

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Mr Ken Moore	Use of existing building, incorporating caravan to form part of building, as rest/livestock husbandry and storage facility, including office, in association with existing agricultural and equine activities. Thornborough Farm, Redhill Road, Kings Norton, Birmingham, Worcestershire B38 9EH	01.01.2019	18/01226/FUL

Councillor Hotham has requested that this application be considered by Planning Committee rather than being determined under Delegated Powers

RECOMMENDATION:

- (1) Minded to **APPROVE FULL PLANNING PERMISSION**
- (2) That **DELEGATED POWERS** be granted to the Head of Planning and Regeneration Services to determine the planning application following the receipt of a suitable and satisfactory legal mechanism to ensure that the building is not capable of being sold separately from the land which it serves.

Consultations

Alvechurch Parish Council

The Parish Council objects to this Planning Application because the Planning Application doesn't specify what is being applied for. Is it a retrospective Application or change of use?

Kernon Countryside Consultant

Summarised as raising no objection, acknowledging the building design does not function well in agricultural terms but is well sited and evidenced to be in agricultural use.

Publicity

Site Notice posted 6th November 2018 expired 30th November 2018
2 Neighbour Notification letters sent 6th November 2018

Representations Received

Twelve representations have been received 6 in objection and 6 in support of the application:

6 objections, summarised as follows:

- Previous reports to the Council in relation to occupation as a private dwelling;
- The nature of materials used on the windows of the building;

- Panels erected to obscure the view of windows in the building resulting in a loss of visual amenity;
- Domestic paraphernalia within the yard area i.e. child's play equipment;
- The planning history of the site (as shown above);
- Assertion that the building is illegal;
- Allegation of residential occupation of the building;
- Noise from works undertaken at Thornborough Farm and dogs barking;
- Loss of privacy;
- Recognising the need for agricultural use but raising concern if development were to spread across fields resulting in a loss of view;
- Concern that approval may lead to future development;
- Providing link to Company House data for business registered at Thornborough Farm

6 representations in support of the application are summarised as follows:

- Support for local small business;
- Provision of employment;
- Provision of staff and client welfare in association with agricultural and equine use;
- Concern for animal welfare if the facility were not present;
- Observation the building is separated from the nearest dwelling by boundary treatment and not visible from highway or to other dwellings;
- Confirmation the land is being used as a working farm;
- Additional security to immediate area provided by presence of business.

Relevant Policies

Bromsgrove District Plan

BDP1 Sustainable Development Principles

BDP4 Green Belt

BDP15 Rural Renaissance

BDP19 High Quality Design

Others

NPPF National Planning Policy Framework (2018)

SPG1 Residential Design Guide

Alvechurch Parish Neighbourhood Plan (APNP)

Alvechurch Parish Neighbourhood Plan

This plan has now been through its referendum with a positive result of 97% of those who voted on 10th January 2019, voting in favour of the plan being used in the decision making process. This now means that the APNP can proceed to full council to be 'made'. This is scheduled to take place on the evening of the 27th February. Until this happens the plan will not be formally part of the development plan, but members are advised to place significant weight on the plan and its associated documents, when considering proposals within the Parish.

Alvechurch Parish Neighbourhood Plan Policies:
HDNE4: Protecting Landscape and Open Views
LHW4: Sport, Leisure and Recreational Facilities

Relevant Planning History

12/0272	Outline application for single dwelling house and garage	Refused	23.08.2012
B/2006/1390	Demolition of existing stables and associated outbuildings, provision of new stable block	Granted	04.04.2007
B/2006/1389	Lambing shed	Granted	04.04.2007
B/2006/0503	New stock shed and stabling.	Application Withdrawn	26.07.2006
B/2005/0569	Field Shelter / Lambing Shed - Agricultural Notification.	Planning Permission Required	29.06.2005

Assessment of Proposal

Proposed Development

The application seeks retrospective permission for the retention and use of a detached single storey building for as rest, livestock husbandry and storage facility, including office, in association with existing agricultural and equine activities at Thornborough Farm. The building is sited on a tennis court formerly part of the curtilage of the adjoining property Hazeldene. The structure consists of pre-constructed caravan, wooden extensions and pitch roof over, and is situated adjacent and to the south of the rear garden of Hazeldene. The site is located in designated Green Belt.

Background

This application has arisen as a result of a planning enforcement investigation into an alleged unauthorised dwelling.

On agricultural undertakings of more than 5 hectares, it is permitted, subject to prior notification, to erect, alter or replace buildings reasonably required for agricultural purposes. However, the prior notification must be made before the development takes place. In this instance no prior notification was received, and therefore planning permission is required, which resulted in the current application being invited to control the identified breach.

Main Issues

The application site is located within designated Green Belt therefore the main considerations are:

- Whether the proposal would be 'inappropriate development' in the Green Belt;
- The effect of the proposal on the openness of the Green Belt and character and appearance of the area; and
- If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Other considerations include:

- The impact of the development upon residential amenity.
- Whether the proposal is in conformity with the policies of the Alvechurch Neighbourhood Plan.

Inappropriate development

Paragraph 145 of the NPPF states that Local Planning Authorities should regard the construction of new buildings as 'inappropriate' in the Green Belt but then goes on to set out a closed list of exceptions to this general presumption against 'inappropriate development'. This includes buildings reasonably required for agriculture and forestry; the provision of appropriate facilities including change of use for outdoor recreation; and the partial or complete redevelopment of previously developed land; which would not have a greater impact on the openness of the Green Belt than existing development.

Part of the consideration of whether the building constitutes 'inappropriate development' is to determine whether it is reasonably required for the purposes identified.

The site location plan accompanying the application shows the applicants ownership of 14.16 hectares of agricultural land, in addition to which a further 28-32 hectares rented depending upon livestock need. In addition to the agricultural enterprise the applicant runs a horse and pony livery business from the land.

The Council commissioned a report from its agricultural consultant, who having reviewed the application submission, raises no objection to the proposal. He observed that the size of the building is not excessive and it is well sited for an undertaking to store agricultural equipment and records in dry secure conditions and provides welfare facilities which are normally located within a farmhouse i.e. toilet, shower and respite area. In this instance, there is no farmhouse serving the land.

The building incorporates a caravan designed for habitation. However investigation undertaken by your planning enforcement officers found that it is being used in association with agricultural storage and provision of welfare facilities for the agricultural undertaking and associated equine activities at Thornborough Farm rather than as a permanent unit of residential occupation / dwellinghouse.

The retention of the building will allow the applicant's stock rearing business to continue to be effectively managed and comply with statutory animal welfare legislation and the

continued proper functioning of the applicant's business from an administrative and equipment storage perspective.

It is therefore considered that the building subject of the application is reasonably required (and currently being used) for purposes in association with agriculture which is a legitimate identified exception to the presumption against new development in the Green Belt. Consequently, the proposal is not regarded as 'inappropriate development' and is in accordance with criterion (a) of policy BDP4.4 of the Bromsgrove District Plan and paragraph 145 of the NPPF.

Openness

This test is relevant in so far as it relates to use of the building in association with the equestrian enterprise. Furthermore, it should be noted that the building is sited on former tennis courts of the adjacent property 'Hazeldene'. Therefore the starting point for the assessment of impact upon the 'openness' of the Green Belt in this case is that of 'previously developed land' and not undeveloped 'green-field' agricultural land.

The concept of 'openness' does not depend upon visual intrusion but is held to relate to the effect of development where no previous development has existed. In this instance the site was used for purposes incidental to a dwellinghouse consisting of a hard surface which had an impact upon openness. Whilst the building has a greater impact upon openness than the hard surface, it is not considered to conflict with the purposes of including land in the designated Green Belt. Moreover, in so far as the building serves a function incidental to the agricultural holding, the NPPF does not require proposals for agricultural buildings to demonstrate that they have a neutral impact upon the openness of the Green Belt.

Residential Amenity

The free standing wooden panels erected by the applicant to obscure direct overlooking of the neighbouring property known as Hazeldene are located in excess of 20 metres from the closest point of that dwelling. Moreover, the elevation containing the windows is obscured from view from the garden of the neighbouring property, by a coniferous hedge which is planted in the garden of that property. Consequently the privacy of the neighbouring property is not adversely affected by the development.

Design / External Appearance

The external appearance is that of a log cabin style of building. I raise no issue with the appearance of the structure. The Agricultural Consultant has not raised concerns.

Other considerations

Investigations by your planning enforcement officers following allegations that the building is being occupied as a dwellinghouse, have not found evidence which corroborate these claims, but moreover, the application before members does not seek permission for that use. The use for which permission has been sought has been independently evaluated and your officers concur with the advice that it is reasonably required to serve the requirements of the existing agricultural and equestrian enterprise.

It is acknowledged that the building incorporates a caravan. Caravans are primarily designed to facilitate residential occupation, but not always employed for that purpose. In this case, your enforcement officer's investigation indicates it is not being utilised in this capacity and is presently being used for the provision of storage and welfare facilities in association with agricultural and equine activities. The design of the building is appropriate for the provision of welfare facilities, office use and secure document storage but not suitable for larger items of machinery or housing livestock.

The Alvechurch Parish Neighbourhood plan states under policy HDNE4 (Protecting Landscape and Open Views) that new development should be preferably on land of lesser environmental value and seek to protect high-value agricultural land. In this instance the development is located on previously developed land and of lesser value than the agricultural land which would otherwise be required to provide such facilities. In relation to the policy LHW4 (Sport, Leisure and Recreational Facilities) point 4.261 of the APNP states the parish wants businesses which contribute to the wider local economy and live alongside agricultural related business.

Noise issues have been raised in relation to activities on the associated agricultural land and barking dogs. I am not aware of any evidence that illustrates the use of the site would be detrimental to residential amenity in terms of noise. Furthermore other legislation is in place to deal with any statutory noise nuisance matters. The loss or interruption of a view is not a material planning consideration. The children's play equipment does not form part of this application.

Members will note the representations supporting the scheme.

Legal Agreement

In the absence of a mechanism to prevent it, if members are mindful to grant planning permission, the building could be severed from the land which it serves and create a subsequent further demand for buildings to serve the remnant land, risking the proliferation of buildings in the Green Belt. In order to ensure that the building is not capable of being sold separately from the land which it serves, the applicant has been asked to enter into a suitable legal agreement to this effect, and has confirmed their agreement in principle.

This would ensure that the building remains available to serve the land for which it is required and mitigates the risk the proliferation of other buildings if it were sold separately. The sale of land or buildings cannot be controlled by condition, and consequently a suitable legal mechanism is required.

RECOMMENDATION:

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- (2) That **DELEGATED POWERS** be granted to the Head of Planning and Regeneration Services to determine the planning application following the receipt

of a suitable and satisfactory legal mechanism to ensure that the building is not capable of being sold separately from the land which it serves (or similar wording)

Conditions:

1. The development hereby approved shall be carried out in accordance with the following plans and drawings:
Site location plan 1234-A and Scale plan drawing 82926-01

REASON: To provide certainty to the extent of the development hereby approved in the interests of proper planning.

2. The use of the building (incorporating the caravan) shall be limited to a rest facility for office/storage in association with the existing agricultural and equine welfare use and not as permanent residential accommodation.

REASON: To facilitate the demonstrated need for animal welfare but precludes use of the building as a permanent.

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