

REPORT TO THE AREA PLANNING COMMITTEE

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| Date of Meeting | 30th March 2016 |
| Application Number | 15/11618/FUL |
| Site Address | Cowage Farm Foxley Malmesbury Wiltshire SN16 0JH |
| Proposal | Construction of Two Livestock Buildings |
| Applicant | WL Collins & Son |
| Town/Parish Council | ST PAUL MALMESBURY WITHOUT |
| Division | SHERSTON – Cllr John Thomson |
| Grid Ref | 390373 186056 |
| Type of application | Full Planning |
| Case Officer | Kate Backhouse |

Reason for the application being considered by Committee

The Application was called in for Committee determination by Councillor Thomson to assess the impact of the proposed development having regard to the potential for visual intrusion, lighting, noise, effluent, odour and vermin, heavy traffic and archaeology.

1. Purpose of Report

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

2. Report Summary

The application was advertised by site notice. This resulted in 131 letters of objection, 17 comments and 2 letters of support. Malmesbury and St Pauls Without Parish Council support the application. Norton and Foxley Parish Council object to the application.

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

- Impact on Scheduled Monument
- Impact on AONB and landscape character
- Traffic and highways
- Principle of development
- Need for screening opinion or Environmental Impact Assessment

- Odour
- Drainage and risk of pollution

3. Site Description

Cowage Farm is located outside of the village of Foxley approximately a mile south west of Malmesbury in open countryside. The application site lies approximately 600m from the main farm buildings and to the north of Foxley road at the eastern most point of the applicants' holdings. The site lies within the Cotswold Area of Outstanding Natural Beauty and to the immediate west lies a scheduled ancient monument.

The existing buildings at Cowage Farm are used for cattle housing and grain storage with approximately 600 acres of land for arable cropping and 250 cattle accommodated across the holdings. There is no space on the main farmstead itself for further development and due to site constraints including the flood plain and scheduled ancient monument, the proposed units have been positioned in the only feasible location.

4. Planning History

None relevant

5. The Proposal

The submitted plans show the construction of 2 No livestock buildings each 61m long by 15m wide with a maximum ridge height of 6m. The buildings will accommodate up to 1900 pigs at a time split between the 2 No buildings. The buildings are of steel frame construction with profile sheeting to the roof, spaced timber boarding along the upper dimensions with preformed concrete panels to the lower elevations. To the northern end of the building is a relatively small muck pad which will contain the manure before it is distributed on the applicants' land. The buildings will be positioned against a hedgerow to the east and plans show a new hedgerow planted to the west. The existing access is to be relocated away from the bend to improve visibility splays.

6. Planning Policy

Wiltshire Core Strategy

CP34 Additional employment land

CP58 Ensuring the Conservation of the historic environment

CP50 Biodiversity and Geodiversity

CP51 Landscape

CP57 Ensuring high quality design and place shaping

CP62 Development Impacts on the Traffic Network

CP67 Drainage

National Planning Policy Framework

Paragraphs 14 & 17

Section 3 – Supporting a prosperous rural economy

Section 5 Promoting sustainable transport

Section 7 Requiring good design

Section 11 Conserving and enhancing the natural environment

Section 12 Conserving and enhancing the historic environment

7. Consultations

Environment Agency – No objection subject to informatives

Public Protection – No objection

Highways – No objection subject to conditions

Drainage – no objection subject to conditions

Historic England – No objection

County Archaeologist – No objection subject to conditions

County Ecologist – No objection

Landscape Officer – No objection subject to condition

Cotswold AONB Board – No objection

Agricultural Consultant – Support

Malmesbury & St Paul Without Parish Council – No objection

Norton and Foxley Parish Council – Object

8. Publicity

Notification was undertaken in accordance with the Councils' adopted procedures. A site notice was posted on December the 2nd to the front of the site. No neighbour letters were sent out due to the distance to the nearest residential property of over 300m. Concerns have been raised that the site notice was not in situ over the following weeks however the Council cannot repeatedly visit sites to check that notices remain in place once erected.

The site lies within Malmesbury and St Paul without Parish who were consulted. Foxley and Norton Parish lies adjacent to the site and whilst not consulted initially were afforded the opportunity to comment when this was raised. Information on the application was also forwarded on by Norton and Foxley Parish Council to parishioners as it is not feasible to send out neighbour notification letters to everyone within a Parish as was requested by some parties. The LPA is therefore satisfied that the notification procedure was undertaken correctly and that all interested parties have had adequate time to comment on the merits of the application.

Malmesbury & St Paul Without Parish Council – No objection

Norton and Foxley Parish Council - Object

131 letters of objection

2 letters of support

17 Comments

Issues raised are summarised below;

- Lack of public notification
- Impact on traffic network and cycle route
- Odour
- Pollution
- Impact on AONB and landscape character
- Lighting
- Rodents and Vermin
- Flooding and drainage
- Acceptability of intensive farming and animal welfare
- Future intentions of applicant
- Decrease In house values
- Condition of roads
- No benefit to town centre

9. Planning Considerations

Screening Opinion for Environmental Impact Assessment

The proposed development falls within Schedule 2 of the **Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015**, specifically sub-paragraph Table 1 (c) titled as 'Agriculture and Aquaculture' as it exceeds the 500 square metre threshold. The indicative criteria and threshold however of 2000 fattening pigs, is not exceeded.

Notwithstanding the above, under Schedule 3 of the above regulations, the more environmentally sensitive a site is, the more likely it is that the effects will be significant and require an assessment. In this instance the site is located within an Area of Outstanding Natural Beauty and adjacent to an Archaeological Site.

When a local planning authority receives an application for Schedule 2 development and the application has not been the subject of a screening opinion or direction and there is no accompanying Environmental Statement, the local planning authority must provide an opinion on the need for Environmental Impact Assessment as if the applicant had requested

it under regulation 5. If the local planning authority's opinion is that Environmental Impact Assessment is not required, the application should then be determined in the normal way

The screening opinion therefore forms part of the consideration of this application which will be assessed against the criteria in Schedule 3.

An Environmental Impact Assessment (EIA) is more likely to be required if the project affects the features for which the sensitive area was designated. However, it does not follow that every Schedule 2 development in (or affecting) these areas will automatically require an assessment. It is necessary to judge whether the likely effects on the environment of that particular development will be significant in that particular location. Local planning authorities are advised to consult the consultation bodies in cases where there is a doubt about the significance of a development's likely effects on a sensitive area.

As noted above the site is located within sensitive area and as advised, the LPA consulted the relevant statutory consultees. The proposal has been considered by the Environment Agency, the Cotswolds AONB Board, Public Protection, Highways, County Archaeologist, Landscape Officer and Historic England and no objections have been raised to the proposal. Given this position, that the threshold criteria is not met (i.e less than 2000 pigs) and that the site is affected by limited constraints the Council considers that Environmental Impact Assessment is not required for the proposal.

Principle of development

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.

Wiltshire is a largely rural area and the National Planning Policy Framework highlights the importance placed on supporting a prosperous rural economy through local and neighbourhood plans which promote the development and diversification of agricultural and other land-based rural businesses. Section 3, paragraph 28 (NPPF)

It is considered that in principle the development is supported by planning policy as a diversification of the existing arable and livestock farming enterprise to bolster the longer term viability of the landholding. The use is appropriate to the open countryside and rural environment in which it is situated. The supporting text to Core Policy 34 (Additional employment land) makes explicit reference to "*support(ing) the rural way of life through the promotion of modern agricultural practices,*" encouraging this type of new enterprise outside of the identified settlements as compliant with CP34(ii). The farming practice proposed is undoubtedly modern, being based on the regular and systematic turnover of livestock for a major supermarket chain and being undertaken on a considerable scale.

Rural Landscape and Area of Outstanding Natural Beauty

The site lies within the Cotswolds Area of Outstanding Natural Beauty. Paragraph 115 of the National Planning Policy Framework 2012 states that "great weight" should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest level of protection. The Wiltshire Core Strategy, Core Policy 51 indicates

that proposals should protect, conserve and where possible enhance landscape character and must not have an unacceptable impact upon landscape character within the immediate area and over long distance views. Additionally, Core Policy 57 indicates that proposals should relate positively to its landscape setting by ensuring that important views into, within and out of the site are retained and enhanced.

The site has been assessed by the Councils Landscape Officer, The Cotswolds Conservation Board and Historic England and they have concluded that there are limited public viewpoints towards the application site including the public rights of way network with the exception of from the adjacent road frontage to the site. Given this limited views of the site a photo montage as requested by members of the public is not considered necessary. The buildings are to be sited adjacent to a field boundary to the west with a hedgerow reintroduced on the eastern boundary along the former historic Parish boundary. The Cotswold Board has suggested conditions relating to lighting, landscape management plans and limitations to open storage with further conditions suggested by the Council's Landscape Officer. As discussed previously, the buildings would ideally be located within or adjacent to the existing farm complex however there are site specific circumstances including the scheduled ancient monument which have informed the location of the buildings, a greenfield site away from the existing farm buildings. It should also be noted that agricultural buildings and uses are entirely appropriate and normal features of the Wiltshire landscape.

The access to the site is to be relocated to provide adequate visibility and whilst there will be some loss of the hedgerow this has been kept as minimal as possible having due regard to the need for adequate visibility. Further to this a new native hedgerow is to be planted along the new western boundary which reinstates the historic parish boundary whilst also providing ecological mitigation. Consequently Landscape Officers and consultees raise no objection to the scheme proposed on the grounds of visual impact or harm to the character and appearance of the locality

Transport and traffic movements

The proposed units will create approximately 46 lorry movements consisting of 4 deliveries of piglets, 1 to each building, 2 x per year and 16 collections of the fattened pigs, 16 times a year. Each batch of pigs takes approximately 22 – 23 weeks to finish . In addition to the delivery and collection of pigs there will be 26 feed deliveries per year.

In addition to lorry movements there will be daily welfare visits to the site and weekly tractor movements associated with the removal of manure from site and its distribution on suitable muck heaps across the farm.

Concerns have been raised over the impact the development will have on the highway network. Notwithstanding the matter that tractor and 4 x 4 vehicular movements associated with farming practices are expected, daily welfare visits from the applicant or his staff the short distance from the farmstead and weekly tractor collections are not considered significant.

The Councils' Highway officer has fully reviewed the proposal and is satisfied that the 46 lorry movements per year, less than 1 per week is not excessive and as such offers no highway objection subject to conditions. In order to achieve suitable visibility the access has been relocated away from the bend in the road and the existing access is to be stopped up.

Conditions are recommended in respect of achieving the required visibility splay, the consolidation of the first 5 metres of access and the stopping up of the existing access.

Archaeology and the Scheduled Ancient Monument.

The proposed livestock buildings are to be located adjacent to the Scheduled Monument known as 'Early medieval settlement, palace, church, and Bronze Age ring ditches 340m east of Cowage Farm'.

An archaeological desk assessment and geophysical survey were undertaken which has indicated that it is unlikely that there are remains of great significance in the proposed location of the livestock buildings. The County Archaeologist has reviewed the information and offers no objection subject to conditions that include a written programme of archaeological investigation is submitted to and approved in writing by the LPA.

Historic England has confirmed that in addition to evidential and archaeological value, the significance of the Scheduled Monument is also supported by its setting and in particular, the historic landscape in and around the current settlement at Foxley. They go on to note that the surviving pattern of field boundaries were likely influenced by the presence of the Anglo-Saxon settlement. Historic England conclude that whilst the proposed buildings are undoubtedly visible from within the Scheduled Monument and from the lane, they are of the view that the proposals will not result in a loss of significance via an adverse change in setting due to two reasons. Firstly that the form and finish of the new buildings accords with the current landscape pattern of agricultural buildings and dispersed farms and secondly that the proposed reinstatement of the former historic parish boundary would enhance the setting of the scheduled monument, supporting its significance and improving understanding of the 'sense of place' of the Scheduled Monument in the landscape.

Odour & pollution

Numerous concerns have been raised regarding the likelihood of odour from the site and from the spreading of manure. In respect of the site itself the practice consists of 2 No deep litter, straw based sheds with a small muck pad / scrape area. The proposed buildings are relatively substantial in order to allow for proper ventilation and internal air circulation for the proposed number of pigs. As the existing farming practice is to continue in much the same way, the waste produced onsite is to be re-spread as natural fertiliser on a periodic basis in the owner's landholding reducing the need for artificial fertiliser being introduced to the site.

It has been expressed that the quantities of animals as well as the intensive methods of rearing will give rise to exceptional odour pollution. The closest residential property lies approximately 350m to the east. The applicant has provided an odour management plan that details proactive and reactive measures to be employed in order to guard against adverse impacts on residential amenity as a result of odour emissions. The Council's Environmental Health Officer has visited the site and reviewed the proposal and proposed management plan and is satisfied that subject to a suitably worded condition to ensure compliance with the management plan, the development should not give rise to any significant impact in terms of odour emissions.

Clean water run-off will be directed to existing watercourses and ditches within the site. Dirty water produced will be collected in a dirty water store and injected into the soil and sealed to

prevent odour. The farming practice will create straw based manure due to the method of rearing which is biodegradable and will be returned to the land periodically reducing the need for artificial fertiliser. The Council's Drainage Officer has been consulted and offers no objection subject to conditions.

Concerns have also been raised regarding the potential for vermin however as confirmed by the applicant, food will be stored securely to avoid this. Again, no objection is raised from the Council's public protection officer or the Environment Agency.

Lighting is to be kept minimal, only operational when the applicant / staff member is visiting to see to the welfare of the pigs. Lighting is to be to Environmental Zone E2 as defined by the Institute of Lighting Professionals 'Guidance Notes for the Reduction of Obtrusive Light' 2012. As recommended by the Council's public protection officers and conditions are recommended in respect of this.

As the statutory body responsible for water quality and resources, the Environment Agency has been consulted and offers no objections to the proposal. However, informatives relating to groundwater protection and the prevention of pollution during construction in accordance with their legislation namely the Environmental Permitting (England and Wales) Regulations 2010: regulations 38(1) and 12(1) are recommended. Comments have been made requesting additional preventative measures be placed on any permission due to concerns regarding pollution however given that the Environment Agency are satisfied with the proposal subject to informatives and that pollution is covered by separate legislation, the LPA cannot duplicate legislative requirements through the use of planning conditions.

Other matters

Viability of the proposal.

Whilst there is no requirement for the applicant to provide evidence of financial profitability under adopted planning policies the applicant has provided a confidential business plan, which has been assessed by the Council's agricultural consultant who has concluded the proposal has been made on a sound financial basis.

Animal Welfare

Animal welfare is covered by its own legislation however it is noted that the proposed buildings are specialist pig rearing buildings (i.e. low height with good ventilation etc.) that incorporate the principles of best practice animal welfare and rearing efficiency, rather than taller large multi-purpose agricultural sheds. The straw based loose pen system is recommended by the RSPCA Standards and the provided space per pig is over that accepted by RSPCA standards.

Future intentions / precedent for development

Applications for planning permission are considered on the basis on which they are submitted and therefore speculation about future plans for the site and the owners long term intentions are not material considerations and do not provide a sound and defensible basis for determination.

10. Conclusion

It is considered on this occasion that no significant adverse impacts have been identified as demonstrated by the universal lack of objection from statutory consultees including the Environment Agency, Highways, Public protection, Drainage Officers, Historic England, Ecology, County Archaeology, and Cotswolds AONB Board who have all concurred the proposal is acceptable subject to conditions and informatives. Concerns identified by local residents in relation to odour and pollution are covered by separate legislation and the LPA cannot impose additional conditions or measures in that respect or over and above what is appropriate in a material planning sense.

As this report demonstrates, there are no outstanding site specific objections to the development of this site in terms of the size and scale of development (CP57) ecology (CP50), landscape (CP51), heritage assets (CP58), Public Protection (CP55 and CP57), Drainage (CP67) and Highways (CP62) which would render the application unsupportable. The proposals accord directly with CP34 and are acceptable in principle. It is therefore considered sustainable development in the context of the NPPF paragraphs 126 and 128 together with paragraph 28 and in accordance with the adopted development plan (Wiltshire Core Strategy) and should therefore be permitted without delay.

RECOMMENDATION

Permission subject to conditions and informatives

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

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

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

Proposed plans and elevations

Geophysics report

Design and access statement

Historic Environment Assessment

Received 24.11.15

Supporting statement dated 21.01.16

Revised sightlines plan received 25.01.16

Revised site plan received 12.02.16

Revised block plan received 14.03.16

Flood plain detail received 15.02.16

Visual Impact Assessment received 24.02.16

Further information email dated 23.02.16

Feed system and justification statement received 03.03.16

Odour Management Plan received 25.01.16

Construction Method Statement received 25.01.16

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

- 3 No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area

- 4 No external stonework shall be constructed on site, until a sample panel of stonework, not less than 1 metre square, has been constructed on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.

REASON: In the interests of visual amenity and the character and appearance of the area.

- 5 No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include :-

- * location and current canopy spread of all existing trees and hedgerows on the land;
- * full details of any to be retained, together with measures for their protection in the course of development;
- * a detailed planting specification for the hedgerow to the east showing all plant species, supply and planting sizes and planting densities;
- * finished levels and contours including sections through the buildings;

- * means of enclosure;
- * car park layouts;
- * all hard and soft surfacing materials;
- * Full details of the hoppers including positioning, and finishes and any other ancillary structures
- * retained historic landscape features

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important historic and landscape features.

- 6 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.

- 7 No part of the development shall be first brought into use, until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety

- 8 The development hereby permitted shall not be first brought into use until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

- 9 Any gates shall be set back 5 metres from the edge of the carriageway, such gates to open inwards only.

REASON: In the interests of highway safety.

10 No development shall commence within the area outlined in red onsite until:

a) A written programme of archaeological investigation, which should include on-site work and off-site work such as to strip, map and record excavation of the footprint of the new buildings, and any area of landscaping and services, has been submitted to and approved by the Local Planning Authority; and

b) The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to enable the recording of any matters of archaeological interest.

11 The approved Construction Method Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The development must be undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

12 The development and practice shall be conducted in full compliance with the approved Odour Management Statement and shall be complied with in full in perpetuity. The development shall not be carried out otherwise than in accordance with the approved odour management statement.

REASON: In order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities and the amenities of the area in general.

13 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365, has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained

14 The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

15 INFORMATIVE

The site falls within a groundwater Source Protection Zone 3 (SPZ 3). This is a zone of protection surrounding a nearby drinking water borehole (Rodbourne Boreholes, Malmesbury), which is vulnerable to pollution. It therefore requires careful protection from contamination. Further information on SPZs can be found at <http://www.environment-agency.gov.uk/homeandleisure/37833.aspx>

The site must be drained on a separate system with all clean roof and surface water being kept separate from foul drainage. Manure/dung heaps must be sited in an area where it/they will not cause pollution of any watercourse or water source by the release of contaminated run-off.

The subsequent disposal of collected wastes must be undertaken in accordance with, 'Protecting our Water, Soil and Air, DEFRA 2009'.

There must be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct to watercourses, ponds or lakes, or via soakaways/ditches.

16 INFORMATIVE

Safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. Such safeguards should cover:

- the use of plant and machinery
- oils/chemicals and materials
- the use and routing of heavy plant and vehicles
- the location and form of work and storage areas and compounds
- the control and removal of spoil and wastes.

17 INFORMATIVE TO APPLICANT:

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

18 INFORMATIVE TO APPLICANT:

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

19 INFORMATIVE TO APPLICANT:

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

20 INFORMATIVE TO APPLICANT:

The applicant should note that under the terms of the Wildlife and Countryside Act

(1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

21 INFORMATIVE TO APPLICANT:

The applicant should note that there may be badger setts in the vicinity of the site, and as a consequence compliance with certain requirements and provisions of the Badgers Act 1991 may be necessary. If this is the case the applicant is advised to contact Natural England who are responsible for issuing licences relating to development on the site of badger setts.

22 INFORMATIVE TO APPLICANT:

This consent does not authorise any works which would disturb or in any way affect a Scheduled Monument. A separate consent for any such work should be sought from Historic England.