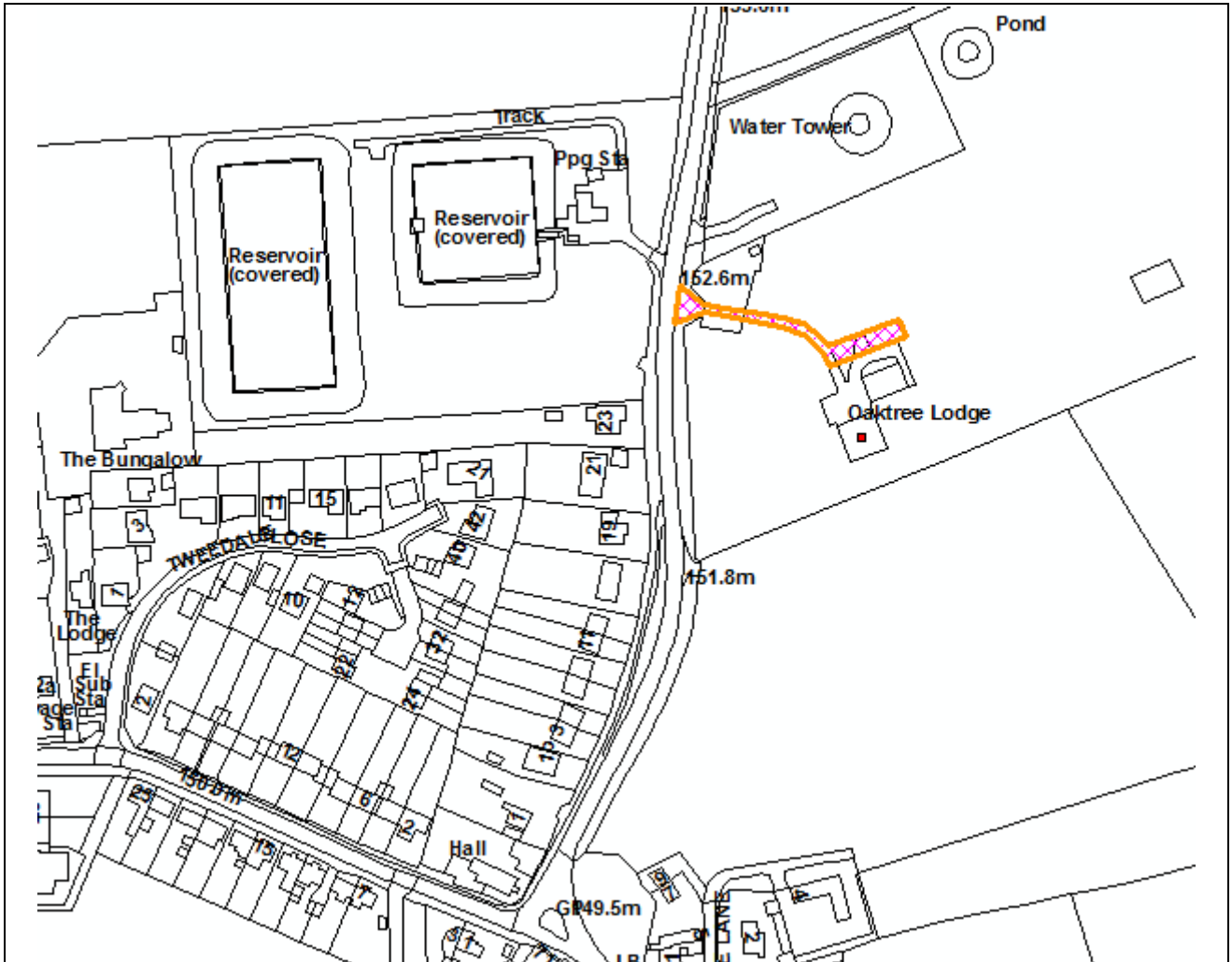


17/02959/APP



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REFERENCE NO	PARISH/WARD	DATE RECEIVED
17/02959/APP	MURSLEY The Local Member(s) for this area is/are: -	02/08/17
RETENTION OF TEMPORARY BUILDING FOR AGRICULTURAL USE. OAKTREE LODGE WHADDON ROAD MK17 0RZ	Councillor N Blake Councillor B Everitt	
MR B. AGNEW		
STREET ATLAS PAGE NO 67.		

1.0 The Key Issues in determining this application are:-

a) Principle of development

b) Impact on the character and appearance of the site, the surrounding countryside and heritage assets

c) Impact on highway safety

d) Other matters

The recommendation is that permission be **REFUSED**

2.0 Conclusion and Recommendation

2.1 The application has been evaluated against the extant Development Plan comprising the saved Development Plan policies, the core planning principles of the NPPF and whether the proposals deliver sustainable development.

2.2 The need for the building in the context of paragraph 28 of the NPPF and supporting rural enterprise has been assessed but has not been demonstrated and as such can only be given limited positive weight in the planning balance and this is offset by the significant weight that can be given to the protection of the countryside against inappropriate development.

2.3 Whilst, the building is of a moderate scale, it is not designed for its proposed function and is overtly residential in character and this together with its red-painted timber cladding results in the building having an element of prominence or incongruity to the detriment of the appearance and character of the countryside contrary to policy GP35 and to which significant negative weight should be given

2.4 It is recommended that planning permission be **REFUSED** for the following reasons:-

1. The proposed retention of the building is tantamount to the erection of a new building in the countryside for which there is no demonstrable need or requirement with regard to the agricultural undertakings at Oaktree Lodge. Moreover, the building is not designed for agricultural purposes and has an overt residential nature which is harmful to the character

and appearance of the open countryside in this part of Mursley. The proposal for the above reasons is therefore contrary to policies GP.35 of the Aylesbury Vale District Local Plan and contrary to the National Planning Policy Framework.

WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant / Agent and has focused on seeking solutions to the issues arising from the development proposal.

AVDC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,
- updating applicants/agents of any issues that may arise in the processing of their application as appropriate and, where possible and appropriate, suggesting solutions.

In this case, AVDC has considered the details as submitted which were considered fundamentally objectionable in principle.

3.0 INTRODUCTION

3.1 The application needs to be determined by the AVDC Planning Committee at the request of Councillor Everitt who supports the application on the grounds that:

- AVDC's vision is to “*secure the economic, social and environmental wellbeing of the Vale*”. We need to live up to this by supporting local rural businesses.
- The NPPF is explicit about ‘supporting a prosperous rural economy’ (Part 3, paragraph 28).

4.0 SITE LOCATION AND DESCRIPTION

4.1 The application site lies on the eastern side of Whaddon Road, Mursley directly south of, and adjacent to, the water tower. The boundary of the Mursley Conservation Area lies approximately 150m to the south.

4.2 A former agricultural building at the end of the track has been converted to a dwelling and a second barn/store adjoins this to the east, creating a courtyard appearance. To the rear of this barn lies the a greenhouse and to the north of the building the subject of this application. A short distance east of the greenhouse lies a concrete base that relates to an approved animal shelter.

4.3 The total site area is stated as being 3.2 hectares (8 acres) and the smallholding currently produces fruit and vegetables, plants and shrubs, eggs (from laying hens), pork (from reared pigs) and turkeys (for the Christmas Market).

4.4 The building, the subject of this application is a single storey log cabin with a dual pitched roof and dimensions of 13.4 m long by 6.7 m deep (including overhang) and 4.13 m to the ridge.

5.0 PROPOSAL

5.1 This application seeks planning permission for the retention of a temporary building erected on the site which was used as residential accommodation, whilst a barn was converted to a dwelling (15/02715/ACL).

- 5.2 Following the occupation of the converted barn, the temporary building should have been removed from the site in accordance with the permitted development right concerning buildings required in connection with a development.
- 5.3 The application seeks to retain the building in order to expand the smallholding. The submitted plans detail the proposed use of the building, although when ACORUIS visited they were revised as follows:
- Meat processing (Master bedroom)
 - officer (bedroom)
 - incubation are (utility room)
 - feed store (lounge)
 - plant work area/propagation (dining area)

The kitchen area and bathroom would be retained and the former would allow the applicant to extend and improve their range of chutneys and preserved meats as well as for the storage of eggs.

- 5.4 The submitted business plan states that the 'mission' of the Oaktree Acres Partnership is to increase production in the smallholding enterprise to sell a variety of produce which has, predominantly, either been grown or raised on Oaktree Acres. The business plan sets out the business intentions for the next two years.

RELEVANT PLANNING HISTORY

- 6.1 01/02804/APP - Agricultural building – Approved
This application related to a barn (now converted into a dwelling) and a polytunnel.
- 6.2 10/00081/APP - Erection of agricultural building for housing of animals – Approved – Not implemented – Expired
- 6.3 14/03104/COUAR - Determination as to whether prior approval is required in respect of transport & highway impact, noise, contamination risk, flooding and locational considerations for the conversion of an agricultural building into one dwelling (under Class MB(a)) and in relation to design and or external appearance of the building (Class MB(b)). – Refused
This application was refused as the applicant had not proven an established agricultural unit and the proposal included alterations and extensions to the building which were not permissible under Class Q, Part 3 of the General Permitted Development Order.
- 6.4 15/00896/COUAR - Determination as to whether prior approval is required in respect of transport & highway impact, noise, contamination risk, flooding and locational considerations for the conversion of an agricultural building into one dwelling (under Class MB(a)) and in relation to design and or external appearance of the building (Class MB(b)). – Approved
- 6.5 15/01971/APP - Erection of agricultural building for housing of animals and equipment and produce store with workshop. – Approved
The store has been erected but the livestock building has not with the exception of the base, but the permission has been kept alive by the construction of the former.
- 6.6 15/02715/ACL - Application for a Lawful Development Certificate for a proposed temporary mobile home. - Granted

- 6.7 Instead of a mobile home the building the subject of this application was provided which performed the same function and which should have been removed from the land following the completion of the barn conversion. The failure to remove the building led to an enforcement investigation which resulted in the submission of the current building.

16/04054/APP - Erection of a greenhouse. – Approved, and the building is nearing completion

7.0 PARISH/TOWN COUNCIL COMMENTS

- 7.1 “Mursley residents and Mursley Parish Council contacted AVDC’s enforcement team in February 2017 and July 2017 to ask that the temporary mobile home is removed from site. There has been a repeated lack of action by AVDC’s Enforcement Team on this condition set by AVDC Planning (15/02715/ACL). This has led to a development application (17/02959/APP) contrary to the condition set. The condition on this permission is as follows: ‘The mobile home shall be removed from the site, and the land reinstated to its former condition, once the conversion of the barn (approved under ref 15/00896/COUAR) has been completed or it is no longer required in connection with those operations, whichever is the sooner.’

In short AVDC has asked Mursley Parish Council to look at an application for a building that should have been removed from the site. They also noted that the applicant’s business plan submitted to AVDC had not been published.

The Parish Council will speak at committee.”

8.0 CONSULTATION RESPONSES

- 8.1 **AVDC Environmental Health** comments: “There are no environmental health comments for this application.”
- 8.2 **Acorus** - Given the nature of the small holding it can be seen that it would be desirable for the applicant to retain the mobile home. However, consider that the majority of the space seem to be required and allocated within the mobile home is space that could be available within the other buildings. Also of course rooms and facilities within the mobile home are superfluous to the smallholding (e.g. bathroom and kitchen).

The mobile home is clearly a self contained unit and not a structure that could be retained in part. The design of the accommodation is of course not an agricultural building, but to some degree it can perform the storage facility as proposed by the applicant. However, it is considered that the smallholding does not merit the extent of accommodation that the mobile home provides.

9.0 REPRESENTATIONS

- 9.1 One objection has been received from a neighbour at No.19 Whaddon Road, Mursley as summarised:
- The building should have been removed and the land reinstated after the barn conversion was occupied
 - Absence of enforcement action by AVDC
 - As no internal structural works are proposed and only beds, tables and chairs have been removed, there is concern that if a permanent building is permitted, it could be lived in again. Concerns as to how AVDC would control this.

10.0 EVALUATION

a) Principle of development

- 10.1 The starting point for decision making is the development plan, i.e. the adopted Aylesbury Vale District Local Plan (and any 'made' Neighbourhood Plans as applicable). S38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG) are both important material considerations in planning decisions. Neither change the statutory status of the development plan as the starting point for decision making but policies of the development plan need to be considered and applied in terms of their degree of consistency with the NPPF.

In this respect, Mursley Parish has been designated a Neighbourhood Area but to date have not submitted a draft Neighbourhood Plan.

- 10.2 A number of general policies of the AVDLP are considered to be consistent with the NPPF and therefore up to date so full weight should be given to them. Consideration therefore needs to be given to whether the proposal is in accordance with or contrary to these policies. Those of relevance to this application are GP.24 and GP.35.
- 10.3 Policy GP.35 of AVDLP requires new development to respect and complement the physical characteristics of the site and surroundings; the building tradition, ordering, form and materials of the locality; the historic scale and context of the setting; the natural qualities and features of the area; and the effect on important public views and skylines. It is also reinforced by the Council's adopted supplementary planning guidance in the form of the New Buildings in the Countryside Design Guide which provides guidance on how to ensure new buildings can best harmonise with their rural landscape setting.
- 10.4 The NPPF in paragraph sets out 12 Core Planning Principles which include taking account of the different roles and character of different areas.... Recognising the intrinsic character and beauty of the countryside and supporting thriving communities within it. Further it mentions that planning should contribute to conserving and enhancing the natural environment.
- 10.5 The NPPF at Paragraph 28 states that planning policies in rural areas should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

To promote a strong rural economy, local and neighbourhood plans should (relevant paragraphs only):

- Support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings;
 - Promote the development and diversification of agriculture and other land based rural businesses.
- 10.6 The NPPF at paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by:
- Protecting and enhancing valued landscapes, geological conservation interests and soils

- 10.7 The application relies heavily on the submitted business plan providing sufficient justification for the retention of the building and stating that, without this building, the business operations cannot expand.
- 10.8 The advice of ACORUS was sought on the need for a further building on the holding and its suitability.
- 10.9 The ACORUS report describes the holding as follows:

The land is sparsely planted with a variety of trees and shrubs. The land is down to grass but is not grazed (mown/topped in the summer period).

Within part of the site 50 Christmas trees have been planted (2 years ago) and will be harvested when they have grown to a saleable size. Also within the site there is a pond (adjacent the water tower)

The buildings and structures at the site (excluding dwelling) comprise of the following;-

- Polytunnel;
- Storage building
- Green house almost complete
- Mobile home – subject of this application

Also within the site are there are a number of temporary enclosures for animals

- Hens (1 enclosure)
- Turkeys (1 enclosure)
- Pigs (3 enclosures)

As part of the consent granted for the storage building (ref: 15/01971/APP) consent was also granted for an animal shelter (12m x 6m) , as yet this building has not been erected.

The produce derived from the small holding is presently as follows:-

- Fruit and vegetables
- Plants and shrubs
- Eggs (from laying hens)
- Pork (from reared pigs)
- Turkeys (for the Christmas market)

As based on the above the applicant has prepared a 3 year business plan for the small holding for the next 3 years.

The fruit and vegetables are essentially surplus produce from the trees and produce grown within the polytunnel. However, within the new green house the production of plants will be increased.

Regarding the number of animals kept these are detailed as follows:-

- Laying hens – 30
- Pigs (none at present , but intention is to buy in 7 weaners in the spring to rear (same number as 2017).
- Turkeys – none at present , but in the summer the intention is to buy in you turkeys for rearing (9 were reared in 2017, and same number or more are planned for 2018)

As noted above the animal shelter is not yet constructed . Once the shelter is built it is the intention of the applicant to keep a sow and then retain and rear all the piglets (which could amount to about 20 piglets per year)

As noted in the business plan the intention is to develop the pond area on the holding to rear ducks and geese.

- 10.10 The ACORUS report notes that the small holding has a diverse range of activities providing produce for the local market, and that although a business plan has been submitted with the application there are no clear indication from the activities at the site the operation will be a full-time business which will be profitable i.e. it would cover all costs and labour inputs.
- 10.11 The business is a year into the 3 year business plan and the first year's accounts will be available towards the middle of 2018. The applicant has accepted that the amount of produce from the site could not be considered a fully sustainable business in its own right, hence why the retention of this building is required for the business to expand.
- 10.12 The Acorus report comments that in considering the retention of the mobile home for its proposed agricultural purpose, the existing facilities on site need to be considered.
- 10.13 In that regard the advice is that the existing building approved under 15/01971/APP is adequately suitable for the storage of animal feed, that the plant propagation work could be accommodated within the greenhouse which is substantially complete and the incubation of eggs would only comprise a small-scale activity. The report argues that buying in point-of-lay hens would be just as well as rearing hens from home bred chicks. The applicant contests this and states that the report does not consider the applicants own intentions to grow and sell on hens at the point-of-lay themselves.
- 10.14 The Acorus report concludes that, whilst the retention of the building is understandably desirable, the majority of space allocated within the mobile home is space that could be available either within the existing buildings or within the shelter that has already been permitted.
- 10.15 Correspondence received from the applicant questions why AVDC granted permission for the barn conversion (now being occupied), which supported the applicants intention of expanding the smallholding. However, as the conversion was facilitated by means of a prior notification under class MB (now Q) of part 3 of the General Permitted Development Order, the LPA could only take into account a limited range of specified considerations and could not exert any control over matters of principle. It would therefore be incorrect to draw the conclusion reached by the applicant.
- 10.16 Nevertheless, the applicant did have the choice whether or not to convert the building, and in so doing it is reasonable to draw the conclusion that the agricultural space at the time was surplus to the needs of the holding. Similarly, it is commonplace on many family run holdings for facilities within the dwelling house to be used for both domestic and commercial purposes, for instance farm office, toilet and kitchen.
- 10.17 To conclude, whilst the NPPF requires Local Planning Authorities to support rural enterprises by taking a positive approach to sustainable new development, this has to be tempered by other considerations, including its objective of protecting and enhancing the countryside. Whilst, the retention of the building may be seen as desirable by the applicant, it is considered that other buildings on the holding are capable of accommodating the specified uses for the building. Moreover, the building has not been designed for

agricultural purposes but for residential use, although it may to some degree perform for some of the specified uses.

- 10.18 In conclusion, the need for the building in the context of paragraph 28 and supporting rural enterprise can only be given limited positive weight in the planning balance and this is offset by the significant weight that can be to the protection of the countryside against inappropriate development.

b) Impact on the character and appearance of the site, the surrounding countryside and heritage assets

- 10.18 As mentioned above, policy GP.35 of AVDLP requires new development to respect and complement the physical characteristics of the site and surroundings; the building tradition, ordering, form and materials of the locality; the historic scale and context of the setting; the natural qualities and features of the area; and the effect on important public views and skylines.
- 10.19 As this proposal seeks to retain a building that was only permitted on a temporary basis, this application is effectively a consideration for a new building. In this respect the water tower falling within the adjoining land to the north is considered a non-designated heritage asset by virtue of its prominence and local importance, with specific reference to its contribution to the character and appearance of Mursley. Paragraph 135 of the NPPF states that “the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”
- 10.20 The proposed building by virtue of its siting and proximity to the water tower is considered to fall within the setting of the non designated heritage asset. Whilst, the building is sited with other buildings and structures on the holding it is positioned closer to the water tower. However, the level of harm will be tempered by its siting with other buildings and that it is single storey and sited on lower ground.
- 10.21 Whilst the building is of a moderate scale, it is not designed for its proposed function and is overtly residential in character and this together with its red-painted timber cladding results in the building having an element of prominence or incongruity to the detriment of the appearance and character of the countryside contrary to policy GP35 and to which limited negative weight should be given.

c) Impact on highway safety

- 10.22 Policy GP.24 of the AVDLP states that new development will be required to provide vehicular parking in accordance with the Council’s operative guidelines published as Supplementary Planning Guidance. These guidelines are intended to promote more sustainable transport options. The NPPF at paragraph 32 requires all development to provide a safe and suitable access for all people.
- 10.23 As the application relates to a building for agricultural purposes, the requirement for parking needs to be considered in respect to the size of the smallholding. In this instance, it is stated that only the applicants and their son are employed to work at this site and the Acorus report outlining the existing and proposed operations reflect this requirement for employment. It is further noted that the converted building, which is now a residential unit, benefits from a parking courtyard at the front of the dwelling. It appears that this existing hardstanding could accommodate at least 3 vehicles and it is therefore concluded that

parking provision and highway safety would not constitute sufficient reasons for refusal by themselves.

d) Other matters

- 10.24 The applicant's has expressed concern regarding the financial expense and potential environmental impact resulting from the removal of the temporary building. However its provision was conditional on it being removed from the site once works involved in the residential conversion of the neighbouring barn had been completed. This principle was made clear in the condition attached to the certificate of lawfulness granted under 15/02715/ACL for the siting of a mobile home for the duration of the works. It is therefore reasonable to suggest that the applicant had been aware of this requirement and any potential expense, prior to the building being brought onto site in the first instance.
- 10.25 Furthermore, the applicant chose to site the building to meet a temporary need, whereas a conventional mobile home could have satisfied the same purpose and would have been cheaper and easier to remove.

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