

Date of Meeting	5th February 2014
Application Number	13/04201/FUL
Site Address	Ellbridge Farm Lower South Wraxall Bradford On Avon Wiltshire BA15 2RR
Proposal	Temporary retention of agricultural workers timber chalet accommodation
Applicant	Mr Adam Tucker
Town/Parish Council	SOUTH WRAXALL
Grid Ref	383832 163726
Type of application	Full Planning
Case Officer	Victoria Hodgson

Reason for the application being considered by Committee

Councillor Carbin has requested that this item be determined by Committee should the application be recommended for refusal due to the local agricultural economy and also should the application be recommended for approval due to the Parish Council's comments.

1. Purpose of Report

To consider the recommendation that the proposed temporary retention of the agricultural workers dwelling be refused planning permission.

2. Report Summary

The main issues to consider are:

- Justification for an agricultural workers dwelling
- Impact on the countryside
- Servicing and road safety interests

3. Site Description

The application site is located in a field served by country lanes. It has two accesses onto the lane to the north. One is positioned centrally the other in the north-west corner and which has limited visibility.

The site includes a modern agricultural building granted planning permission in 2012, W/12/00393/FUL which replaced a redundant agricultural building previously on the site. There are a range of concrete block and timber buildings as well as a number of former railway carriages. Immediately to the east of the buildings is a temporary agricultural workers dwelling and is the subject of this application.

The proposed dwelling is a one bedroom chalet forming a T shape located in the North East corner

of the site. The building is constructed from timber. From an internal inspection, the dwelling includes a living room, kitchen, bathroom and one bedroom. Two of the sheds/former railway carriages are used for ancillary domestic storage the dwelling.

Farming Practice

The land is used by the applicant for their pork and lamb enterprise which according to paragraph 5.3 of the Design and Access Statement was started by the applicant in March 2010. The pigs are the main part of the business and are reared and kept on a low intensity outdoor system on the site whilst the lambs are transferred in as orphans and bottle reared until they are taken for sale. According to the submitted Agricultural Appraisal Report the applicant proposes an intensification of the existing pork enterprise.

4. Planning History

According to the information submitted the applicant started breeding and rearing pigs on the site in March 2010 and the following autumn constructed an unauthorised agricultural workers dwelling. In August 2011 Planning Enforcement Officers investigated the unauthorised use of the land (W/11/00138/ENF_L). It is important to note that at the time of this investigation the dwelling was present on the site and small number of pigs on the land. At this time it was not evident that the applicant was involved in an independent agricultural enterprise other than that of the applicant's parent's long established agricultural business at a nearby farm. Although the applicant was keeping a small number of pigs on the land they were not involved with any agricultural operation as the animals were being kept as pets. The applicant submitted a retrospective planning application for 'Temporary retention of agricultural worker's timber chalet accommodation' on 5th March 2012, W/12/00396/FUL following the enforcement investigation. This application was delayed for eleven months during which time there were discussions over the agricultural justification for the residential accommodation as well as road safety issues. Whilst the road safety issues were largely resolved the agricultural justification was not and therefore the applicant withdrew the application on 28th February 2013.

A further planning application was submitted on 5th July 2013 (13/01781/FUL) for 'Temporary retention of agricultural workers timber chalet accommodation (resubmission of planning application reference W/12/00396/FUL)'. This application was later withdrawn on 28th August 2013 because neither the applicant nor agent were available to represent the case at the Planning Committee meeting.

West Wiltshire District Council provided pre-application advice in 2005 for a proposed dwelling on the land, W/05/01868/PDENQ and pre-dating this an application was refused for the erection of a dwelling (89/01619/OUT).

In 1985 an application was refused for the change of use from existing pig rearing unit to fish bait breeding (85/01021/FUL).

5. The Proposal

Under this application, the applicant seeks planning permission for the retention of the agricultural workers dwelling for a temporary period. The temporary agricultural workers dwelling is already positioned on site thereby resulting in this retrospective application. According to paragraph 5.2 of the Design and Access Statement the temporary period is for 'a maximum of three years'.

The agricultural workers dwelling is T shaped with a footprint of approximately 63 square metres. It measures approximately 9.12 metres in length of which it has a width of approximately 4.94 metres for the first 6.13 metres, extending to a width of 10.89 metres for 2.99 metres (where it forms the T) and has a ridge height of approximately 2.31 metres. It is constructed of cedar timber weatherboarding under a plastic coated steel sheeting roof with stained timber doors and windows. It is serviced by a septic tank.

The proposal also includes blocking up the access in the north-west corner of the land with native hedge planting.

The sheds/former railway carriages used for domestic storage do not form part of the application site outlined in red).

The application is supported with a design and access statement and an agricultural appraisal which has been assessed by an agricultural consultant.

6. Planning Policy

National Planning Policy Framework (NPPF)

- Section 1: Building a strong and competitive economy
- Section 3: Supporting a prosperous rural economy
- Section 4: Promoting Sustainable Transport
- Section 6: Delivering a wide choice of high quality homes
- Section 11: Conserving and Enhancing the Natural Environment

West Wiltshire District Plan First Alteration 2004

- C1: Open Countryside
- C31a: Design
- C32: Landscaping
- C38: Nuisance
- E6: Rural Employment
- H19: Development in the Open Countryside
- H24: New housing design
- T10: Parking
- U1a: Foul Drainage Disposal
- U2: Surface Water Disposal

The Emerging Wiltshire Core Strategy

The following Emerging Strategic Objectives of the Council enshrined within the (eWCS) are relevant to this application: Delivering a thriving economy; To provide everyone with access to a decent affordable home; Helping to build resilient communities; Protecting and enhancing the natural, historic and built environment; and Ensuring that adequate infrastructure is in place to support our communities.

- Core Policy 41: Sustainable construction and low-carbon energy
- Core Policy 44: Rural exception sites
- Core Policy 45: Meeting Wiltshire's Housing Needs
- Core Policy 48: Supporting rural life
- Core Policy 50: Biodiversity and Geodiversity
- Core Policy 51: Landscape
- Core Policy 57: Ensuring high quality design and place shaping
- Core Policy 60: Sustainable Transport
- Core Policy 61: Transport and Development

It is noted that the submitted Design and Access Statement makes reference to the policies of the North Wiltshire Local Plan 2006. However, these policies are not relevant to this application as the site is located in the old West Wiltshire District area and therefore the saved policies of the West Wiltshire District Plan First Alteration 2004 apply in this instance.

7. Consultations

South Wrexall Parish Council: Object. The Parish Council request that the application is determined by the Planning Committee due to the claim of commercial justification and need to live on the site and potential precedent it could set. The Parish Council stress that it is vital that the applicant demonstrates to the Council's satisfaction, that 2.5 acres is enough to create a viable business as they state that they are extremely sceptical. They also suggest that proof should be obtained that residence on site is vital, not just nice to have. Many pig businesses apparently do not have farmers in residence. If this application is approved it may be difficult to stop the uncontrolled development of the countryside.

Highways: The highways officer notes that the application is similar to the previous proposal (13/01781/FUL) and as such wishes to reiterate their comments in that no objection to the principal of an agricultural dwelling at this location if an economic/business viability can be satisfied, if that is not the case then an objection on the grounds of sustainability would be raised. The officer also notes that during the 2012 application discussions took place at that time with regards to improvements on the access to achieve a decent level of visibility. Officers examined the records and note that the applicant previously supplied a speed survey which suggests that average speeds are around (top speed) 30mph. Officers agree that in relation to the speeds as suggested a visibility of 2.4m x33 m (shown on the submitted plan) is acceptable.

In summary, Officers would be happy to accept the proposal subject to the visibility being conditioned, along with a properly designed and conditioned access, I shall also expect the North West second access to be fully stopped up from use. Conditions are advised should any planning permission be granted.

Agricultural Consultant: The agricultural consultant raises concerns relating to the labour requirement for the business. In summary the labour required is in excess of one full time unit. The profit for the business is shown as marginally less than the cost of a full time unit of labour, based on the minimum agricultural wage. It is their conclusion, therefore that the business has not been planned on a sound financial basis.

8. Publicity

The application was advertised by site notice and neighbour notification. Expiry date: 23rd October 2013

A total of five comments have been received. Three of the representations have been received in support of the proposal, whilst one representation raises no objection to the proposal and a further representation neither supports nor objects to the proposal.

One of the supporting comments has been received from the owner of Lowden Farm Shop, Restaurant and Garden Centre who explains that the applicant has been supplying my farm shop and restaurant with his pigs and lambs for some time.

The first of the two other supporting representations received explains that as a local business we fully support other local businesses and believe that Elbridge Farm is a fantastic producer. We use them on a very regular basis and they are our main supplier of pork and lamb. Whilst the second representation explains that as a local resident they like to preserve and protect our traditional countryside life and as a regular user of the public Rights of Way in the area they enjoy seeing happy animals where-ever I go.

One representation comments that although they are supportive of both providing opportunities for local business and anything that tidy's this particular site which remains an eye sore. They explain that before being supportive they would though need to understand why the main site for the proposed number of pigs and sheep is the small site at Chalfield rather than the larger site the business leases at Monkton Farleigh. Basing the business at the larger site in its entirety, would seem to reduce the impact of transport between the two sites (access and parking are limited) and appear to enable the proposed expansion more effectively.

9. Planning Considerations

9.1 Justification for an agricultural workers dwelling

The current application for the agricultural workers dwelling is associated with the introduction of the new farm business operating on the land.

The temporary dwelling is already positioned on site thereby resulting in this retrospective application. The dwelling forms a T shape and is located in the North East corner of the site. It is constructed from timber.

In this case the principle guidance and policies applicable are Section 6 of the NPPF and policy H19 of the West Wiltshire District Plan First Alteration. Both explain that new dwellings in isolated locations must demonstrate a genuine “essential need” whilst placing a firm onus on the applicant to justify why any new development should be granted. The emerging Core Strategy also considers the provision of new dwellings in the countryside as rural exception sites but as with the NPPF and current local plan policy, only in certain circumstances, such as agricultural workers dwellings. The relevant core policies state that applications for these dwellings should be supported by functional and financial evidence and that applications will be scrutinised thoroughly.

The National Planning Policy Framework (NPPF) was introduced in 2012 and replaces all previous Planning Policy Statements (PPS), including PPS7 which provided clear advice on how applications for agricultural dwellings should be treated. It recognised that there are cases in which the demands of farming make it necessary and essential for one or more persons to live at or very close to the site of their work. Whether this is essential in any particular case depended on the needs of the farm enterprise concerned.

Paragraph 5 of the NPPF states that “local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as (*inter alia*) the essential need for a rural worker to live permanently at or near their place of work in the countryside”. Although no guidance is given in the NPPF the “essential need for a rural worker to live permanently at or near their place of work in the countryside” can only be judged on an objective basis and necessarily involves a test of functional need. It is considered, therefore that although Annex A to PPS7 no longer forms parts of the policy as such, it nevertheless provides an appropriate way in which this issue should be approached.

With regard to the provision of temporary agricultural dwellings PPS7 specified that a temporary structure should be either a caravan or a wooden structure which could be easily removed. These dwellings were permitted only where they satisfied the following criterion:-

- (i) providing clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);
- (ii) proving a functional need;
- (iii) providing clear evidence that the proposed enterprise has been planned on a sound financial basis;
- (iv) satisfying the Council that the functional need could not be fulfilled by another dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and,
- (v) other normal planning requirements, e.g. on siting and access, are satisfied.

Paragraph 12 (4) of Annex A of PPS7 stated that any proposed temporary agricultural dwelling proposal must meet a financial and functional test, which cannot “be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned...” PPS7 also required any applicant wishing to erect new housing in the open countryside to satisfy the Council that there is a clear functional need “to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times...”

PPS7 also stated within paragraph 13 of Annex A that the Council, as the local planning authority “should not normally give temporary permissions in locations where they would not permit a permanent dwelling”.

If the proposal fails to satisfy the NPPF’s requirement to prove ‘essential need’, the proposal would also fail to satisfy West Wiltshire District Plan Policy H19 (and paragraph 3.2.99), which states that “new residential development in the open countryside is to be resisted and restricted to that required for the essential needs of agriculture...” as well as the requirements of the relevant policies in the emerging Core Strategy.

With regard to the requirements of Annex A to PPS7 it is noted that in paragraph 5.5 of the Design and Access Statement the applicant's agent bases the justification of criterion (i) on the applicants investment in erecting a replacement farm building. However, officers consider that the erection of a replacement building falls some way short of providing the 'clear evidence of a firm intention and ability to develop the enterprise' that is required by criterion (i).

The *functional test* is necessary in order to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. This has been assessed by the agricultural consultant in their Agricultural Assessment of the Planning Application report. Their opinion is that the "essential need asserted by the applicant will only arise through the implementation of the business as proposed" but they advise "if the proposed business has not been planned on a sound financial basis then the business will fail and the authority would be left with a dwelling but no 'essential need' for its presence". Based on this assessment it is evident that the application fails to meet the *functional test* of criteria (ii).

The applicant's agent explains that in their opinion there is no requirement to apply a test to determine financial soundness and all that needs to be demonstrated is the 'potential' to attain viability associated with the proposed business. However, it is evident from, past, present and future planning policy that it is a long held consideration that financial soundness should be demonstrated in a business plan. For example, Section 6 of the NPPF and policy H19 of the local plan both explain that a genuine 'essential need' must be demonstrated by the applicant. The emerging Core Strategy also recognises this and states that applications should be supported by functional and financial evidence. It is also important to consider the requirements of the former PPS7 which expressly referred to a business being planned on a 'sound financial basis'. Taking into consideration the necessary information required in order to fully assess an application of this nature it is evident that a proposed business must be demonstrably planned on a sound financial basis. That must mean that the projected returns exceed the projected costs. In this case, as with any other proposed business, the plan must be financially sound and therefore it is assessed on this basis. It is the opinion of the agricultural consultant that 'if a business is not planned on a sound financial basis then it has very little prospect of success'.

As part of their assessment the agricultural consultant has assessed the financial basis of the enterprise. Their findings demonstrate that the projected profit is very marginally in excess of the current full time minimum agricultural wage. In the previous application the agricultural appraisal advised that an overall labour requirement of some 2,700 hours, which is just under 1.5 full time units of labour, however the applicant now advises that through a revised arrangement over windfall produce the labour requirement has been reduced to some 2,221 hours which is in excess of one full time labour unit. The agricultural consultant is of the opinion that "given that the profit for the unit is projected as only fractionally ahead of the opportunity cost of one full time unit and the labour requirement remains in excess of one unit then the financial soundness of the proposed business remains questionable". Based on this assessment and their concluding statement which suggests that in their opinion the business has not been planned on a sound financial basis officers consider that the application fails to meet criteria (iii).

Information has been submitted assessing the availability of properties for sale or to rent within a 3km radius of the site. Paragraph 5.15 of the Design and Access Statement claims that of the four properties available for sale all are too distant from the site to meet a 24 hour supervision of the livestock enterprise and all but one would well exceed the financial capability of the farm. According to paragraph 5.14 there were no houses to rent at the time the research was undertaken. Although this information goes some way to meet the requirements of criterion (iv) no evidence is supplied as to the length of time this research was conducted which could have quite likely been on a single day as the internet pages supplied showing the relevant properties state 12th September 2013.

The issues contained within criteria (V) relating to siting, etc. are discussed at a later point in this report.

Policy H19 of the West Wiltshire District Plan 2004 accepts the principle of providing essential agricultural workers a house on site. However the application has not provided a justification of the need of a dwelling on site. The Agricultural Holding is currently small scale which according to the submitted information and the newly constructed agricultural building indicates that the applicant wishes to enlarge the enterprise. Although this shows an indication of the holding being used it is not justification for a temporary agricultural workers dwelling as it fails to meet the functional or financial tests set out in Annex A of PPS7.

It is evident from the above assessment that the proposal fails to justify the need for a temporary dwelling in this location in terms of functionality, financial and explaining why other dwellings in the vicinity are not acceptable and therefore the proposal is considered to be unacceptable. This together with the agricultural consultants opinion that the business has not been planned on a sound financial basis it is considered by officers that the temporary dwelling is unacceptable and fails to comply with the National Planning Policy Framework, Annex A of PPS7 and policy H19 of the West Wiltshire District Plan 2004.

9.2 Impact on the countryside

As the need for a temporary agricultural workers dwelling has not been established it is necessary to assess the proposal and its impact on the open countryside.

The proposed dwelling due to its prominent position located on a hill has harmed the character of the area due to being located in an unsustainable location meaning that the proposal would be reliant on the car, and not in close proximity to facilities like shops and bus routes. This means that the proposal would impact on the character of the open countryside as additional traffic would impact on the setting of the area. In addition due to the position and design of the dwelling the proposal would be alien and fail to respect the character of the area and the spatial form the surrounding sporadic development. This is contrary to the Nation Planning Policy Framework and therefore the proposal is considered to be unacceptable.

9.3 Servicing and road safety interests

The temporary dwelling is served by a substandard access and narrow lanes and located well outside of village policy limits. The proposal, located remote from services, employment opportunities and being unlikely to be well served by public transport and would be reliant on the use of private vehicle, is contrary to both Local and National Policies which aim to promote sustainable development and which seeks to promote sustainable transport with fewer journeys. As such it is officer's opinion that the proposal is unacceptable.

10. Conclusion

The proposed development fails to meet both national and local policy and in particular fails prove sufficient justification to substantiate an 'essential need' for and agricultural workers dwelling at the site.

Although without exact dates the reason the applicants intentions and reason why they began operating the business at the site it is obvious from the planning history and information submitted as part of this planning application that the applicant started an agricultural business in March 2010, the same time that planning enforcement officers investigated the breach. A date which supersedes the erection and occupation of the building as a dwelling.

Taking this into consideration as well as the fact that the business fails to prove the sound financial justification required officers recommend that the application be refused.

RECOMMENDATION

Refusal, for the reasons set out below

- 1 The proposed temporary agricultural workers dwelling by reason of its position, size and lack of justification is considered to harm the character of the open countryside. The justification provided does not provide a sound financial basis or a functional need for a dwelling to be on site. This lack of substantive evidence and the position of the dwelling, outside of village policy limits is considered to be contrary to the guidance of the National Planning Policy Framework (NPPF) and Policy H19 of the West Wiltshire District Plan First Alteration 2007.
- 2 The proposed dwelling by reason of its prominent position, design and size would be alien to its surroundings and would fail to respect the character of the area and the spatial form the surrounding sporadic development contrary to the guidance contained within the National Planning Policy Framework (NPPF) and Policy H19 of the West Wiltshire District Plan First Alteration 2007.
- 3 The dwelling is located outside the defined limits of development in a location remote from services, employment opportunities and being unlikely to be well served by public transport. It would therefore be reliant on the use of private vehicle and increase the amount of traffic in the area. As such it is contrary to the requirements of the National Planning Policy Framework (NPPF) which seeks to reduce the need for travel, influence the rate of traffic growth and reduce the environmental impact of traffic overall in support of sustainable development.

Appendices:

Background Documents Used in the Preparation of this Report: