultations**

### **Bremhill Parish Council**

Support the application subject to the following conditions:

- Screening with trees already grown to a reasonable size on the southern and western elevations.
- Subject to the applicant's sole use for agricultural farming with no sub-letting.
- Consideration should be given for the door of the building to blend sympathetically with the colour of the steel cladding on the south elevation.

### **Ecologist**

Following concerns raised locally about a site of local conservation interest, badger setts and other wildlife issues the county ecologist has been consulted his comments are:

*Nature Conservation Sites of Local Importance:* Having consulted our databases, I note that the closest County Wildlife Site (CWS) is located approximately 150m south of the application. Given the nature, scale and location of the proposals I do not anticipate any impacts upon this or other CWSs in the locality as a result of the development and do not consider that Policy NE7 is relevant to the application.

*Badger Setts:* Setts are reported to be present at the site, indeed we do hold a badger record close to the site and I would expect this species to be present in the locality given its current abundance in the landscape. Badgers and their setts are protected under the Wildlife and Countryside Act (1981) and the Badger Act (1992). If badger setts are present at the site, any potential damage to burrows would be restricted to ground works and site preparation activities; given that such works are understood to have been undertaken already, I do not consider that any grant of permission would lead to impacts upon this species, therefore any such consent could be issued in accordance with Policy NE9.

*Other Local Wildlife:* The site does not appear to support any suitable habitats (buildings or mature trees) which would support nesting barn owl or bats. Small patches of scattered scrub could potentially have supported a small number of active bird nests, however such areas would have been removed as part of ground works and in any case their loss would not be significant or detrimental to local wildlife given the context of the site in an agricultural landscape with abundant patches of scrub and hedgerows.

It is therefore considered that the proposed development would not adversely affect BAP species and the application could be granted in line with Policy NE11.

### **Agricultural advisor**

Following comments from an objector raising concerns about the report commissioned by the Council regarding the necessity for the building, the consultant has been requested to revisit the proposal. No response has yet been received. Comments will be reported through the additional information pages

### **8. Publicity**

The application was advertised by site notice, press advert and neighbour consultation (the consultation expiry date is 3<sup>rd</sup> March, additional responses will be reported via the additional information pages).

A petition has been received signed by 13 individuals from 8 separate addresses in Ratford. The petition describes the proposal as 'large industrial building on pasture land opposite number 3 Ratford'. And raises five specific objections:

- Building larger than would reasonably be required.
- Building is of an industrial design not appropriate to location or setting of cottages.
- Will dominate landscape and listed buildings
- Detrimental to privacy and amenity of residents
- Not in keeping with host dwelling or rural character and appearance of area

4 letters of objection received ( Please note: One of the letters of objection is a detailed six page assessment which, by necessity, has had to be summarised considerably for this report. The full text is available on the website and on the working file)

Summary of key relevant points raised:

- Need for a building of this size has not been established (the conclusions of Council's advisor are questioned)
- Building too large for its surroundings
- Concerns about use of building and its use by third parties
- Privacy and amenity issues
- Potential fire hazard storing hay and machinery together
- Impact on listed buildings
- Options for repairing existing buildings or reducing size of proposed building should be explored.
- Adjacent to a nature conservation site of local importance, there are badger setts in the vicinity and development will have adverse effect on other local wildlife.

2 letters of support received

Summary of key relevant points raised:

- Impact of this building on appearance has to be considered against the existence of the Calne by-pass (including lights) and sewage treatment plant.
- Building design is no different to any other agricultural building.
- Holding has been farmed for many years
- Applicants should be supported to farm this holding

## **9. Planning Considerations**

### **Need for the building**

One of the main objections raised regarding this application appears to be that there is no requirement for a building of this size. As explained in the 'Proposal' section above when the original agricultural notification was received the Council sought the advice of an independent agricultural advisor. The report was based on the original agricultural building (which was 30.5m by 12.2 m an area of 372 m<sup>2</sup> ) which is very slightly larger than the building now proposed but the area divided similarly into machinery store (with small office) and open sided hay barn.

The report (which the applicants have also included in their supporting information for this application) concludes that 'Overall, I consider that the proposed building is reasonably necessary for the purposes of agriculture within the unit.' The report acknowledges that there are existing buildings on site, but still concludes that this building is reasonably necessary. On this assessment officers have dealt with the application on the basis that the building is not in itself too large or inappropriate for this holding. However, as objectors have raised detailed concerns about the accuracy of the report the consultant has been approached for any updated comments.

### **Design**

The building has been described as having an 'industrial' design. The building is proposed to be constructed as a fairly typical utilitarian agricultural building – concrete blockwork with plastic coating box profile side cladding (olive green) to the walls, with a fibre cement roof in 'anthracite' (with transparent roof panels to provide light). This is a typical approach to modern agricultural buildings. Indeed the manufacturers (Webcox Engineering of Calne) have written to the Council to confirm that building is constructed to meet agricultural specifications (BS 5502 Class 2).

The design of the building is appropriate to the use of the building – that is it is not unusual and would not suggest the building is to be used for anything other than agriculture.

The Parish Council have requested that the roller shutter door blend in with the cladding of the building.

### **Impact on amenity and privacy**

The building is located on a holding that has been farmed for many years. Originally using the existing buildings on the site, and more latterly, the land was farmed remotely from Compton Bassett as part of a larger holding and all the produce and machinery was stored at the main farm, not at Ratford. Agriculture is a use which is well established in the vicinity, the holding has an agricultural holding number. The existing buildings are located close to the boundary with No 4 Ratford Hill. Intensification of these buildings for agricultural purposes may cause some disturbance but would not be subject to any control under planning legislation. The proposed building would be located about 45.0m to the east of the rear boundary with No 4; and 55m away from the boundary with No 2 (the cottage adjoining the applicants dwelling) and No 1 Ratford Hill. Given that an agricultural use is established on this site it is not considered that this building will give rise to further vehicular movements or activity that would cause a problem in terms of amenity.

Similarly given the distances involved there will be no increase of overlooking or any adverse impact on privacy.

### **Impact on setting of the listed buildings**

Ratford comprises a number of dwellings and farms which are strung out along the C113. Generally buildings are traditional in character and many are listed, including Numbers 2 and 3, Number 4 (Dovetail Cottage) and Number 6.

In terms of the listed buildings, the setting is not just defined as the curtilage, or what can be seen from the listed building but should take into account the view of the listed building in relation to the new development as seen from other positions.

Planning Policy Statement 5 'Planning for the Historic Environment' (PPS5) contains a policy specifically referring to the setting of historic assets (including listed buildings). Policy HE10 states that: "When considering applications for development that affect the setting of a heritage asset, local planning authorities should treat favourably applications that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset. When considering applications that do not do this, local planning authorities should weigh any such harm against the wider benefits of the application. The greater the negative impact on the significance of the heritage asset, the greater the benefits that will be needed to justify approval."

The building is over 45 metres from the curtilage of any of the listed buildings. The impact upon these buildings or their immediate curtilage is likely to be minimal. However, when approaching this group of listed buildings from the south clearly the fields and countryside to the east and the trees to the north of the site form part of their setting. There are two assessments that have to be made: firstly, how important this setting is to the listed buildings and, secondly, how much impact the proposed building will have upon the setting.

Viewed from the south the excavations that have been undertaken are visible and it is easy to assess the location of the proposal in relation to the existing buildings on the site. Four listed buildings (Nos 2, 3, 4 and 6) are clearly visible when viewed from Ratford bridge. Also within that view is the unlisted bungalow (Number 1 Ratford Hill), the existing agricultural buildings to the east of the dwellings and telegraph poles and other paraphernalia. Ratford has a very agricultural character and this part of the village nestles in a small valley and presents an attractive rural scene. However, it is not without modern development or intrusion. Whilst the rural setting certainly does contribute to the character of the individual buildings, Officers do not consider that this should prevent any development from taking place.

Clearly public views are not the only consideration, but in this case the most important views and setting would, in the view of officers, coincide with the public views from Ratford Bridge and further to the south along the C113.

The building proposed is functional and utilitarian, but it is typical of modern day agriculture and reflects the needs of the holding. Set as it is 40 metres or so away from the curtilages of the listed buildings it is not considered that the setting of the buildings will be so negatively impacted as to outweigh the benefit offered in terms of the agricultural operation.

### **Impact on the landscape.**

The previous section assesses the impact of the building upon the setting of the listed buildings. Because of the nature of the landscape (Ratford is set within a small shallow valley) the impact of the building on the wider landscape (that is beyond the public views described above) is minimal.

It will certainly impact upon the appearance of the valley, but it is not considered to be so detrimental that it would conflict with Policy NE15. The Parish Council have suggested that some screening take place along the southern and western elevations. The applicants have agreed to

some planting, although totally screening the building from view is unlikely to be achievable, careful planting that will eventually break up the outline of the building and assist in it becoming part of the landscape is certainly achievable. A condition is proposed to secure this.

### **Other matters**

Some residents have raised concern that the building may be used for uses other than agriculture or that the building may be let to a third party.

The building applied for is an agricultural building. Whilst agriculture can be applied to a number of uses any industrial, commercial or retail use of the building would require planning permission in itself. The small office that is included within the building is a reasonable use, but if it were to be used or occupied by a person not associated with the holding or for use not associated with agriculture then planning permission would be required. Selling farm goods from any agricultural premises is generally considered acceptable without the need for permission. It is understood that the applicant already sells produce and this does not appear to have caused concern. However, if the retailing element were to evolve so that goods were being sold that were not produced on the holding, then this would require planning permission. The building is proposed to be used for purposes associated with agriculture and should the building be used for any other uses in the future this will be investigated and appropriate action to resolve the situation taken. It would not be reasonable to refuse an application on the basis that in future the building may be used for an unauthorized use. The Parish council have suggested that a condition should be attached. Officers do not feel that this is necessary – the application is specifically for an agricultural storage building.

The second matter that has caused some concern has been whether at some future date, irrespective of whether planning permission is granted a similar sized building could be dealt with as an agricultural notification. However, members are advised that they should assess this application on its own merits rather than what might be proposed should they refuse the application.

Clearly at some point in the future an agricultural notification could be submitted for a building (falling within the limits set out in the General Development Procedure Order) on this holding. The notification procedure could not be used for the building subject to this application (as combined with the proposed access track it exceeds the 465 sq m limit – the total area of this proposal is around 524 sq m). There is some uncertainty as to whether the prior notification procedure could be used where some ground works have already been undertaken (legal advice is being sought on this matter). And of course, whilst the agricultural notification procedure is markedly different from a planning application procedure, the procedure does not necessarily guarantee an approval of the design, siting or external appearance of any given building. Any future proposals will be dealt with in the appropriate way.

Concerns have been raised regarding the potential fire hazard caused by storing farm machinery next to hay, particularly in close proximity to thatched properties. The fear of fire in traditional thatched properties is understandable, however it is not considered that the proposed building poses any particular threat in this regard and the arrangement is typical of arrangements in most agricultural holding. The closest thatched dwelling is that of the applicants.

Ecological issues raised by objectors (regarding an adjacent site of nature conservation interest, badger setts and other wildlife habitat) have been considered by the Council's Principal Ecologist who considers that the proposal would not harm any habitats or species and raises no objection on these grounds.

### **10. Conclusion**

The proposed building is a typical modern agricultural storage building, providing space for hay/produce, machinery and a small office. The site is located in open countryside, adjacent to existing, smaller, agricultural buildings, and a series of traditional listed cottages.

The building will undoubtedly be visible in the landscape from public and private vantage points. However, given that the building is considered to be reasonably necessary for the needs of the holding (further comments from the Council's advisor are awaited), any adverse impact is considered to be outweighed by the needs of the agricultural holding.

Subject to any further issues and comments being raised by the expiry of the consultation period (3<sup>rd</sup> March) and the further comments awaited from the agricultural advisor the recommendation is to permit the application.

## **11. Recommendation**

Planning Permission be GRANTED for the following reason:

The proposed building is a typical modern agricultural storage building, providing space for hay/produce, machinery and a small office. The site is located in open countryside, adjacent to existing, smaller, agricultural buildings and a series of traditional listed buildings. The building will undoubtedly be visible in the landscape from public and private vantage points. However, given that the building is considered to be reasonably necessary for the needs of the holding any adverse impact is considered to be outweighed by the needs of the agricultural holding. The proposal is considered to comply with the requirement of policies C3 (Development Control Policy); NE15 (Landscape character) HE4 (development affecting the setting of a listed building) of the North Wiltshire Local Plan 2011 and the policies contained in PPS7 and PPS5.

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. No further development shall commence on site until a scheme of soft landscaping (planting) has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;

REASON: To ensure a satisfactory landscaped setting for the development.

POLICY C3 and NE15

3. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

POLICY C3 and NE15

