

Applicant: Mrs Emma Rugman

Proposal: Proposed Connemara Equestrian Stud with provision for a mobile home sited internally within existing building

Ward: Cropredy, Sibfords And Wroxton

Councillors: Cllr Ken Atack
Cllr George Reynolds
Cllr Douglas Webb

Reason for Referral: Referred to Planning Committee by Cllr Douglas Webb

Expiry Date: 14 July 2017 **Committee Date:** 3 August 2017

Extension of Time 7 August 2017

Recommendation: Refuse

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located to the north west of the village of Epwell. It is accessed from Church Lane, a single track lane which leads from Epwell towards the north, via a long track through a field. It is separated from the built up edge of Epwell by paddocks currently used for grazing/keeping horses.
- 1.2. The application site comprises part of an agricultural field which is bounded on two sides (south and west) by mature hedging and a public right of way (203/5/10) runs along the western boundary. The field is gently undulating and the site occupies an elevated position in relation to Church Lane, in the south-west corner of the field.
- 1.3. Currently there is a timber agricultural barn on the site and an area of hardstanding with a horseshoe shaped bund around on the part of the site accessed directly from the track. A second public right of way (203/3/20) crosses the field approximately 70 metres to the north of the application site.
- 1.4. The area is rural in character and lies within the Cotswolds Area of Outstanding Natural Beauty. The site is in an area that is of archaeological importance.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. Consent is sought for the creation of an equestrian stud with stabling and associated barns and provision of a temporary mobile home. The proposed buildings are to be laid out in a courtyard form:
 - Barn, hay store and tractor shed measuring approximately 15.3m wide, 26.5m long and 6.8m high (4.35m to the eaves)

- 'L' shaped building comprising 3 stables, 3 foaling pens, a vet/isolation room, a room with artificial insemination stocks and a tack room measuring approximately 26m by 7.5m along the longest side and 14.6m by 7.4m along the shortest side. The building is to measure approximately 5.8m high (2.4m to eaves). The foaling pens are also to have separate yards attached measuring 8.7m by 5.4m each.
- Stables, rug store, feed store and a wash room measuring approximately 25.6m by 7.4m (at its widest). It is to measure approximately 5.8m high (highest point).
- A 2 bed mobile home is also proposed. This is to be positioned within the barn/hay store/tractor shed.

2.2. Access is to be taken from Church Lane through an existing access and agricultural track within the field. Off-site highway improvement works are proposed in the form of a passing bay on Church Lane to the north of the site.

2.3. A number of technical documents have been submitted in support of the application including a Landscape and Visual Impact Assessment (LVIA), a Technical Note reviewing the applicant's LVIA and Cherwell Council's pre-application advice, a Transport Statement, a Design and Access Statement, and an appraisal of the need/justification for a temporary mobile home on the site.

2.4. The application was deferred from the Planning Committee Meeting on 6 July 2017 to allow for a formal site visit to take place, which is to be carried out immediately before this Committee Meeting.

3. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
13/00349/F	Extension to existing cattle building	refused and dismissed at appeal
15/02033/F	Erection of stabling and manege, construction of an agricultural barn and the siting of a temporary rural worker's dwelling for three years	Application Withdrawn
15/00100/SO	Erection of stabling and manege, construction of an agricultural barn and the siting of a temporary rural worker's dwelling for three years	Screening Opinion not requesting EIA

3.2. The application for the extension of the existing cattle building was refused in May 2013 and dismissed at appeal in January 2014 due to the harm caused to the character and appearance of the area and the failure to preserve the Cotswolds Area of Outstanding Natural Beauty (AONB). The Inspector considered that the extension to the existing barn 'would accentuate its prominence resulting in an unsympathetic intrusion into the character and appearance of the surrounding open

countryside. The appeal scheme would fail to conserve the landscape and scenic beauty of the AONB’.

4. PRE-APPLICATION DISCUSSIONS

4.1. The following pre-application discussions have taken place with regard to this proposal:

<u>Application Ref.</u>	<u>Proposal</u>
16/00392/PREAPP	Establishment of an equestrian stud with provision for a mobile home

4.2 The advice given was that the proposed development was considered to be “major development” that would have a detrimental impact on the unspoilt rural character of the area and visual amenities of the landscape due to the scale of the development, prominent location and associated activities and paraphernalia. It would be harmful to the environmental qualities of the AONB failing to preserve its landscape and scenic beauty. No exceptional circumstances were put forward that would justify or outweigh the harm.

5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments is 28.06.2017, although comments received after this date and before the Committee meeting will also be taken into account.

5.2. Four letters of support including one from the Chairman of the British Connemara Pony Society, 1 from a local vet and 1 from a local farrier have been received and these are summarised as follows:

- The applicant is organised efficient and tidy, breeds and sells quality Connemara ponies and is a respected council member of the British Connemara Pony Society.
- Fields are an ideal soil type for keeping and breeding of horses
- 24 hour presence on site is a requirement to avoid potential welfare issues
- Provides trade for local businesses
- Existing business is run well
- Breeding and preserving one of 9 native breeds of pony should be commended and encouraged
- Takes time, talent, dedication and years of experience to produce the ponies
- Non-intensive, economically viable, sympathetic development
- In-keeping with surrounding countryside

- Fulfils local demand and offers rural employment
- 5.3. Additional letters of support in the form of appendices to Rhodes Rural Planning and Land Management report Oct 2016 have also been submitted (omitted from the original application submission). These are from Henrietta Knight (Chairman of the British Connemara Pony Society), J M Brooks (Vet) and Serena Cookson (Tulira Connemara Studs, Ireland and Upper Slaughter).
- 5.4. The comments made are summarised as follows:
- The applicant is organised, efficient and tidy, breeds and sells quality Connemara ponies, is a respected council member of the British Connemara Pony Society, and has a track record as a competition rider
 - A breeding establishment requires 24 hour on site supervision by a knowledgeable and experienced team for welfare and to cater to the special needs of mares at particular times
 - Market in the Cotswolds and nationally for well-bred and produced ponies.
- 5.5. The comments received can be viewed in full on the Council's website, via the online Planning Register.

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. EPWELL PARISH COUNCIL: **No objection** subject to conditions:
- i) Site to be used for breeding of horses and ponies and no other equestrian use
 - ii) Accommodation restricted to use by a worker required to look after breeding ponies
 - iii) Accommodation not to be sold separately from the stud

STATUTORY CONSULTEES

- 6.3. OCC HIGHWAY AUTHORITY: **No objection** subject to conditions relating to:
- use as a stud only,
 - dwelling ancillary to stud,
 - construction management plan
 - passing place construction
 - improvement of the existing access and physical prohibition for commercial vehicles from turning right towards the village
- 6.4. Comments were made that the current proposal is on the limits of acceptability as regards highway safety and convenience issues as the local road network has severe restrictions. The location and dimensions of the passing place will need to be agreed with the Highway Authority (HA) and will be the subject of a s278 Agreement with the HA. The construction management plan will need to include a fully detailed assessment of the existing road network in order to properly assess any damage occurring as a result of the construction of the buildings and related issues.

NON-STATUTORY CONSULTTEES

- 6.5. CDC LANDSCAPE OFFICER: **Object**. Full comments on the Landscape and Visual Impact Assessment and Landscape and Visual Issues Technical Note submitted with the application can be viewed on the Council's website. In summary the Landscape Officer considers that the development proposal is inappropriate for this site and represents overdevelopment in such a landscape and visually sensitive area. The proposals are not a direct replacement for the height, scale and massing of the existing farm structure. The amount of cut and fill to form a level surface for the finished floors will be extremely harmful to the existing vegetation. A BS5837 tree and hedgerow survey and arboricultural method statement is required.
- 6.6. CDC ENVIRONMENTAL PROTECTION OFFICER: **No objections** regarding noise, contaminated land, air quality or lighting. Comments that in order to prevent issues a condition is required regarding the accumulation of manure.
- 6.7. CDC ECOLOGIST: (in response to the submission of an Ecological Appraisal) **Recommends** the retention and protection of hedgerows throughout construction and within the development; the implementation of precautionary measures undertaken during site clearance works with respect to nesting birds, reptiles, amphibians, badger and bats in line with the recommendations set out in the Ecological Appraisal dated June 2017; installation of bird and bat boxes; and that details of proposed hedgerows and landscaping should be provided to secure biodiversity gain. All landscaping should comprise native species and external lighting should be kept to a minimum to avoid impact on foraging/commuting bats.
- 6.8. OCC ARCHAEOLOGIST: **Comment** that there is the potential for the development to encounter archaeological deposits related to a Roman road as well as disturb any roadside settlement existing alongside it. They recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction.
- 6.9. OCC RIGHTS OF WAY: **No objection**
- 6.10. COTSWOLD CONSERVATION BOARD: **No comment to date**

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 2031 Part 1)

- SLE1: Employment Development
- SLE4: Improved transport and connections
- ESD1: Mitigating and Adapting to Climate Change

- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD12: Cotswolds Area of Outstanding Natural Beauty
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Built and Historic Environment

CHERWELL LOCAL PLAN 1996 (Saved Policies)

- C8: Sporadic development in the countryside
- C28: Layout design and external appearance of new development
- AG2: Construction of farm buildings
- AG5: Development involving horses
- H18: New dwellings in the Countryside

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cotswolds Conservation Board Cotswolds Area of Outstanding Natural Beauty Management Plan 2013 – 2018
- The Keeping of Horses and Ponies in the Cotswolds AONB
- Cherwell District Council Countryside Design Summary 1998

8. APPRAISAL

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

- Principle of development;
- Impact on the AONB and Visual amenities of the area;
- Scale, design and appearance;
- Impact on Rights of Way;
- Highway safety;
- Ecology;
- Other matters

Principle of Development

8.2. The NPPF introduces a presumption in favour of sustainable development. It advises that proposals that accord with the development plan should be approved without delay and proposed development that conflicts should be refused unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out of date, applications should be approved unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

8.3. The proposal is for the establishment of a new equestrian stud enterprise, with associated temporary worker's dwelling. Considering first the business, Saved Policy AG5 of the Cherwell Local Plan 1996 states that proposals for horse related development will normally be permitted provided that the proposal would not have an adverse impact on the character and appearance of the countryside, would not be detrimental to the amenity of neighbouring properties and would comply with the other policies in the plan. This is consistent with Paragraph 28 of the NPPF which promotes the "development and diversification of agricultural and other land-based rural businesses". Therefore, in ordinary circumstances, the principle of developing an equestrian business in this rural location could be acceptable in principle subject to other material considerations.

- 8.4. However in this case the site also lies within the Cotswolds AONB. Paragraph 115 of the NPPF states that 'great weight should be given to conserving 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 landscape and scenic beauty'. Paragraph 116 states that "planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest".
- 8.5. The Planning Statement submitted with the application argues that "a stud farm would ordinarily be expected to be located within the countryside and it would be unrealistic to envisage the positioning of a stud farm within the existing confines of an existing village". It continues that the breeding of livestock would be an agricultural activity which typically would be located within the countryside, it is suitable within its local context and that it falls to be considered under the provisions of paragraph 115 of the Framework rather than 116.
- 8.6. It is considered by your officers that the development is 'major' development in the AONB. This is taking the meaning of the phrase "major development" as what would be understood from the normal usage of the words rather than as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015. The development is considered to be major development in this instance in accordance with paragraph 116 of the NPPF and paragraph 005 Reference ID: 8-005-20140306 of Planning Practice Guidance due to the nature and scale of the proposal and the local context. Being sited in an elevated position adjacent public rights of way and involving the construction of a new building complex, it is considered that it will have a major impact on the local landscape and as the site is visually and physically separated from the village of Epwell the scale and form of the development will be reinforced.
- 8.7. It is accepted that there are a number of other complexes of farm buildings in the local area, and the landscape of the AONB is not devoid of groups of farm buildings in this respect. However the current proposal seeks to replace an existing, single farm building with a wholly new complex of buildings arranged around a courtyard, extending further north and east than the existing building.
- 8.8. Even outside of the AONB it is established planning practice to seek to site new farm buildings adjacent to existing farm complexes, and to avoid the creation of new farm complexes unless the need has been evidenced and the siting carefully selected and justified to minimise the visual impact. Furthermore, whilst the applicant has made reference to other schemes and developments approved in the AONB, the judgement as to whether any one proposal constitutes "major" development is to be made on a case by case basis. In this case the site is isolated from other built development, is in an elevated position within the landscape, and the proposal is for the establishment of a sizeable new equestrian stud business in a location where there is currently only a single farm building. Thus in your officer's opinion the proposal should properly be assessed as major development in the AONB, and Paragraph 116 of the NPPF applies.
- 8.9. The apparent need for a permanent on-site presence in connection with the stud enterprise also adds weight to this conclusion. The application proposal includes a temporary dwelling for a three year period in association with the new stud. The planning statement supporting the application states that the dwelling is required to allow the applicant to meet the exacting welfare requirements of her proposed business and to deal with security.
- 8.10. Saved Policy H18 of the Cherwell Local Plan 1996 deals with the construction of new dwellings beyond the built-up limits of settlements. Proposals will only be

permitted for such development where it is essential for agriculture or other existing rural undertakings. This is consistent with Paragraph 55 of the NPPF which states "to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities". It continues however that "local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work".

8.11. Whilst a temporary dwelling would ordinarily allow time for an assessment to be made of whether a business can establish in a particular location as a viable on-going concern, it would appear on the available evidence that there would be an immediate permanent functional need for a dwelling on the site in connection with the proposed business. This is supported by the fact that the nature and scale of the proposed enterprise is likely to require a permanent dwelling, as confirmed by the Agricultural Consultant's appraisal submitted in support of the application. Furthermore, the Consultant has confirmed that the business is "both financially viable and sustainable".

8.12. Thus, if permission were to be granted for the proposed equestrian stud, on the basis of the available evidence it would appear that a permanent dwelling would be justified and necessary and this would be in addition to the buildings proposed in this current application. This reinforces the conclusion that the proposed development, in terms of the scale of the enterprise proposed and the additional development that is likely to be needed in the future, is "major development" in the AONB. Therefore, in accordance with Paragraph 116 of the NPPF, exceptional circumstances need to be demonstrated to justify the principle of development in this location.

8.13. Considering what exceptional circumstances could exist, there is a need to return to Paragraph 28 of the NPPF encourages economic growth in rural areas by taking a positive approach to sustainable new development. It states amongst other things that " to promote a strong rural economy, local and neighbourhood plans 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".

8.14. An appraisal has been submitted with the application prepared by Rhodes Rural Planning in support of the application. Full financial information, including a business plan and financial projections, has not been provided to date and this has been requested. However an appraisal of the proposed stud business and the need for a dwelling on the site for a worker to facilitate the enterprise was carried out on behalf of the Council by Landscape Land and Property Ltd in respect of the withdrawn application (15/02033/F). This application for a stud included 12 stables, a feed store, secure tack room, rug drying room, 2 additional storage areas, a wash bay and a heat room and a storage barn. This is very similar to the scheme now proposed, apart from the no. of stables (now reduced to 9) and the absence of a manege (the 2015 application included a manege). The full report can be viewed on the Council's website however the conclusions of the report are as follows:

- The existing enterprise is currently located in Drayton but the site has been sold by the applicants and a new location is required for the business.

- The applicant is to be employed full time in the business and is to be the occupant of the temporary dwelling.
- It is considered that the need for an on-site presence is only justified once the infrastructure proposed is built and fully stocked. If the stock numbers proposed in the business plan submitted with the application are not met an essential need for the dwelling cannot be demonstrated.
- The location of the temporary dwelling is closely related to the stable yard and paddocks and will provide a good animal welfare and security role.

8.15. The conclusions of Landscape's appraisal indicate that the enterprise as previously submitted has the potential to be economically sustainable and as such the erection of stables and a storage barn would appear to deliver benefits in terms of contributing to the rural economy. Financial information relating to the current proposal has now been received and this confirms that this is still the case.

8.16. Regarding the weight to be attributed to these economic benefits, whilst the supporting information provided by James Martindale Consultancy discusses the reasoning behind the acquisition of the land by the applicant and why it is considered an ideal site to relocate the business to, the exact status of the existing business is unclear. The website for the business states that it was started in 2012, but the planning history for Withycombe Farmhouse does not indicate that consent has been granted for an equestrian stud in this location. As such it is likely that the business currently operates without planning permission.

8.17. The information provided by James Martindale Consultancy advises that the land currently used for the business in Drayton was sold to Trinity College in 2013 and has been leased back from them. The applicant has made clear that the land has not been sold for development nor have they benefitted financially from the sale of the land for development. Rather, the applicant has previously explained in relation to the withdrawn application 15/002033/F that in their view a stud use is not compatible with densely populated residential areas due to noise, ball games, dogs etc. and it was in response to the continued expansion of Banbury, in particular the Bloor Homes development to the west of Bretch Hill, that the decision was made to relocate.

8.18. Nevertheless, whilst it would appear to be operating without planning permission, this does not mean that the existing business is unacceptable in planning terms in its current location, and it is noted that the Bloor Homes development stops some 160 metres to the north of Withycombe Farmhouse. In view of the uncertainty surrounding the planning status of the existing business, officers consider that this reduces the weight that can be given to the argument that there is a real and immediate need for an existing business to relocate.

8.19. Turning to the reasons why the application site has been selected, the applicant's search criteria for a suitable site required that it was of at least 30 acres, free draining and offer all year round grazing suitable for equine stud use, within Cherwell District or within 10 miles of Banbury, for a budget of £400,000. As the business does not appear to rely on local materials etc. and the ponies are sold to a wide market it is not clear why it is dependent on a location within Cherwell District or within a 10 mile radius of Banbury. Clarification of the reasons for the restrictive search area was requested by officers and this has now been received. The reasons given are that:

- The applicant has lived within 10 miles of Banbury all her life and her husband has lived within the same radius for the last 18 years. The

applicants are thus familiar with the necessary local infrastructure to run a stud – such as the right farriers, feed, grooms etc. To relocate the stud to an area where they had no such contacts would be detrimental to the business and would take years to reproduce the required high quality contacts. (This local knowledge has been built up over tens of years and the waiting list for good farriers can run into years).

- There is a geographic niche for a main stud in the area. The nearest competitor studs are outside of the 10 mile search radius. This generates a strong local catchment area for the stud.
- To conduct an effective property search there has to be some degree of focus and it would be unproductive to take a scatterbrain approach. 10 Miles seemed a reasonable working distance given points 1 and 2 above.

8.20. The applicant's agent suggests that a 10 mile radius of search is a reasonable area for an operator of a business to consider relocation, in order to maintain the integrity of local business contacts and relationships. They state that it forms no part of local or national planning policy that a rural business has to investigate the suitability of alternative sites over a wide geographical area and that the AONB is not a 'no go' area for rural businesses such as this equestrian business.

8.21. A map has also been provided showing the distribution of Connemara Studs in the area stretching from Letchworth to the east, Forest of Dean to the west, Huntington to the north, and Wantage to the south. The applicant's search area is not centrally located within the area shown. Whilst it is not a planning requirement for rural businesses to investigate the suitability of alternative sites over a wide geographical area, in view of the need to establish whether "exceptional circumstances" exist to justify major development in the AONB, it is useful to understand the reasons for choosing such a sensitive location when there may be suitable sites in alternative locations where such a business would be encouraged.

8.22. It is considered that the requirements of the applicant as set out are insufficient to override the harm that would be caused to the AONB. Whilst the applicant states that the land at Epwell is ideal for breeding Connemara ponies it has not been demonstrated that an equestrian stud business could not be successfully established on land outside of the AONB including on sites discounted by the applicants during their search. Neither is it clear that there is such a high demand for the type of business proposed within the applicant's search area, such that it could be argued there is an overriding need for the development that could justify the harm to the AONB.

8.23. Therefore it is considered that there is insufficient justification for the business to be sited in such a sensitive location, within the AONB, where with a less restrictive search area and less prescriptive search criteria, it could be possible to find a suitable site outside the AONB. Furthermore it has not been demonstrated that the economic benefits of this proposal would be of such significance that they could be considered to amount to "exceptional circumstances" that could outweigh any harm to the AONB. It is considered that exceptional circumstances have not been demonstrated and so the proposal is unacceptable in principle in this location.

Impact on the AONB and visual amenities of the area

8.24. As stated above the site is within the Cotswolds AONB. Policy ESD12 of the Cherwell Local Plan 2011-2031 states that 'high priority will be given to the protection and enhancement of the Cotswolds AONB and the Council will seek to protect the AONB and its setting from potentially damaging and inappropriate

development'. Further, 'development proposals within the AONB will only be permitted if they are small scale, sustainably located and designed and would not conflict with the aim of conserving and enhancing the natural beauty of the area'.

- 8.25. Policy ESD13 of the Cherwell Local Plan 2011-2031 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 be permitted where, amongst other criteria, they would cause undue visual intrusion into the countryside or cause undue harm to important natural landscape features and topography.
- 8.26. Saved Policy C8 of the Cherwell Local Plan 1996 seeks to resist sporadic development in the open countryside. Saved Policy C28 of the Cherwell Local Plan 1996 seeks standards of layout, design and external appearance, including the choice of external finish materials that are sympathetic to the character and context of the development.
- 8.27. The local landscape is characterised by small fields and an undulating landform with strong hedgerows and hedgerow trees and strongly nucleated settlements. The area feels remote and isolated. It lies within the Ironstone Downs character area as defined in the Countryside Design Summary Supplementary Planning Guidance dated June 1998.
- 8.28. The site is visually and physically separated from the Village of Epwell and is remote from existing farm complexes in the area. It is currently occupied by a single agricultural building, which appears isolated in this context. As already noted, the proposal would create another collection of buildings in a very rural area of strongly nucleated settlements, and whilst scattered groups of farm buildings are not uncommon, establishing a sizeable new complex of stables and related buildings, with the likely need for a permanent dwelling in the future, would have a significant impact on the undeveloped character of the area. The isolated position away from other buildings will reinforce the scale and form resulting in an incongruous addition incompatible with the scenic beauty of the landscape.
- 8.29. The Countryside Design Summary states that "all forms of development need to be sited with care in order to avoid locations where development would be either, prominent, visually intrusive, out of character or would harm a feature or site, which is important to the character of the area". It also states that "new farm buildings should reflect the rural and agricultural nature of the area in terms of scale and design. They should be sited with great care to avoid prominent or sensitive locations and be accompanied by new planting to integrate them as quickly as possible into their setting". However it is considered in this instance that attempts to screen the development will introduce alien patterns and types of vegetation. The Countryside Design Summary suggests that in the Ironstone Down character area there are few extensive areas of woodland and where the land is gently sloping, as at this site, large-scale intensive arable farmland predominates. The Cherwell District Landscape Assessment (November 1995) prepared for the Council by Cobham Resource Consultants states at paragraph 3.37 that much of the higher land and gentler slopes have a fairly open arable landscape. In this particular area historically planting is mainly restricted to hedgerows and trees within hedges. Rigid blocks of shelterbelt planting are not typical of the area and where there are woodlands they consist of irregular sinuous blocks.
- 8.30. This is reinforced by the Cotswolds AONB Landscape Strategy and Guidelines that inform the Management Plan for 2013-2018. The application site falls within the Ironstone Hills and Valleys character type (LCT6). The guidelines for equestrian development in this area seek to ensure "where possible, existing buildings should

be utilised and new stables and other structures kept to a minimum". They also seek to avoid changes of use to keeping horses in visually prominent locations, and to avoid new buildings in "prominent skyline sites and slopes". As regards landscaping, the guidance is that "woodland creation is not appropriate"

- 8.31. The application is accompanied by a Landscape and Visual Assessment (LVIA) which has been prepared on behalf of the applicant to analyse the significance of any potential landscape and visual effects of the development, a response to the Council's pre-application report, and a Landscape and Visual Issues Technical Note. The conclusions of these documents are that the proposals can be integrated within the context of the character and visual amenities of the receiving AONB landscape and that the proposed planting will enhance the landscape setting, local biodiversity and setting of the local footway network. In addition the proposal represents an appropriate and sustainable location for the development.
- 8.32. It is considered that while the proposed development would not have a major visual impact in the wider landscape, it represents a significant adverse change to the localised landscape of the AONB by introducing a scale and form of built development that is not typical of the area. The Council's Landscape officer has raised objections to the proposal and in respect to the LVIA and Landscape and Visual Issues Technical Note the Council's Landscape Officer does not agree with the assessments regarding views 2 (from Church Lane), 3 and 4 (from the footpath to the north of the site), and 7 (from the footpath running along the western boundary of the site). It is considered in these instances that the impact has been underestimated. As such Officers consider that the development will have a harmful impact on the character and visual amenities of the area.
- 8.33. The applicant's agent has advised that the previous site owner created a dug out yard close to the existing hedges on the site and therefore the Landscape Officer's concerns about the digging down to create a level floor are unfounded as there has been no detriment to the hedges. Whilst that may be the case, the proposed development would create its own impacts and would extend beyond the limits of the existing building and yard. In addition the agent argues that the land is not predominantly arable and is predominantly grassland. Whilst the land is currently laid to grass, recent aerial imagery reveals that it was previously in cultivation and this appears to be the predominant use in the area. Furthermore the applicant's landscape advisor in his report dated October 2016 describes the application site as arable in character.
- 8.34. The applicant's agent has sought to draw comparisons with a nearby development which was granted permission in 2008 at Rectory Farm adjacent to a public footpath (08/00878/F refers). Under this application a 9m high barn with a footprint of 700m² was approved. The case officer's assessment of the visual and landscape impact on the AONB was that it was to be sited on the edge of a farm positioned in the lowest part of the valley with minimal long distance views. It would be viewed against the backdrop of the rest of the farm buildings and would not cause harm to the visual amenity, the character of the countryside the beauty of the area or the public amenity of the footpath. The 'Landscape Response to Cherwell District Council Pre-app Report' document prepared by Aspect Landscape Planning Ltd states that the proposals currently being considered represent a much smaller scale type of development in terms of bulk, scale and mass than the Rectory Farm barn.
- 8.35. The Rectory Farm permission is not considered to be comparable with this proposal. At the time of the application Rectory Farm was an established business with a number of large scale buildings already in the landscape. The current scheme is within an agricultural field which has a small silage clamp, small barn and low key vehicular access. It is considered that the introduction of a wholly new group of

buildings with the likelihood that more will be needed in the future will be harmful to the visual amenities of the AONB.

8.36. The Inspector for the appeal in 2014 (application 13/00349/F) considered that the existing barn on the site is located in an 'elevated location relative to the remainder of the field and is visible from public rights of way and the road. Although partially viewed against the backdrop of the adjacent hedges and trees, from these locations the existing building is a prominent feature within the landscape. The visual impact of the building is accentuated by its utilitarian design and choice of materials'. He also considered that the extension to the existing barn 'would accentuate its prominence resulting in an unsympathetic intrusion into the character and appearance of the surrounding open countryside. The appeal scheme would fail to conserve landscape and scenic beauty of the AONB. In reaching this judgement I have been mindful that planting could assist with assimilating the proposed extension into the landscape but any planting would take time to establish'.

8.37. The Landscape Consultant's response is that the 2014 appeal decision fails to take account of more recent judgements, such as an appeal at Milton-Under-Wychwood (Planning Inspectorate reference APP/D3125/W/16/3143885), again in part of the Cotswolds AONB, where the Inspector concluded that the impact of the development on the visual amenity of the area would clearly be different after copse and tree planting had matured; all developments mature and become assimilated into their surroundings and the planting would be typical of and contribute to the visual amenity of the area.

8.38. Whilst this may well be the case, and planting could similarly be used to mitigate the impact of the development now proposed, it would nevertheless take considerable time to establish and given the scale, siting and form of the development it would be insufficient to reduce the harm to an acceptable level. This is particularly the case given the extent of any new planting would need to be limited to respect the existing landscape character, and any substantial new planting to screen the development from public views would in itself be harmful to the established open character and appearance of the AONB and is further evidence that the proposed development is not appropriate in this location.

8.39. The applicant's agent has further argued that the dismissed appeal proposal differed to the current proposal in that it was deficient in the following respects:

- There was no clear business case
- Poor quality utilitarian materials were proposed without the removal of the old and asbestos lined barn.
- It wasn't popular with the village and not supported by the Parish Council
- It was acknowledged by Inspector to be forerunner to broader development
- No landscape planting to offset detriment was proposed
- No reseeded of grass fields or reinstatement of hedgerows was proposed
- The application wasn't accompanied by a Landscape and Visual Impact Assessment (LVIA) to show landscape impact of proposals

8.40. In response to this your officers would emphasise that the dismissed appeal is a material planning consideration and, as set out above (paragraph 8.36), the Inspector considered that the extension to the existing barn, a much smaller scale development than now proposed, would fail to conserve the landscape and scenic beauty of the AONB. The current proposal has been assessed on its own merits and in your officer's opinion will have a greater impact on the AONB for the reasons already given, and whilst planting is proposed it is argued that this too will adversely affect the character of the landscape.

- 8.41. Regarding the lack of a LVIA in respect of the appeal proposal, whilst LVIA's are useful in helping to understand the impact of larger schemes on the wider landscape and its character they are not essential in assessing local impact. Moreover, the submission of an LVIA does not itself make the landscape impact acceptable. In this case the Council's own landscape officers have reviewed the LVIA and advised that in their view, the harm to the landscape of the AONB is unacceptable.
- 8.42. Arguments have also been put forward by the applicant's agent that as there are other studs that have been granted consent in AONB's in surrounding Districts and this shows that they complement the rural landscape rather than detract from it. It is an established principle of planning practice that each site and proposal should be assessed on its own merits and it is not possible to apply a blanket approach to the acceptability of a particular type of proposal within AONBs in general. In particular it is not suggested that the development of any site in the AONB should be prohibited. Officers recognise that within AONBs there will be sites that can be developed sensitively without unduly affecting their landscape and scenic beauty. The development at Rectory Farm (paragraphs 8.34 and 8.35 above) is an example of where development has been accepted in the AONB. However, for the reasons already set out above, officers consider that it is the development of the current site in the manner proposed that will result in harm to the Cotswolds AONB.
- 8.43. In summary then, it is considered that the proposed development would result in an even more intrusive development than the small scale barn extension that was dismissed on appeal in 2014, and would fail to preserve the Cotswold Area of Outstanding Natural Beauty, and, as such, it would conflict with Policies ESD12 and ESD13 of the Cherwell Local Plan 2011-2031, Policy C8, AG2 and AG5 of the Cherwell Local Plan 1996 and the guidance contained within the NPPF.

Scale, design and appearance

- 8.44. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. These aims are also echoed within Policy ESD15 of the CLP 2031 which looks to promote and support development of a high standard which contribute positively to an area's character and identity by creating or reinforcing local distinctiveness.
- 8.45. The proposed buildings are substantial in terms of their scale. Whilst the ridge heights are relatively low the footprint of the built form in this very sensitive location is considerable. The development is separated some 80m from the built up limits of Epwell and the development will appear as a new isolated cluster of buildings.
- 8.46. The simple design and proposed materials of the barn and stable blocks are considered to be acceptable and to respect the traditional form and materials of vernacular farm and stables buildings in the area. However this does not in your Officers' opinion overcome the harm to the visual amenities of the area as a result of the scale of the development and the isolated siting away from existing built development as expanded on earlier in this report.

Impact on Rights of Way

- 8.47. Paragraph 75 of the NPPF states that 'Planning policies should protect and enhance public rights of way and access. Local Authorities should seek opportunities to provide better facilities for users for example by adding links to existing rights of way networks including National Trails'.
- 8.48. The development will not result in any alteration to the route of the footpaths surrounding the application site. However the footpath network surrounding the

application site is well used and it is considered that due to the scale of the new development and the proximity to the footpaths, along with the likelihood of new planting to separate the users of the footpaths from the ponies, the proposal will adversely affect the amenity value of the paths and the enjoyment of their users. While the routes of the rights of way will remain unaffected, the current level of enjoyment that walkers would experience of the scenic and open qualities of the rural landscape would be reduced through the expansion of the buildings and activities at the site and associated landscaping. Therefore the proposal would fail to protect and enhance the public rights of way network.

- 8.49. It is acknowledged that the landowner/applicant could fence and plant hedges either side of the footpaths crossing the fields adjacent to the redline area (within land in the applicant's ownership/control as indicated in the LVIA) without requiring planning permission, and it appears such planting has already taken place. However, officers consider that this amount and layout of planting would not be necessary for a continued agricultural use of the land, and approving the current application would make this type of planting more likely, to ensure the safety of the ponies grazing on the land.

Highway safety

- 8.50. Policy SLE4 of the Cherwell Local Plan states that "Development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported".
- 8.51. A Transport Statement and update to the Statement have been submitted with the application seeking to overcome the concerns raised by the Highway Authority in respect of the 2015 withdrawn application. This concludes as follows:
- Existing highway network is safe
 - Traffic levels are light and speeds low
 - Proposed activities appropriate for a rural location generating very low levels of vehicular traffic
 - Impact on the safe and efficient operation of the highway network will not be severe
 - Signage will be used to remind drivers of wider/larger vehicles not to turn towards Epwell
 - Number of large vehicles will be extremely low
 - Passing bay is proposed – benefit new and existing road users

- 8.52. Comments from the Highway Authority are awaited and Members will be updated at the meeting. However in response to the consultation at pre-application stage the Highway Authority indicated that they may be able to remove their objection to the previous scheme, relating to the adequacy of the highway, in the light of the Transport Statement but there may be the need for passing places and signage advising drivers of large vehicles not to drive through Epwell Village.

- 8.53. Officers however are concerned that the highway improvement works, if required, namely a passing place and signage, to serve the development could have an urbanising effect and would cause some harm to the rural character of the area, adding to the concerns expressed earlier in this report about the suitability of the proposed development in this sensitive location.

Ecology

- 8.54. Section 11 of the NPPF – Conserving and enhancing the natural environment – requires that "the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the

overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures” (para 109).

- 8.55. Paragraphs 192 and 193 further add that “The right information is crucial to good decision-taking, particularly where formal assessments are required (such as Habitats Regulations Assessment) and that Local Planning Authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question”. One of these requirements is the submission of appropriate protected species surveys which shall be undertaken prior to determination of a planning application. The presence of a protected species is a material consideration when a planning authority is considering a development proposal. It is essential that the presence or otherwise of a protected species, and the extent to that they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
- 8.56. Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that:
- Every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity; and;
 - Local planning authorities must also have regard to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.
- 8.57. The site has the potential as bat habitat given its countryside location, the presence of mature trees, and the age of buildings in the locality. In addition there are a number of records of protected and notable species in the local area including great crested newt, bat and swift. An Ecological Appraisal has been carried out and a report submitted. The survey found that the site is of generally low ecological value with the existing building having low potential for roosting bats and habitats on site offer limited suitable habitat for reptiles and amphibians at present. The existing boundary hedgerows on the south eastern and south western boundaries are of higher value and there are trees with low bat roosting potential within the hedgerows. The Council’s Ecologist has reviewed the report and has stated that as long as the hedgerows are retained and protected throughout construction and within the development it is not anticipated that there would be any adverse impact. The recommendations in the survey set out that precautionary measures should be undertaken during site clearance works with respect to nesting birds, reptiles, amphibians, badger and bats.
- 8.58. It is further recommended that bird and bat boxes are installed within the development with the aim of achieving no net loss to biodiversity in line with the NPPF. The ecological Appraisal recommends the erection of a barn owl box due to the suitable habitat for barn owls in the locality. It is also recommended that details or proposed hedgerows and landscaping should be provided to secure biodiversity gain. All landscaping should comprise native species and external lighting should be kept to a minimum to avoid impact on foraging/commuting bats.
- 8.59. The above mitigation and enhancement can be secured by condition, and as such the development is considered acceptable in terms of ecological impact.

Other Matters

- 8.60. Policy ESD15 of the Cherwell Local Plan Part 1 states that new development proposals should consider the amenity of both existing and future development, and new development should be compatible with existing uses in an area.
- 8.61. Equestrian uses can cause problems of noise, disturbance, odours and smells for nearby residents and the Council's Environmental Protection Officer has commented on the storage of manure in particular. However the site is relatively isolated from any nearby dwellings and the village, and as such it is considered that this matter could be adequately addressed by condition.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The NPPF sets out three dimensions to sustainable development, those being economic, social and environmental which are considered below. These dimensions should not be considered in isolation, but should be considered jointly and simultaneously, taking local circumstances into account. In practice this means that a planning balance exercise should be undertaken to determine if, taken as a whole, the adverse impacts of the proposal identified above are outweighed by the benefits such that it could still be considered sustainable development.
- 9.2. Economic role – The NPPF states that the planning system should do everything it can to support sustainable economic growth. There is insufficient evidence to suggest that the benefits would be more than local, and it is considered that the benefits to the local economy will not be especially significant due to the scale of the enterprise. It has also not been demonstrated that the proposal is required to be delivered in this sensitive location for these economic benefits to be realised.
- 9.3. Social role – The social role to planning relating to sustainable development is to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations. The proposed development will not give rise to any particular social benefits as the development of the site will provide one additional dwelling but this is required to service the business and not the wider community.
- 9.4. Environmental role – for development to be acceptable it must contribute to the protection and enhancement of the natural and built and historic environment. These issues have been covered in the sections above. The development is considered to be “major development” in the AONB that would result in considerable harm to the scenic qualities and undeveloped, rural character of the landscape and will fail to preserve the AONB, a landscape of designated national importance.
- 9.5. In conclusion, when considering the economic, social and environmental impacts of the development as a whole, it is considered that the limited benefits of the proposal are significantly and demonstrably outweighed by the adverse impacts on the AONB and visual amenities of the area.

10. RECOMMENDATION

That permission is refused, for the following reasons:

1. The proposed development by reason of its scale and location, in particular the amount and number of new buildings in a visually prominent and isolated location and the associated landscaping and equestrian activities, is considered to amount to “major development” in the Cotswolds Area of Outstanding Natural Beauty that would be visually intrusive and detrimental to the open and rural character and scenic qualities of a landscape which is afforded the highest status of protection in relation to landscape and scenic beauty. Exceptional

circumstances have not been demonstrated to outweigh this harm. The proposal is therefore contrary to the provisions of Policies AG5, C8 and C28 of the Cherwell Local Plan 1996, Policies ESD12 and ESD13 of the Cherwell Local Plan 2011-2031 and the advice within the National Planning Policy Framework.

CASE OFFICER: Shona King

TEL: 01295 221643