

# REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Report No.

Date of Meeting	6 <sup>th</sup> June 2012		
Application Number	11/02688/FUL		
Site Address	Land at Abbey View Farm, Malmesbury		
Proposal	Erection of permanent agricultural workers dwelling and agricultural building		
Applicant	Mr P Neal		
Town/Parish Council	Malmesbury		
Electoral Division	Malmesbury	Unitary Member	Cllr Simon Killane
Grid Ref	393801 187132		
Type of application	FULL		
Case Officer	Lydia Lewis	01249 706643	Lydia.lewis@wiltshire.gov.uk

## Reason for the application being considered by Committee

The application has been called to committee by Cllr Killane to consider the: scale of development; visual impact upon the surrounding area; relationship to adjoining properties; design – bulk, height, general appearance; environmental / highway impact; and car parking.

### 1. Report Summary

To consider the above application and to recommend that planning permission be REFUSED.

### 2. Main Issues

The main issues in the consideration of this application are the acceptability of:

- The principle of development;
- The design and appearance and impact on the character and appearance of the Conservation Area;
- The impact of the development on the amenity of neighbouring occupiers;
- Parking and highway safety; and
- Planning Contributions

The application has generated objection from Malmesbury & St Paul Without Residents' Association, and support from Malmesbury Town Council, 26 letters of support and 5 letters of objection.

### 3. Site Description

The application sites forms part of Abbey View Farm. Abbey View Farm lies to the east of Malmesbury between the town edge and the bypass within the Malmesbury Conservation Area and outside of the defined Settlement Framework Boundary. The immediate surrounding land use is agricultural, with residential properties to the south. A public right of way runs from south west to north east across the site.

Abbey View Farm was purchased by the applicants in May 2002. The alpaca farming enterprise was begun with the purchase of the foundation herd which were initially kept at livery until November 2002 when the farming operation moved to Abbey View Farm. By the end of 2010 there were 12 breeding female alpacas together with 3 working stud males.

There are a variety of livestock enterprises on the holding. The principal enterprise is the breeding and keeping of alpacas. There are 12 breeding females and 3 stud males, together with various progeny and an overall herd of 36 head. The alpacas are kept to produce breeding stock for sale and halter trained pets for sale, together with sales of fibre.

The other livestock enterprises comprise:

- A flock of soay sheep, comprising 6 ewes, 2 rams and 2 wethers;
- A herd of Kuhni pigs, comprising 2 sows and 2 boars;
- 4 pygmy goats;
- Some 70-80 head of sundry poultry, for sale as pets;
- Ducks and geese for eggs and the sale of breeding stock;
- Quails for the production of eggs and as table birds; and
- 10 turkeys for the Christmas market.

The applicant indicates that the alpaca will be increased to an overall herd of 40 head.

There are two non-agricultural buildings at the site which have planning consent for light industrial. These are occupied by:

- Malmesbury Strippers;
- Athelstan Autos; and
- Country Wide.

A proportion of one shed is currently used to accommodate animals in loose boxes.

There is an existing mobile home stationed on the site. This is used as a rest room, but not for overnight accommodation.

<b>4. Relevant Planning History</b>		
<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>
06/00294/S73A	Change of use of existing building to light industrial (class B1(c)) (retrospective)	Permitted
98/01338/F	Change of use of existing agricultural buildings for warehouse workshop and limited ancillary retail use	Refused and dismissed at appeal

## **5. Proposal**

The applicant seeks consent for the erection of a permanent three bedroom agricultural workers dwelling.

Permission is also sought for the erection of an open fronted agricultural building measuring 12 metres wide and 5 metres deep. This would provide a field shelter for the animals as well as an area for them to be cared for and kept at night.

## **6. Planning Policy**

C2 – Community Infrastructure

C3 – Development Control Policy

H4 – Residential Development in the Open Countryside

HE1 – Development in Conservation Areas

CF3 – Provision of Open Space

## **7. Consultations**

Public Rights of Way Team – No comments.

Malmesbury & St Paul Without Residents' Association – Strongly objects to the application.

Whilst acknowledging the applicant's desire to live on site, it is believed that the pertinent issue here is the size and footprint of the dwelling being requested. It is understood that there are guidelines detailing the maximum size for agricultural dwellings and the dwelling would be almost 50% larger than that recommended should be approved. The fact that the application also makes provision for a garden and car park adds to the suspicion that this application is simply a vehicle to increase the value of the land and possibly put a marker down for additional urbanisation at some point in the future.

The dwelling would not, as suggested in the application, be hidden from public view as much as possible. The development would be unnecessary and overly intrusive.

County Highways – The proposal offers adequate parking and turning and the access is suitable for the traffic movements associated with a dwelling. However, the location of the dwelling is outside policy boundaries and as such raises issues of sustainability. Based on the location of the dwelling, a highway objection is raised and it is recommended that the application be refused on highway grounds.

Principal Ecologist – No objection in relation to ecology.

Malmesbury Town Council – Support subject to removal of mobile home.

The Council's Agricultural Consultant's response is including in the content of this report.

Environmental Protection – No adverse comments.

Amenity and Fleet – The proposal would generate a public open space contribution of £5,800 to be directed towards a number of projects at St Aldhems Mead.

## **8. Publicity**

The application was advertised by site notice, press advert and neighbour consultation.

5 letters of objection have been received in response to the application publicity. The concerns raised are summarised below:

- Having a large dwelling could potentially ease any future application for change of use of the land;
- Dwelling should be of a much smaller scale;
- Loss of privacy;
- The number of animals and type of care does not warrant a property and could be tended without living on site;
- Would encourage further encroachment upon the land and conservation area;
- Insufficient ingress and egress for the property;

- It is noted that the supporters of this application are not directly affected by the development as some live out of the area;
- There is a large existing barn that could be utilised; and
- Would further erode the Conservation Area.

26 letters of support have been received in response to the application publicity from 19 different properties. The comments raised are summarised below:

- Over the last few years many improvements have been made to the structures and surroundings with care and attention to detail;
- Local businesses need support;
- Great benefit to community;
- Need to be on site to care and protect the business interest and livestock in this isolated area;
- The development would not interfere with anyone else;
- The applicants' have exhibited sustained commitment to this venture and are devoted to its continuation;
- Soay sheep are a rare breed of sheep and it is down to smaller breeders like the applicants to keep the gene pool going;
- With the footpath running through the site many people come just to see the array of rare breed animals, chickens, ducks and geese and school children are always delighted to see the alpacas and llamas;
- The proposed development would not make any substantial difference to the arrangements already in place; and
- The site is adjacent to a busy road so have to be alert of trespass.

1 comment has been received in response to the application publicity. This raises concern that there will need to be appropriate and sufficient drainage made which does not cause excess water to flow off the fields on the water boards access road which then cascades onto Baskerville.

## **9. Planning Considerations**

### Principle of Development

Policy H4 of the Local Plan states that new dwellings in the countryside outside the framework boundaries will be permitted provided that it is in connection with the essential needs of agriculture or forestry or other rural based enterprises.

Applications for agricultural workers dwellings would previously have been considered against the criteria set out in Annex A of Planning Policy Statement 7, however, this was replaced by the National Planning Policy Framework (NPPF) in March 2012.

Paragraph 55 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- The essential need for a rural worker to live permanently at or near their place of work in the countryside.

The guidance in the NPPF is simplified from that set out in Annex A of PPS7 (and prior to that PPG7 and Circular 24/73). It is the view of the Council's Agricultural Consultant that an essential need for accommodation such as that described can only arise from an economic activity in the countryside. It is therefore very relevant that the circumstances of the business, its degree of establishment, profitability, financial soundness and economic viability must all be considered in order for the planning authority to be satisfied that the essential need will continue for a reasonable

period of time. The size and cost of the dwelling in relation to the established 'essential need' is also relevant. It is therefore his opinion, that the guidance set out in Annex A of PPS7 remains a strong basis for the assessment of planning applications for occupational dwellings in the countryside, as the issues it covers are highly relevant to the continuation of the essential need, to be met by the permanent dwelling.

The applicants agent has stated that neither policy H4 of the Local Plan or the NPPF allows the local planning authority to apply any financial test. The Council's advisor has already conceded that there is a need for a worker to be available at most times to deal with the livestock, which is the only test in the NPPF and the local plan.

The majority of day to day tasks associated with good husbandry of the livestock, including alpacas can be undertaken without a dwelling on site. The important exceptions to this are the care of sick animals and calving. It is accepted that animals which are sick or close to, during or immediately after calving may well require essential care at short notice. It is noted that calving dates are variable, as the animals run with the stud and are not artificially inseminated. Additionally, calving dates can be very variable, with the animal showing few external signs of birthing.

Cria, when first born are weak and require attention to ensure they receive Colostrum, also that their navel is sprayed with antibacterial / antiseptic spray to prevent infection. In this regard they are no different to other domesticated stock.

The Planning Inspectorate has paid close attention to the variability of calving dates and the need for quick intervention at calving. Accordingly there are a number of appeal decisions in which Inspectors have formed the view that the functional test, previously set out within Annex A to PPS7 is met by enterprises of an equivalent size to that proposed by the applicant.

The conventional measure of viability is a level of profit that rewards the otherwise unpaid full time labour of the proprietor. The usual measure of that cost is the minimum agricultural wage. The current minimum agricultural wage for a Grade 2 general worker is £13,729 per annum.

2 years of accounts for trading years ending 31<sup>st</sup> October 2009 and 2010 have been provided. These indicate that the agricultural enterprise achieved a net profit in each of these years and the level of profit is substantially in excess of the minimum agricultural wage. Of the profit identified in both years, 105% in 2010 is due to the increase in the value of the livestock and 77% of the 2009 profit is derived in the same fashion. The applicants agent has submitted additional information identifying that the advice from Her Majesty's Revenue and Customs is clear that the value of the livestock retained must be included in the accounts. It is further advised that the textbook on which all agricultural consultants rely, the John Nix Farm Management Pocketbook 42<sup>nd</sup> Edition 2012 states that the enterprise output must include 'the market value of production retained on the farm'.

It must be noted that the increase in the value of the herd does not equate to income as no sales have been made to realise that increase. The Council's Agricultural Consultant does not consider that such an increase in the value of the herd should be recognised as profit.

No financial projections have been provided for the next 5 years. The applicants' accountant has stated that in their experience the trading activity of Abbey View Alpacas enable them to say that the business outlook remains positive with reasonable expectation that the current level of profitability will be retained into the foreseeable future.

The application submission includes 4 appeal decisions (PINS refs: APP/X0360/A/09/2103514; APP/G2713/A/08/2080523; APP/Y0815/A/08/2075800; and APP/X1118/A/08/2083511). Each were allowed and sought consent for a temporary dwelling.

The key issues at the heart of appeal ref: APP/X0360/A/09/2103514 related to: functional need; and availability of suitable alternative accommodation which are not under dispute here.

Paragraph 14 of the inspectors report for appeal ref: APP/X1118/A/08/2083511 states that 'Given the lengthy gestational period and high stock value of alpacas, it seems to me that the absence of any cash profit in early years while the herd is still being built up is only to be expected, and should not be taken as an indication of unsound financial planning in the particular circumstances of this enterprise.'

This proposal differs to the appeal proposals in that this application is for a permanent dwelling and that, as such, the business has been established for approximately 9 years. Whilst it may well be reasonable to consider the increase in the value of the herd during the early years while herd numbers are growing, for an established business with a herd of 36, the Council would reasonably expect to see profit generated from actual sales.

The nearest properties to the application site are situated to the south in Baskerville Hill. Owing to site topography, these properties are set at a much lower level than the application site and therefore have limited visibility and would not be within site of the farm. A report from Fielder and Jones has been submitted which concludes that there are presently no local dwellings which are both suitable and available to serve the functional need.

The size of the proposed dwelling has been reduced following negotiations from approximately 230 square metres to 160 square metres. On this basis, the size of the dwelling is not unusually large.

#### The design and appearance and impact on the character and appearance of the Conservation Area

Policy HE1 of the Local Plan considers that in Conservation Areas, proposals for development will preserve or enhance the character or appearance of the area.

The dwelling would be one and a half stories and constructed of timber. The supporting statement states that the building has been positioned to ensure that the occupants have clear views over the fields and the proposed agricultural building as well as the access to the site and the route of the footpath to maximise security and ensure sight of the animals. The proposed dwelling would be visible from the wider public realm given the sites elevated position, however, the use of timber cladding and its location adjacent to the existing industrial buildings ensure that it would not be harmful to the character or appearance of this part of the Malmesbury Conservation Area.

In relation to the proposed agricultural building, the Council's Agricultural Consultant notes that in view of the permitted alternative uses of the two other buildings at the site, together with the overall quantity of livestock, the proposed building is warranted by the current agricultural practice. The building would be constructed of timber boards and timber cladding with a profiled sheet roof. A large concrete apron is proposed approximately 12 metres wide by 6 metres deep. The building would be visible from the public right of way that runs through the site. Although the building would not be situated adjacent to existing buildings within the site, it would be situated adjacent to an established hedgerow and in this respect, it is considered that on balance the proposed agricultural building would be acceptable.

There are two metal storage containers on the site, partly within the curtilage of the B1 element of the site and the red line associated with application ref: 06/00294/S73A and partly on the agricultural land. Condition 3 of application ref: 06/00294/S73A states that there should not be any items stacked or stored outside any building on the site without the prior written approval of the local planning authority. The condition was applied to safeguard the amenity of the area and the character and appearance of the Conservation Area. The siting of the containers within the approved site is a breach of condition 3 of the planning permission. The siting of the containers on agricultural land must be reasonably necessary for the purpose of agriculture. If they are to be permanently sited, planning permission is required otherwise the containers will need to be regularly moved around the site.

The metal containers do not look traditionally agricultural and as such it is likely that any planning application to retain these containers would be likely to be refused.

The application form does not indicate that planning permission is sought for these units and they are situated outside of the red line but the site plan indicates that these units are to remain. An informative is recommended to advise the applicant that planning permission is required for their retention and that any application would be likely to be refused.

#### The impact of the development on the amenity of neighbouring occupiers

Policy C3 of the Local Plan states that new development will be permitted subject to a number of criteria including amongst other things: avoid creating developments with unacceptable low levels of privacy and amenities and avoid the unacceptable loss of privacy and amenities to adjacent dwellings or other uses to the detriment of existing occupiers development.

The proposed dwelling would be situated some 50 metres from the nearest residential property and although the site is set at an elevated level, an established hedgerow forms the southern boundary of the site and in consideration of the above, the proposal would not result in any significant overlooking or overshadowing of neighbouring properties.

#### Parking and highway safety

Policy C3 of the Local Plan states that new development will be permitted subject to a number of criteria, including amongst other things: promote sustainable patterns of development that will reduce the overall need to travel and support increased use of public transport, cycling and walking.

In terms of the access and vehicle movements to and from the site, the applicants' agent asserts that living on the site at most times would, minimise traffic movements to and from the site. The application involves an existing business and the vehicles needing to deliver and access the site would not significantly alter from that found at present. It is argued that if the applicant lives on site it would remove the need for her to frequently commute to and from the site at all hours of the day.

However, County Highways have advised that the location of the dwelling is outside policy boundaries and as such raises issues of sustainability.

In consideration of the above, the proposed residential use of the site would not generate any particular increase in vehicle movements over and above that already generated by the alpaca business and it is not therefore considered reasonable to refuse the application on this basis.

#### Planning Contributions

Policy CF3 of the Local Plan requires new housing development to make provisions for open space. Where it is not possible to make that provision directly, the Council will accept financial payments to remedy deficiencies in the quantity or quality of that space. The reasoning accompanying the policy emphasises that all residential developments, regardless of scale, have the potential to contribute to an increased need for open space.

For a 3 bedroom property the level of public open space contribution required would be £5,800. This would be directed towards facilities at St Aldhems.

No legal agreement has been submitted in support of the application.

The applicant has (by failure to complete a legal agreement) therefore failed to address policy CF3 or to demonstrate that the proposed development would not generate a need for new or improved facilities in this respect and it is recommended that the application be refused on this basis.

## **10. Recommendation**

Planning Permission be REFUSED for the following reason:

1. The proposed dwelling cannot be justified in connection with the essential need for a rural worker to live permanently adjacent to Abbey View Farm. Therefore, the erection of a dwelling in the open countryside, outside the framework boundary of any established settlement, would be contrary to policy H4 of the North Wiltshire Local Plan 2011 and guidance contained within the National Planning Policy Framework.
2. No Section 106 Agreement has been secured therefore the proposed development does not include or bring forward adequate provision for public open space as is required by policies C2 and CF3 of the adopted North Wiltshire Local Plan 2011 and supporting guidance contained within the North Wiltshire Open Space Study 2004.

### Informatives

1. This decision relates to documents/plans submitted with the application, listed below.
  - 2215/01 – Location plan, date stamped 5<sup>th</sup> August 2011
  - 2215/02A – Plans and elevations as proposed, date stamped 16<sup>th</sup> November 2011
2. The applicant is advised that planning permission is required for the retention of the storage units and is unlikely to be granted.



