

Case Officer: Gemma Magnuson

Recommendation: Refused

Applicant: Mr Paul Miller

Proposal: Change of Use of land for a mobile home for a temporary period of three years

Expiry Date: 18 November 2022

Extension of Time: 18 November 2022

1. APPLICATION SITE AND LOCALITY

1.1. The application relates to a site situated in the open countryside to the north of the village of Charlton-On-Otmoor. The site is adjacent to an existing straw and machinery shed, with two further cattle sheds positioned to the north-east. A railway line runs in close proximity to the north/north-west. The site lies within the Oxford Green Belt and the Otmoor Conservation Target Area. The Wendlebury Meads and Mansmoor Closes SSSI is within 2km of the site, and protected species the great crested newt has been identified in the vicinity. Lowland meadows, a NERC Act S41 Habitat lies in close proximity. The land has been identified as potentially contaminated.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

2.1. The application description seeks planning permission for a mobile home/moveable log cabin on the site to house a farm worker for a temporary period of three years, however, the submission explains that a permanent permission is sought, although they would accept a temporary permission. The farm worker would be responsible for the calving and management of the herd of cows.

2.2. The Essential Needs Appraisal submitted with the application explains that Merton Meads Farm extends to 97 hectares, with the principal enterprise being the breeding and rearing of cattle. The farm has about 50 suckler cows. It is the intention of the applicant to increase the size of the herd to 60 cows, and to be able to finish more of his animals. The calving periods would be divided between spring and autumn peaks. The applicant would also increase the use of Artificial Insemination. The applicant does not consider that these intentions can be achieved without a resident worker due to the animal welfare requirements with calving, rearing of calves, weaning and general supervision of the livestock. In addition, frequent inspections of the cows are required in order to enable Artificial Insemination to be successful.

2.3. The temporary dwelling would have three bedrooms, with a footprint of 11.5 metres x 3.9 metres. The height to eaves would be 3 metres. The dwelling would be located to the south-east of the existing straw and machinery shed.

3. RELEVANT PLANNING HISTORY

3.1. The following planning history is considered relevant to the current proposal:

Application: 15/01932/F

Permitted

11 January 2016

Erection of agricultural barn and associated access track; portable office/w.c.

cabin, rainwater harvesting tank and cattle handling facility

Application: 20/00043/AGN Prior Approval Not 6 February 2020
Required

Two general purpose agricultural buildings each measuring 36.57 metres x 12.20 metres, to comprise a total area of 892.31 square metres

4. PRE-APPLICATION DISCUSSIONS

4.1. No pre-application discussions have taken place with regard to this proposal.

5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a site notice displayed near the site, expiring **22 July 2022** and by letters sent to properties adjoining the application site that the Council has been able to identify from its records. The overall final date for comments was **18 August 2022**. No comments have been raised by third parties.

6. RESPONSE TO CONSULTATION

6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. Wendlebury Parish Council – no comments received.

STATUTORY CONSULTEES

6.3. None.

NON-STATUTORY CONSULTEES

6.4. Agricultural Advisor – concludes as follows:

I advise that there is no agricultural support for the proposed permanent siting of a mobile home as the agricultural enterprise is currently part-time, and will remain part time as proposed. Furthermore, the proposed occupant of the dwelling is a part-time employee who may not be capable of complying with the standard agricultural occupancy condition as he/she would not be wholly or mainly employed in agriculture, as the agricultural enterprise is part-time at present and as proposed.

6.5. OCC Highway Authority – no comments received.

6.6. CDC Ecology – no comments received.

6.7. CDC Environmental Health – no comments to make.

6.8. CDC Land Drainage - *No objections. The site where the mobile home is to be located is not shown to be at risk of flooding from any source. However, the access road crosses an area of flood zone. If a culvert under the road is to be amended, a Land Drainage Act consent is also likely to be needed.*

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- PSD1 - Presumption in Favour of Sustainable Development
- SLE 1 – Employment Development
- SLE 4 - Improved Transport and Connections
- ESD1 - Mitigating and Adapting to Climate Change
- ESD10 - Biodiversity and the Natural Environment
- ESD13 - Landscape Character
- ESD14 - Oxford Green Belt
- ESD15 - The Character of the Built and Historic Environment
- Villages 1 - Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 - New dwellings in the countryside
- C8 – Sporadic development in the countryside
- C28 - Layout, design and external appearance of new development
- C30 - Design Control
- ENV 1 – Environmental pollution
- ENV 12 – Contaminated land

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Planning Policy Statement 7 (PPS 7) – Annex A (now revoked)

8. APPRAISAL

8.1. The key issues for consideration in this case are:

- Principle of development in the Oxford Green Belt
- Design, and impact on the character of the area
- Residential amenity
- Highway safety

Principle of development in the Oxford Green Belt

- 8.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The

Development Plan for the District comprises the CLP 2015 and the saved policies of the CLP 1996.

- 8.3. Whilst the development description seeks permission for a temporary permission, the Essential Need Appraisal explains that a permanent permission is desired but that a temporary permission would be accepted should there be any reservations. It is considered that either development would consist of the erection of a one new dwelling and should be assessed as such, particularly bearing in mind the guidance in Annex A to PPS 7 that explains that Authorities should not normally give temporary permissions in locations where they would not permit a permanent dwelling.
- 8.4. The acceptability of the principle of the erection of one dwelling in the Oxford Green Belt stands to be considered against Policies relating to both residential development, and development within the Green Belt.
- 8.5. With regard to residential development the NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. It goes on to explain that the development plan is the starting point of decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
- 8.6. Policy PSD1 contained within the CLP 2015 echoes the requirements of the NPPF relating to 'sustainable development' and states that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 8.7. In terms of housing supply, while the Written Ministerial Statement of 12th September 2018 stated that relevant and important policies for determining the application may be considered out of date only where a 3-year supply of deliverable sites cannot be demonstrated, a subsequent Written Ministerial Statement of 25th March 2021 has confirmed this 'flexibility' has ended. Therefore, Cherwell District Council will need to demonstrate a 5-year supply of housing. Cherwell District Council can demonstrate a 3.8-year supply of land for housing, and so paragraph 11d of the NPPF applies, meaning the Development Plan policies for housing provision are to be considered out of date, and the presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.
- 8.8. Policy ESD1 of the CLP 2015 states that measures will be taken to mitigate the impact of development on climate change and deliver the goals of sustainable development. This includes distributing housing growth to the most sustainable locations as defined in the Local Plan and delivering development which reduces the need to travel. The local plan has a strong urban focus with large amounts of housing planned at Bicester and Banbury. The policies relating to rural housing growth are therefore more restrained.
- 8.9. Policy Villages 1 of the CLP 2015 provides a categorisation of the District's villages based on their relative sustainability. The amount and type of development that could be appropriate in sustainability terms within the built-up limits of a village depends on its categorisation under Policy Villages 1. However, as the site is considered to lie outside the built-up limits of a settlement, in the open countryside, saved Policy H18 of the CLP 1996 is relevant as opposed to Policy Villages 1 of the

CLP 2015. Policy H18 restricts new dwellings beyond the built-up limits of settlements, in the open countryside, to those which are essential for agriculture, or other existing undertakings, or where dwellings meet an identified and specific housing need that cannot be met elsewhere.

8.10. The NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;

c) the development would re-use redundant or disused buildings and enhance its immediate setting;

d) the development would involve the subdivision of an existing residential dwelling; or

e) the design is of exceptional quality, in that it:

- is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and

- would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.

8.11. The application was accompanied by an Essential Needs Appraisal, indicating that the applicant considers that there already is, and will continue to be, an essential need for a resident worker for the farm. The applicant does not consider that there are any buildings suitable for conversion to a dwelling. Further, they consider the farm to be profitable at present, and that it is expected to remain financially viable.

8.12. Additional information regarding the farm business was submitted during the course of the application process and the advice of an agricultural advisor was sought and received on 13 September 2022. In summary, the advice given to the Council, that is based on the guidance in the PPG relating to the need for rural workers' dwellings in the countryside, was as follows:

- The number of livestock on the holding either now or as proposed does not have a standard labour requirement that equates to a full-time worker;

- No confidence that the farming enterprise will remain viable for the foreseeable future;

- The proposal is for a first dwelling to house a part-time worker, as opposed to the provision of a second dwelling;

- There is no existing accommodation or buildings suitable for conversion at the site;

- The applicant has been farming the holding for many years and this is not a new enterprise.

8.13. The agricultural advisor concluded that there was no agricultural support for the proposed permanent siting of a mobile home to support the agricultural enterprise.

- 8.14. The applicant submitted a retort to this advice dated 27 October 2022, explaining that there is no reference to a full-time worker in current planning Policy, and even if there were, this would be met. Further, the applicant considers there to be a functional need for the dwelling. They also consider that the financial requirements have been met, that the dwelling is required for the continued viability of the existing farming enterprise and explain that they would be willing to consider a temporary permission.
- 8.15. Additional verbal guidance has been sought from the agricultural advisor with regard to the points raised, and they do not alter the initial advice provided.
- 8.16. Therefore, based upon the case put forward by the applicant and the advice from the agricultural advisor, I do not consider that the applicant has demonstrated an essential need for a temporary or permanent dwelling in this location.
- 8.17. The principle of the erection of a dwelling upon the site is therefore considered to be contrary to Policy ESD1 of the CLP 2015 and saved Policy H18 of the CLP 1996. However, the proposal would provide one additional dwelling to help towards the Council's supply of housing. At a time when the Council cannot demonstrate an appropriate 5-year supply of land for housing, this additional provision, albeit limited to a single dwelling, represents a material consideration weighing in favour of the proposal.
- 8.18. With regard to the Oxford Green Belt, Policy ESD14 of the CLP 2015 states that the Green Belt will be maintained in order to:
- Preserve the special character and landscape setting of Oxford;
 - Check the growth of Oxford and prevent ribbon development and urban sprawl;
 - Prevent the coalescence of settlements;
 - Assist in safeguarding the countryside from encroachment;
 - Assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 8.19. Policy ESD14 of the CLP 2015 states that development proposals within the Green Belt will be assessed in accordance with the NPPF and the PPG. Furthermore, it states development will only be permitted if it maintains the openness of the Green Belt and does not conflict with the purposes of the Green Belt or harm its visual amenities. The NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
- 8.20. Further, the NPPF states the five purposes of the Green Belt. These are similar to those set out in Policy ESD14 of the CLP 2015. The five purposes are:
- To check the unrestricted sprawl of large built-up areas;
 - To prevent neighbouring towns merging into one another;
 - To assist in safeguarding the countryside from encroachment;
 - To preserve the setting and special character of historic towns; and
 - To assist in urban regeneration by encouraging the recycling of derelict and other urban land.

- 8.21. The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 8.22. The construction of new buildings should be regarded as inappropriate development in the Green Belt, apart from a number of exceptions. One of these exceptions is buildings for agriculture and forestry.
- 8.23. It is therefore my opinion that the erection of an agricultural workers dwelling in this location could constitute appropriate development within the Oxford Green Belt. However, given that the applicant has failed to demonstrate an essential need for an agricultural worker dwelling in this location, for the reasons given above, I consider the proposed dwelling to constitute inappropriate development in the Oxford Green Belt that would result in harm to its openness.

Design, and impact on the character of the area

- 8.24. Government guidance contained within the NPPF requires development to function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Development should be visually attractive, sympathetic to local character and history, and establish or maintain a strong sense of place. Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions.
- 8.25. Policy ESD15 of the CLP 2015 requires development to complement and enhance the character of its context through sensitive siting, layout and high-quality design. All new development will be required to meet high design standards. Policy ESD13 of the CLP 2015 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not normally be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural landscape features and topography, be inconsistent with local character, or impact on areas judged to have a high level of tranquillity.
- 8.26. Saved Policy C8 of the CLP 1996 states that sporadic development in the open countryside will generally be resisted. Saved Policies C28 and C30 of the CLP 1996 seek a standard of layout, design and external appearance, including the choice of external finish materials, that are sympathetic to the character of the context of the development.
- 8.27. The proposed dwelling, associated curtilage and anticipated domestic paraphernalia would undoubtedly result in some visual intrusion to what would otherwise be an undeveloped agricultural field. Without the essential requirement being demonstrated this is not considered to be justified and would conflict with Policy C8 of the CLP 1996 and Policy ESD13 of the CLP 2015.

Residential amenity

- 8.28. Government guidance contained within the NPPF requires development to create places that are safe, inclusive and accessible, promoting health and well-being, and with a high standard of amenity for existing and future users. Policy ESD 15 of the

CLP 2015 requires all development to consider the amenity of both existing and future development.

- 8.29. Saved Policy C30 of the CLP 1996 seeks standards of amenity and privacy acceptable to the Local Planning Authority. Saved Policy ENV1 of the CLP 1996 seeks to ensure that the amenities of the environment, and in particular the amenities of residential properties, are not unduly affected by development proposals which may cause environmental pollution, including that caused by traffic generation. Saved Policy ENV 12 of the CLP 1996 states that development on land which is known or suspected to be contaminated will only be permitted if adequate measures can be taken to remove any threat of contamination to future occupiers of the site or likely to result in contamination of surface or underground water resources.
- 8.30. Due to the isolated nature of the site the proposed dwelling would not result in any harm to neighbouring properties in terms of a loss of outlook or privacy. The dwelling would be occupied in connection with the farming business adjacent to the site where odour and disturbance experienced by future occupants would be anticipated and accepted. A condition to tie the two uses would be necessary in order to ensure that this remains the case.
- 8.31. I note that the Environmental Health Team is content with the proposed development in all respects, including contaminated land. It is for the above reasons that I consider the impact of the development in terms of residential amenity to be acceptable, in accordance with the above Policies.

Highway safety

- 8.32. Government guidance contained within the NPPF seeks to achieve safe and suitable access to sites for all users and requires development to be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.33. Policy ESD15 of the CLP 2015 states, amongst other matters, that new development proposals should be designed to deliver high quality safe places to live and work in. Policy SLE4 of the CLP 2015 requires all development, where reasonable to do so, to facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. Encouragement is also given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Development which is not suitable for the roads that serve the development, and which have a severe traffic impact will not be supported.
- 8.34. The proposed dwelling would be served by the existing access to the farm buildings. The Highway Authority has not provided comments on the scheme although I am of the opinion that the development would likely represent the minor intensification of an existing access, and that the proposals are unlikely to have a severe impact on the highway network in traffic and safety terms as a result. I therefore consider the proposal to accord with the above Policies in terms of highway safety. I also acknowledge that there would be some reduction in the need to travel to and from the place of work for the occupant of the proposed dwelling.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.

- 9.2. The site is situated in the open countryside in the Oxford Green Belt. The applicant has failed to demonstrate that there is an essential need for a dwelling for an agricultural worker at this site. Whilst the proposed development would be contrary to Policies ESD1 of the CLP 2015 and Policy H18 of the CLP 1996, in light of the lack of a 5-year supply of housing land, these Policies are considered to be out of date, thus requiring the presumption in favour of sustainable development to be applied.
- 9.3. Given the lack of essential need for a dwelling for an agricultural worker, the development would constitute inappropriate development in the Oxford Green Belt that is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. A case for very special circumstances that would outweigh the harm to the Oxford Green Belt has not been demonstrated as part of the submission. Furthermore, the development would result in the creation of one additional dwelling in an unsustainable location where future occupants would be reliant upon the private car to meet day-to-day needs.
- 9.4. Whilst the development would result in some limited economic, social and environmental benefits through the initial installation of the mobile home, the provision of a dwelling in close proximity to a place of work and the provision of one dwelling in a District that is unable to demonstrate a five-year supply of housing, these do not outweigh the harm that would result to the openness of the Oxford Green Belt or the visual amenities of the open countryside.

10. RECOMMENDATION

That permission is refused, for the following reason(s):

1. The proposed development would lead to the creation of an additional dwelling in a geographically unsustainable location within the open countryside. Inadequate justification has been provided to demonstrate that there is an essential need for a temporary dwelling to support an agricultural worker, and therefore the proposal does not represent a sustainable form of development or appropriate development within the Oxford Green Belt. The proposed development therefore fails to comply with saved Policy H18 of the Cherwell Local Plan 1996, Policies ESD1, ESD14 and Villages 1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.
2. By virtue of its siting, size and design, the proposed dwelling would result in an unjustified visual intrusion into the open countryside and harm the openness and permanence of the Oxford Green Belt, causing significant harm to the open and rural character and appearance of the area to the detriment of visual amenity, contrary to Policies ESD13, ESD14 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C8 and C28 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework.

Case Officer: Gemma Magnuson

DATE: 18 November 2022

Checked By: Paul Ihringer

DATE: 18/11/22
