

# Land at Glebe Court, Stoke Lyne Road      12/01285/F Fringford, Oxfordshire OX27 8RJ

**Ward:** Fringford

**District Councillor:** Councillor Barry Wood

**Case Officer:** Graham Wyatt

**Recommendation:** Refusal

**Applicant:** Mr & Mrs R Herring

**Application Description:** Installation of vehicle wash facility – re-submission of 12/00382/F

**Committee Referral:** Members request

## 1. Site Description and Proposed Development

- 1.1 The site forms part of an agricultural and commercial unit on the outskirts of Fringford. The site contains two barns, one of which has an agricultural use and one which has a lawful commercial workshop use for the repair and maintenance of commercial vehicles. The applicant owns and operates the company Bicester Sweepers whom provide road sweeping services. It is not clear whether this company operates fully from Glebe Court, but their website gives an indication that this is the case. The vehicles used for the business are serviced and repaired at the site.
- 1.2 To the southwest of the agricultural barn is a hardstanding and an unauthorised bund of earth around an area adjacent to the barn. Adjacent to the bund is a clamp which the applicant states is currently used for silage.
- 1.2 The site is accessed off Stoke Lyne Road via a metalled road to the west of the site although an access to the east of the site is also available. To the south of the site are two residential properties (1 & 2 Glebe Farm Cottages) and to the east are further residential properties, one of which is occupied by the applicant.
- 1.3 The applicant seeks permission to install a vehicle washing facility at the site to be used for the washing of the applicant's agricultural vehicles, commercial vehicles brought onto the site for maintenance at the lawful workshop on site, private cars owned by the applicant, vehicles used in association with the applicants leisure facility (camping and fishing) east of the site and other commercial vehicles owned by the applicant. The wash area would be bounded by walls on three sides and a further bund to the southeast and southwest and would be sited where the existing clamp is located. The site would be laid with concrete creating a wash down area of 310 sq. m (20m x 15.5m).
- 1.4 The site lies within an Area of High Landscape Value and an enforcement notice (ENF. 1/08) restricts the use of the agricultural barn and land to the west of it for agricultural purposes only. The application site lies to the south and outside the area covered by the enforcement notice.

## **2. Application Publicity**

2.1 The application has been advertised by way of neighbour notification letters. The final date for comment was the 18<sup>th</sup> October 2012. Four letters were received to the original plans. The following Issues were raised:

- Noise and disturbance as a result of pressure washing;
- Impact on the character and appearance of the area;
- Does not comply with the terms of enforcement notice ENF.1/08;
- Inappropriate development within the countryside;
- Continued breach of planning control relating to certificate of lawfulness;
- Commercial activities on agricultural land taking place.

## **3. Consultations**

3.1 **Fringford Parish Council:** Object to the proposal for the following reason(s):

- Noise and disturbance to the surrounding neighbours of the use of industrial steam pressure washers close to the boundary of the property;
- The effect on the neighbouring properties of this noise;
- The impact on the character of the surrounding area which is a rural agricultural area not suitable for a commercial use;
- The likely precedent that approval may set for similar further inappropriate development in this rural environment.

### **Cherwell District Council Consultees**

3.2 **Head of Safer Communities** – No objection subject to a condition regarding noise from the pressure washing equipment.

### **Oxfordshire County Council Consultees**

3.3 **Highways Liaison Officer** – No objection subject to conditions

### **Other Consultees**

3.4 **Environment Agency** – We have no objections to the proposed development provided that all vehicle washing and waste storage is situated on an impermeable surface with a sealed drainage system. We recommend that the council attach a condition to this effect to ensure that the proposed development does not pose a risk of pollution to surface water quality

3.5 **Thames Water** – On the basis of information provided, Thames Water would advise that with regard to water infrastructure we would not have any objection to the above planning application. Thames Water would recommend that petrol /oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.

## **4. Relevant National and Local Policy and Guidance**

### **4.1 Development Plan Policy**

## Adopted Cherwell Local Plan (Saved Policies)

EMP4: Employment in rural areas  
C7: Landscape conservation  
C8: Sporadic development within the countryside  
C13: Areas of High Landscape Value  
ENV1: Pollution Control  
TR10: Heavy goods vehicles

## South East Plan 2009

CC6: Sustainable Communities & Character of the Environment  
NRM10: Noise

## 4.2 Other Material Policy and Guidance

National Planning Policy Framework

### Appraisal

5.1 The key issues for consideration in this application are:

- Policy Context
- History
- Noise and disturbance
- Impact on the character and appearance of the area
- Supporting a prosperous rural economy and sustainability

5.2 The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application would include promoting sustainable transport, the promotion of healthy communities and the conservation and enhancement of the natural environment.

5.3 Policy EMP4 of the Adopted Cherwell Local Plan 1996 states that proposals for new employment generating development of the following types will normally be permitted:

- (A) Within an existing acceptable employment site, including redevelopment;
- (B) Conversion of an existing building or group of buildings;
- (C) Within, or adjoining settlements, for a minor extension to an existing acceptable employment site.

Provided that, the proposal and any associated employment activities can be carried on without undue detriment to the appearance and character of rural landscape and without harming the amenities of settlements or the special character and interest of a building or architectural or historic significance.

- 5.4 The NPPF also recognises the importance of a prosperous rural economy and states at paragraph 28 that planning policies should 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.

### **History**

- 5.5 The site and surrounding land within the ownership of the applicant have been the subject of a number of planning applications and enforcement action. The planning history for the site is a material consideration and is relevant to the determination of this application. Notable applications are the previous attempts to secure vehicle washing facilities at the site and a certificate of lawfulness approved for the commercial use of the northern barn. Enforcement notice ENF.1/08 is also material to the determination of this application.
- 5.6 The barn adjacent to the clamp was granted permission under application 05/02247/AGN for a 'general purpose agricultural building'. The building was approved in 2006 using an agricultural notification, rather than a planning application, as the building was considered reasonably necessary for the purposes of agriculture.
- 5.7 Following the approval of the agricultural notification it came to the attention of the Local Planning Authority that the building was being used for commercial purposes instead of the agricultural use approved. As a result, enforcement notice ENF.01/08 was served on the site in March 2008. The notice was issued as it was considered that the change of use caused harm to residential amenity. The matter which constituted a breach of planning control was 'the change of use of the land and the barn from agriculture to the use for the parking, repairing and servicing of commercial vehicles'. No appeal against the notice was made so the notice came into effect on the 16<sup>th</sup> April 2008 and remains on the land and is effective. The area covered by the notice is the access, the barn and hardstanding immediately to the west/southwest of the barn. The enforcement notice specifically requires the applicant to,
- 1) Stop using the land and the barn on the land for the parking, repairing and servicing of commercial vehicles.
  - 2) Remove all commercial vehicles from the land.
- 5.8 On passing the site on 23<sup>rd</sup> October 2012, it was noted that commercial vehicles were parked on the site. In addition, trailers used in connection with the applicants traction engine hobby were seen on the land to the south of the unlawful bund. Moreover, the photograph of the site within the applicants Design and Access Statement clearly shows commercial HGV trailers parked behind the existing clamp, on agricultural land. None of these vehicles are used in connection with lawful agricultural use of the land.
- 5.9 Evidence is also being provided that vehicles belonging to Bicester Sweepers are being parked and washed on the land. All of these matters have been referred to the enforcement team to instigate formal proceedings against the applicant for failing to comply with the terms of the enforcement notice and to consider issuing a further notice for the change of use of the land to the south of the bund. While this matter is not for consideration as part of the determination of the current application, it does give an indication that the use of the site for commercial purposes has been deemed inappropriate at this

location and the increase in activities is having a detrimental impact on the occupiers of adjacent properties..

- 5.10 The applicant sought to regularise some of the matters in 2008 with the submission of application 08/02142/F for the construction of a vehicle and plant washing area including hardstanding for parking of plant and equipment, interceptor and associated drainage. This application was refused permission on 25<sup>th</sup> March 2009 for three reasons relating to impact on residential amenity, unsustainable location and impact on the character and appearance of the area. No appeal against this decision was made.
- 5.11 The barn to the north (rear) of the application site was granted a certificate of lawfulness for the repair and servicing of commercial vehicles under application 10/00460/CLUE. The certificate restricts the operation of the building to 0700 – 1800 Monday to Friday, 0700 – 1300 Saturday and no working Sunday or bank holidays. The current lawful commercial activities at the site is therefore relatively low key as the certificate also restricts the repair/maintenance of plant/road sweepers to no more than 8 vehicles per fortnight. However, evidence is being provided that the applicant constantly breaches the terms of the certificate both in vehicles numbers being repaired or serviced at the site and the hours of operation. It was recently reported that commercial vehicles have been entering the site at 2000hrs and both barns were being used for servicing of Bicester Sweeper vehicles. It was also reported that HGV's were seen leaving the site at 0035hrs and 0050hrs. Again, these matters are being considered by the enforcement team.
- 5.12 Earlier this year the applicant sought consent for the change of use of land from agricultural to the parking of commercial and agricultural vehicles, change of use of an agricultural building to mixed commercial and agricultural use, installation of a temporary storage and dewatering facility for wet street sweepings and a commercial vehicle washing facility. The applicant stated that the purpose of this application (12/00382/F) was for 'an extension to an existing, lawful use rather than a new, isolated commercial use in the countryside.' and continued by stating that the 'development proposal is therefore to be considered as an expansion of vehicle maintenance and repair facilities, the use of adjacent land for a commercial vehicle washing area and temporary storage of street sweepings, and an adjacent area of hardstanding for parking associated with commercial vehicle maintenance, wash down and the unloading of street sweepings'. Therefore, the proposal was essentially for the creation of a depot whereby vehicles used for Bicester Sweepers Ltd. are repaired, maintained, washed down, emptied and parked overnight. This application was refused permission for 3 reasons relating to impact on residential amenity, unsustainable location and impact on the character and appearance of the area. No appeal against this decision was made.

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### **The Current Application**

- 5.13 The current application seeks permission for a vehicle wash facility on land to the southwest of the agricultural barn where an existing silage clamp is located and bounded by the unlawful bund. The site lies to the south of the area covered by the enforcement notice ENF.1/08 and not within it.

- 5.14 The applicant states that vehicle wash facility is required to “establish an environmentally sustainable vehicle washing facility at Glebe Court for the washing of:
- i. vehicles used for agricultural purposes;
  - ii. vehicles used in association with the leisure facility;
  - iii. commercial vehicles brought to Glebe Court for repair and maintenance; and
  - iv. private cars.
- 5.15 The applicant has described the various activities undertaken at the site such as hedge trimming, ditch work, grass cutting and the washing of commercial sweeper vehicles. The application as states that, “other commercial vehicles in the ownership of the Applicants require periodic cleaning.” The applicant would also was their own private vehicles.
- 5.16 The vehicle wash area would be site to the southwest of the agricultural barn, where an existing silage clamp is sited. The wash area would measure 20m x 15.5m providing 310 sq. m of concrete hardstanding. The hardstanding would be angled so that water collects in a central drain area to be re-used. Plant necessary for the recycling and recirculation of clean water will be installed in the wash area. The site would be screened by the existing unlawful bund although this application does not seek permission for the retention of the bund.
- 5.17 As stated earlier, the applicant has a lawful use of the barn to the north for commercial repairs and maintenance of vehicles. The area covered by the certificate includes the apron to the front of the barn but does not extend to, or include any land associated with this application or land the subject of the enforcement notice. Again, it should also be noted that the certificate only allows the repair or maintenance of 8 vehicles per fortnight and restricts the hours of operation to 0700 – 1800 Monday to Friday, 0700 – 1300 Saturday and no working Sunday or bank holidays.
- 5.18 The applicant has failed to provide any information relating to the type and number of agricultural vehicles to be used at the site, the holding, the leisure facility, or other commercial vehicles in the ownership of the applicant. The applicant has not applied for a limited or controlled use of the wash facility but does state that there will be “no change in the number of vehicles using the track or accessing the site as a result of the proposals.”(paragraph 4.17 of Design and Access Statement).
- 5.19 Therefore, only eight commercial vehicles, some unidentified agricultural vehicles, private cars and other commercial vehicles in the ownership of the applicant should use the facility. Give the size of the facility at 20m x 15.5m, this does appear to be rather excessive for such limited use. Moreover, the application would allow unencumbered use of the site for commercial use.
- 5.20 The previous application (12/00382/F) stated that 18 vehicles per week would visit the site along with tar tankers and HGV's. This would be in direct conflict with the terms of the certificate of lawfulness and potentially the enforcement notice which prohibits the use of the access by commercial vehicles.

### **Access and highway safety**

- 5.21 OCC Highways have commented that they have no objection in principle to the development subject to the proposed vehicle wash facility being used only for vehicles associated with the existing/ancillary permitted uses of the adjacent site. The vehicle wash facility must not be offered as a separate commercial service. The applicant has confirmed that the use of the facility will be for his own commercial, agricultural and private vehicles only.

### **Impact on residential amenity**

- 5.22 The Anti-Social Behaviour Manager has commented that the site has been the subject of investigations which has revealed noise nuisance from the site. Although the noise from the site does not amount to a statutory nuisance it is clear that the existing commercial uses cause harm to the amenities of neighbouring properties through noise and disturbance caused by vehicles and their repair/maintenance. It is also evident that the increased use of the site, contrary to the terms of the certificate of lawfulness, also impacts on the amenities of adjoining occupiers
- 5.23 Policy ENV1 of the Adopted Cherwell Local Plan 1996 states that developments which is likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other types of environmental pollution will not be accepted.
- 5.24 The NPPF supports this stance and advises that one of its core principles is to ensure that a good standard of amenity for all existing and future occupants of land and buildings is provided. Moreover, it also states that planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. Therefore, policy ENV1 of the Adopted Cherwell Local Plan 1996 is entirely consistent with the advice within the NPPF.
- 5.25 The lawful commercial site generates eight vehicle movements per week. However, it is intended to utilise the wash facility for all commercial, agricultural private and other commercial vehicles in the ownership of the applicant . There is no indication of how many vehicle movements this would generate. Nor is there any information how many vehicles are likely to visit the site.
- 5.26 The use of the lawful building to the rear has been the subject of investigations by the Anti Social Behaviour Manager, although he confirms that the noise witnessed does not amount to a statutory nuisance. Concerns are raised over the applicant's failure to comply with time restrictions and vehicle numbers at the site. The increase in vehicle numbers and commercial activities would generate further noise and disturbance that would be harmful to the amenities of other occupiers close to the site. Moreover, once a permission is granted there would be little control over the amount of vehicles that could visit the site for to use the facility. A condition restricting the number of vehicles being maintained at the site could be considered. However, this would not address the matter of noise and disturbance from the number of vehicles currently proposed and the noise from the additional commercial activities.
- 5.27 While no information on the likely levels of noise potentially generated by the development have been provided, it is considered that the use of the site for

the proposed commercial purposes would be likely to have a detrimental impact on the amenities of adjoining occupiers a Glebe Farm Cottages. It is accepted that the lawful agricultural use of the site could give rise to noise. However, these are accepted forms of disturbance one would expect living in the countryside. The potential, increased use of the access by commercial vehicles and the noise from the washer and general commercial activities at the scale proposed are not conducive to a rural location are not considered to be an acceptable intrusion. Moreover, commercial uses are normally located away from existing residential areas for the reason they can be very intrusive.

#### **Impact on the character and appearance of the area.**

- 5.28 It is considered that commercial use of the site for washing vehicles would have a detrimental impact on the character and appearance of the area. Saved policy C7 of the Adopted Cherwell Local Plan 1996 states that, 'development will not normally be permitted if it would cause demonstrable harm to the topography and character of the landscape.' The NPPF reaffirms the need to protect the countryside by stating at paragraph 109 that, 'The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes...' such as the Area of High Value Landscape the site is set within.
- 5.29 The impact of the development on the rural character of the area needs to be taken into consideration. The existing site formed an open parcel of land with agricultural barns located within it. The bund, hardstanding and current parking of commercial vehicles are unauthorised. The bunding and vehicles are clearly visible from the main road and represent a discordant feature in the landscape. The creation of a depot at the site for the repair, maintenance, wash down, emptying and parking overnight of commercial vehicles will dramatically alter the character of the area to the detriment of the visual amenities.

#### **Supporting a prosperous rural economy and sustainability**

- 5.30 The NPPF states that planning policies should 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 and promote the development and diversification of agricultural and other land-based rural businesses.
- 5.31 Policy EMP4 of the Adopted Cherwell Local Plan 1996 also recognises the importance of a prosperous rural economy but also recognises the impact rural based enterprises can have on residential amenity (see paragraph 5.4 above).
- 5.32 With this in mind, it is necessary to balance the support given to rural based enterprises and the potential impact it would have on the amenities of adjoining occupiers. In this case, it is clear that the expansion of the commercial enterprise into the site and barn would have an unacceptable impact on neighbour amenity through noise and disturbance for the reasons rehearsed above.

#### **Conclusion**

- 5.33 The site has a complex planning history which has spanned several years. The applicant has secured the lawful use of a building for limited commercial

uses and it is clear that this use already impacts on the amenities of adjoining occupiers. The proposal to extend the commercial activities and increase vehicle numbers visiting the site would increase the harm on living conditions for neighbouring properties and would have an unacceptable impact on the amenities currently afforded through increased noise and disturbance.

- 5.34 It is accepted that the NPPF and local plan policies are generally supportive of rural based enterprises where it would support the rural economy. However, this has to be balanced and assessed against the impact the enterprise would have on the amenities of adjoining occupiers. In this particular case, the creation of a vehicle wash facility would harm the amenities of adjoining occupiers and should be resisted.

## **5. Recommendation**

**Refusal**, for the following reason(s);

1. The proposed use would have a detrimental impact on the amenities of adjoining residential occupiers through unacceptable levels of noise and disturbance contrary to the advice within the National Planning Policy Framework March 2012, policy ENV1 and TR10 of the Adopted Cherwell Local Plan 1996 and policy NRM10 of the South East Plan 2009.
2. The proposal will result in a substantial change in the character and appearance of the open countryside which contributes to the rural setting of Fringford and will lead to an unacceptable erosion of the rural character of this part of the countryside contrary to the advice within the National Planning Policy Framework March 2012, saved policy C7, C8 and C13 of the adopted Cherwell Local Plan and policy CC6 of the South East Plan 2009