

TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

Committee:	Planning
Date:	20 July 2021
Site Location:	Land At Berry Wormington Stanway Road Stanton Broadway Gloucestershire
Application No:	20/00734/FUL
Ward:	Isbourne
Parish:	Stanton
Proposal:	Erection of a temporary dwelling for an agricultural worker.
Report by:	Bob Ristic
Appendices:	Site location, layout, elevations and floor plans
Recommendation:	Permit

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 This application relates to part of an agricultural field located on the western side of the B4632, approximately $\frac{3}{4}$ of a mile to the north of New Town Toddington and immediately to the south of Berry Wormington Farm.
- 1.2 More specifically the site relates to the south-western corner of the field and to the east of a recently completed complex of 3 agricultural buildings. The site is screened from the road by a hedge and various trees and shrubs which run along the southern boundary. The wider field slopes down to the southwest from a crest in the central part of the site.
- 1.3 The site lies within the Cotswolds Area of Outstanding Natural Beauty (AONB). **See Site Location Plan.**
- 1.4 The application seeks planning permission for a temporary dwelling for an agricultural worker. The proposed dwelling would be single storey log cabin style building which would be accessed from the farm track and located adjacent to existing agricultural buildings at the site. **See Block plan, elevations and floor plans.**
- 1.5 The application has been revised since it was first submitted to site the building further to the south of the site and to reduce the extent of the proposed residential curtilage.

2.0 RELEVANT PLANNING HISTORY

Application Number	Proposal	Decision	Decision Date
18/00883/FUL	Proposed agricultural building (1) for livestock housing and general purpose storage, associated access track and yard area.	WDN	15.05.2019
18/00884/FUL	Proposed agricultural building (2) for livestock housing, associated access track and yard area.	WDN	15.05.2019
18/00885/FUL	Proposed agricultural building (3) for livestock housing, associated access track and yard area.	WDN	15.05.2019
18/00886/FUL	Proposed agricultural building (4) for storage and workshop use, associated access track and yard area.	WDN	15.05.2019
19/00722/FUL	New livestock/general purpose store building and formation of new access track and yard.	PER	18.03.2020
19/00723/FUL	New livestock housing/calf rearing building and formation of new access track and yard.	PER	18.03.2020
19/00724/FUL	New agricultural workshop/storage building and formation of new access track and yard.	PER	18.03.2020

RELEVANT POLICY

- 3.1 The following planning guidance and policies are relevant to the consideration of this application:

National guidance

- 3.2 National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG)

Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) - Adopted 11 December 2017

- 3.3 SD3 – Sustainable design and construction
SD4 – Design Requirements
SD6 – Landscape
SD7 – The Cotswolds Area of Outstanding Natural Beauty (AONB)
SD8 – Historic Environment
SD10 – Residential Development
SD14 – Health and Environmental Quality
INF1 – Transport Network

Tewkesbury Borough Local Plan to 2011 - March 2006 (TBLP)

- 3.4 HOU10 – Change of Use of Agricultural Land to Residential Curtilage

Tewkesbury Borough Plan 2011-2031 – Submission Version (October 2020)

- 3.5 RES3 – New Housing Outside Settlement Boundaries
AGR3 – Agricultural and Other Rural Workers Dwellings
- 3.6 Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)
- 3.7 The First Protocol, Article 1 (Protection of Property)

CONSULTATIONS

- 4.1 **Stanton Parish Council** - Further development of the site would have a disproportionate and detrimental impact on the local environment, the AONB and nearby listed buildings.
- Introduction of a residential element would be highly damaging and impactful.
- Resulting 24/7 continuous use of the access road
- Light, noise pollution and general disturbance in a quiet rural/agricultural location.
- 4.2 **Environmental Health Officer** - No objections
- 4.3 **Borough Conservation Officer** – should be sited lower down the slope and re-orientated, residential curtilage should be reduced. A materials condition is recommended to secure an acceptable appearance to the development.
- 4.4 **Gloucestershire Highways Officer** – Object on the grounds that the site is in an unsustainable location.
- 4.5 **County Archaeologist** – No objections
- 4.6 **Cotswolds AONB Board** – The Board make no substantive comments or assessment of the application however agree with the sentiment of the note on the planning permission for the agricultural buildings which advise that further development at the site is likely to impact the special qualities of the AONB.

PUBLICITY AND REPRESENTATIONS

- 5.1 The application has been publicised through the posting of a site notice for a period of 21 days. Four representations have been received in response. The comments raised are summarised below:
- Applicants already living in caravan at the site
 - Agricultural buildings and access road not yet completed (at time of writing)
 - Previous approvals cautioned impact of further development
 - Cattle and sheep do not require someone to live at location
 - Cabin style not sympathetic to AONB
 - Large 4 bed building is excessive
 - Noise and light pollution
 - Storage containers on the site which were not applied for
 - Need should be justified
 - Site being domesticated

POLICY CONTEXT

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 6.2 The Development Plan currently comprises the Joint Core Strategy (JCS) (2017), saved policies of the Tewkesbury Borough Local Plan to 2011 (March 2006) (TBLP), and a number of 'made' Neighbourhood Development Plans.
- 6.3 The Tewkesbury Borough Plan (TBP) has reached an advanced stage. The Examination in Public was held in February/March 2021 and the Inspector's post hearings Main Modifications letter was received on 16th June 2021. In this letter the Inspector provided his current view as to what modifications are required to make the Plan 'sound'.
- 6.4 Those policies in the Pre-submission version of the TBP which are not listed as requiring main modifications may now attract more weight in the consideration of applications, with those policies which do in the Inspector's view require main modifications attracting less weight depending on the extent of the changes required. The TBP remains an emerging plan and the weight that may be attributed to individual policies will still be subject to the extent to which there are unresolved objections (the less significant the unresolved objections, the greater the weight that may be given) and the degree of consistency with the NPPF (the closer the policies to those in the NPPF the greater the weight that may be given).
- 6.5 The relevant policies are set out in the appropriate sections of this report.

ANALYSIS

- 7.1. The main issues for consideration within this application are:
- The principle of the development
 - The design of the development and visual impact on the Cotswolds AONB
 - The impact upon heritage assets
 - The highway safety and accessibility

Principle of development

- 7.2 The NPPF set out at Paragraph 79(a) that development of isolated homes in the countryside should be avoided unless specific circumstance apply which include (Paragraph 79a) where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
- 7.3 Planning Practice Guidance (PPG) sets out principles for assessing the need for essential rural workers, including a requirement to evidence of a need for 24 hour a day presence, confidence that the enterprise will remain viable, and in the case of new enterprises whether it is appropriate to consider granting a temporary dwelling for a trial period.
- 7.4 JCS policy SD10 sets out that new housing will be planned in order to deliver the scale and distribution of housing development set out in Policies SP1 and SP2. In respect of housing development on other sites Paragraph 4 sets out circumstances where this would be permitted such as where there are specific exceptions/circumstances defined in district or neighbourhood plans.

- 7.5 Policy HOU3 of the Tewkesbury Borough Plan 2011-2031 – Submission Version (October 2020) sets out that outside of defined settlement boundaries, the principle of new residential development will be considered acceptable where it would provide a dwelling essential for rural workers to live permanently at or near their place in the countryside subject to Policy AGR3. Policy AGR3 sets out that agricultural and other rural workers dwellings will be permitted if there is an essential functional need for a new dwelling based on evidenced needs of that business, it is demonstrated that the business is viable and established and there is no unacceptable adverse impact upon landscape character. Proposals for dwellings in relation to new agricultural businesses may be granted a time-limited permission (normally for a period of 3 years) to allow time to establish if the business is financially viable and that there is a genuine functional need for a dwelling.
- 7.6 The applicant has set out that the existing and emerging livestock business at the site requires an onsite presence for the welfare of stock. The application has been accompanied by details setting out the specific details and the scale of operations including financial and supply chain details.
- 7.7 The applicant's case for an agricultural dwelling at the site has been appraised by the Council's Agricultural Adviser who confirms that the applicant has significant livestock experience and the recently constructed agricultural buildings at the site demonstrate a firm intention to further develop the enterprise.
- 7.8 In terms of the functional need for a dwelling at the site, it is advised that the principal sheep business would not necessitate a need as nearby or caravan accommodation could be used. The calf rearing enterprise requires high levels of management with short notice or 'out of hours' treatment likely. The year 3 prediction for the growth in the new enterprise would necessitate a functional need for a stock person to be readily available. The Suckler cow business may entail some 'out of hours' attendance as well as a seasonal functional need. While security of livestock and equipment is a consideration this would not always necessitate an on site presence. On balance however it is concluded that there is a functional need for someone to be based on the site.
- 7.9 In terms of financial soundness and future viability, the business is considered to be strong albeit based principally on the sheep enterprise. In terms of calf rearing this produces some gross margin and potential for growth. As a whole it is considered that the enterprise is viable.
- 7.10 In terms of alternative nearby accommodation to meet the needs of an agricultural worker, the agricultural advisor has confirmed that there is no evidence of dwellings that are available for sale or rent which would in turn allow easy access to the site and agricultural buildings.
- 7.11 On balance, it is considered that there is a functional need for someone to be present on the site. As this need is largely based on a recent enterprise it is considered appropriate that the permission is for a temporary period of time in order that the ongoing viability and projected growth can be monitored and this can be secured by condition.
- 7.12 The applicant has sought a 3 year and 6 month permission to tie in with the financial year however the Council's agricultural adviser sets out that farming is not governed by a fixed annual date and accounts for taxation purposes are only part of any assessment. If a temporary permission is granted it should be for 3 years from the date of determination. This approach would also be consistent with the 3 year period set out in policy AGR3 of the emerging TBP.

Landscape impact and Design

- 7.13 Section 15 of the NPPF seeks to conserve and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan), and recognising the intrinsic character and beauty of the countryside. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.
- 7.14 JCS Policy SD7 sets out that development proposals in the Cotswolds AONB will be required to conserve and, where appropriate, enhance the landscape, scenic beauty, wildlife, cultural heritage and other special qualities. Proposals will be required to be consistent with policies set out in the Cotswolds AONB Management Plan.
- 7.15 The Cotswolds AONB Management Plan is a statutory plan which sets out the vision, outcomes and policies for the management of the Cotswolds AONB for the period 2018-2023. Policy CE1 relates to landscape and states, proposals should have regard to and be compatible with and reinforce landscape character, ... and proposals likely to impact on, or create change in, the landscape of the Cotswolds AONB, should have regard to the scenic quality of the location and its setting to ensure that views – including those into and out of the AONB – and visual amenity are conserved and enhanced.
- 7.16 The NPPF sets out that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Policy SD4 of the JCS advises that new development should respond positively to, and respect the character of, the site and its surroundings.
- 7.17 The application site is set within the lower part of the field parcel. A crest through the central part provides significant screening from the north and east along with planting around and within the site. While the building would not be of a traditional Cotswolds design or materials this should be balanced against the fact that its presence if permitted would only temporary.
- 7.18 It is considered that the scale of the building would be commensurate with the proposed use and the unit would be viewed in the context of existing agricultural buildings at the site. Any wider visual impact could be mitigated through careful consideration of the colour finish to walls and roof to ensure it assimilates with the rural context and dark backdrop of existing trees and hedges. These details can be secured by condition along with a condition controlling external lighting in order to minimise any impacts upon the dark skies of the area.

Heritage assets

- 7.19 JCS Policy SD8 concerns the historic environment, stating that development should make a positive contribution to local character and distinctiveness, having regard to valued and distinctive elements of the historic environment.
- 7.20 The proposed dwelling has been re-sited and re-orientated since the application was first submitted. It is considered that while the upper most part of the roof may be visible from the drive to Wormington Grange it is considered that subject to securing an acceptable colour of materials for the temporary dwelling, the proposal would preserve the setting of the heritage asset.

Access and highway safety

- 7.21 Paragraph 103 of the NPPF sets out that opportunities to maximise sustainable transport solutions which will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. Furthermore, development should only be prevented or refused on highways grounds where there would be an unacceptable impact on highway safety or the residual cumulative impacts of development are severe. Policy INF1 of the JCS requires that developers should provide safe and accessible connections to the transport network to enable travel choice for residents and commuters.
- 7.22 The application site would be accessed via an existing site access and track which was approved as part of the application for the adjoining agricultural buildings. The new access onto the B4632 and track have been constructed and it is considered that the proposed development would be served by a safe and suitable access.
- 7.24 It is noted that the Highway Authority has objected to the proposal on sustainability grounds however this needs to be balanced against the rural/agricultural use and necessity of a dwelling in that location in order to tend to the welfare of stock.

Community Infrastructure Levy/Section 106 obligations

- 7.25 The Community Infrastructure Levy (CIL) Regulations allow local authorities to raise funds from developers undertaking new building projects in their area. The regulations stipulate that, where planning applications are capable of being charged the levy, they must comply with the tests set out in the CIL regulations. These tests are as follows:
- a) necessary to make the development acceptable in planning terms
 - b) directly related to the development; and
 - c) fairly and reasonably related in scale and kind to the development.
- 7.26 As a result of these Regulations, local authorities and applicants need to ensure that planning obligations are genuinely 'necessary' and 'directly related to the development.' As such, the Regulations restrict local authorities' ability to use Section 106 Agreements to fund generic infrastructure projects, unless the above tests are met. Where planning obligations do not meet the above tests and restrictions, it is 'unlawful' for those obligations to be taken into account when determining an application.
- 7.27 In October 2018 the Council adopted CIL and implemented the levy on the 1st January 2019. However Infrastructure requirements specifically related to the impact of the development will continue to be secured via a Section 106 legal agreement. There have been no requests for consultees for any contributions as result of the proposed development.

Other Matters

- 7.29 It is noted that an informative on the permissions for the adjoining agricultural buildings raised concerns with regard to further development at the site, however this application has been considered on its own merits and limited harms due to the scale and temporary nature of the proposal.

CONCLUSION AND RECOMMENDATION

- 8.1 For the reasons set out above it is considered that the functional need for a temporary agricultural workers dwelling has been demonstrated. Subject to compliance with conditions, it is considered that the proposed temporary dwelling would not unduly impact on the landscape character of the Cotswolds AONB or setting of nearby heritage assets and safe access can be achieved. It is therefore recommended that the application is permitted subject to the following conditions.

- 8.2 Notwithstanding the recommendation, Members are advised that whilst the principle for a temporary dwelling is considered to have been established at the present time for the development proposed, it is not inevitable that a permanent dwelling would be achievable on the site. Any future proposal for a permanent dwelling would need to be assessed on its own merits in accordance with the relevant national and local development plan policies at that time.

CONDITIONS:

1. The works hereby permitted shall be begun before the expiration of five years from the date of this consent.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The permission for the temporary agricultural worker's dwelling hereby permitted shall expire three years from the date of this permission. Thereafter the temporary dwelling, enclosures and associated domestic paraphernalia shall be removed and the land restored to its former condition (as pasture) on or before the expiry of three years, in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to maintain control over development which is temporary in character and to allow a reassessment of the agricultural need for the temporary dwelling against relevant planning policies.

3. The development hereby permitted shall be carried out in accordance with the following approved drawings:

- 4815-001B

Except where these may be modified by any other conditions attached to this permission.

Reason: To ensure that the development is carried out in accordance with the approved plans.

4. Notwithstanding the submitted details, no construction works shall take place above floor plate level until precise details and where appropriate samples of the following materials proposed to be used have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details and shall be similarly maintained there after:-

- External facing and roofing materials including colour and profile,
- Details of all boundary treatments and enclosures

Reason: To ensure a high quality finish to the development in the interest of the visual amenities of the area.

5. No external lighting shall be installed upon the building or within the site unless first agreed in writing by the Local Planning Authority. Any lighting subsequently approved shall be installed in accordance with the approved details and be similarly maintained thereafter.

Reason: In the interests of visual amenity and the character of the area.

6. The development hereby permitted shall be carried out in accordance with the levels set out on approved drawing no. 4815-001B.

Reason: To define the terms of the permission and in the interest of the visual amenity of the area.

7. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, C, E, F and G of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), no development shall take place other than that expressly authorised by this permission.

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

8. The occupation of the dwelling hereby permitted shall be limited to persons solely or mainly working, or last working (and not working elsewhere in the meantime), in the locality in agriculture (as defined in Section 336(1) of the Town and Country Planning Act, 1990) or in forestry ("the Agricultural Worker"), or a widow, widower or surviving civil partner of the Agricultural Worker, and to any dependants residing with the Agricultural Worker or his/her widow, widower or surviving civil partner.

Reason: The proposed dwelling would be situated in the open countryside, outside of any defined settlement boundary where new housing development is strictly controlled. Permission is granted solely on the basis that the dwelling would serve the essential need to house a person or persons employed by the rural enterprise.

INFORMATIVES:

1. In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.
2. Should any external lighting be required at a future date, the developer's attention is drawn to the Lighting Professionals Guidance 01/20 Guidance notes for the reduction of obtrusive light. Any such lighting strategy should also incorporate measures to protect dark skies.
3. The applicant is advised that any future proposals to construct additional buildings in this location are highly unlikely to be appropriate as further development (such as agricultural buildings or a new dwelling) are likely to exceed the 'landscape capacity' of the site with resultant harm to the special qualities of the AONB and the setting of adjoining listed buildings.