

**The Cabin  
Willowbrook Farm  
Hampton Gay  
Kidlington  
OX5 2QQ**

**17/02430/F**

**Applicant:** Mr & Mrs Lutfi & Ruby Radwan

**Proposal:** RETROSPECTIVE - Continued siting of a temporary agricultural dwelling as a permanent agricultural dwelling for the principal farm worker

**Ward:** Launton And Otmoor

**Councillors:** Cllr Tim Hallchurch  
Cllr Simon Holland  
Cllr David Hughes

**Reason for Referral:** Member request for the application to be determined by Members

**Expiry Date:** 8 February 2018      **Committee Date:** 12 April 2018

**Recommendation:** Approve

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## **1. APPLICATION SITE AND LOCALITY**

1.1. Willowbrook Farm is situated within the very loose knit hamlet of Hampton Gay within the Oxford Green Belt. The site is relatively flat and is surrounded by mature hedgerows. It comprises a total holding of approximately 45 acres and is used for farming poultry (eggs and meat), sheep (fleeces and meat), turkeys and geese. Additional income is derived from other uses on the farm such as camping and a café as well as events and farm visits.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

2.1. Consent is sought for the permanent siting of a temporary agricultural workers dwelling which was originally granted planning permission in 2003.

## **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>
01/01900/F	Erection of 2 No. mobile poultry units and 1 No. mobile office/storage unit	Application not required
02/01991/AGN	Proposed erection of a steel framed barn	Agri Notice requires full planning
02/01994/F	Retention of 2 No. Feed Silos and 1 No. Egg House (RETROSPECTIVE)	Application Refused

02/01995/F	Erection of a mobile home unit to function as a temporary agricultural workers dwelling for a period of 3 years	Application Refused
02/02331/F	Proposed erection of a straw and brooder shed	Application Refused
03/00597/AGN	Proposed erection of timber framed barn	Prior Approval Not Required
03/00604/F	Erection of 2 No. Feed silos for poultry	Application Permitted
03/01077/F	Erection of mobile unit for use as an Agricultural dwelling for a 3 year period	Application Permitted
04/00997/AGN	Erection of a timber livestock penning and handling facility	Prior Approval Required
04/02134/AGN	Erection of composting bays	Prior Approval Not Required
05/00025/AGN	Erection of machinery shed/vehicle servicing bay.	Prior Approval Not Required
05/00028/F	Erection of livestock building.	Application Permitted
06/00146/OUT	OUTLINE - Erection of dwelling for agricultural labour	Application Permitted
06/01383/F	Renewal of 03/1077/F - Erection of mobile unit for use as an Agricultural dwelling for a 3 year period	Application Permitted
07/02666/F	New dwelling-house	Application Permitted
10/01010/AGN	Farm building.	Prior Approval Not Required
11/01485/F	Installation of solar panels to roof of building	Application Permitted
16/00156/AGN	Erection of agricultural building for stable and goat housing	Agri Notice requires full planning
16/00739/AGN	New agricultural storage building for livestock tools, secure chemical store and packaging	Agri Notice requires full planning

16/00741/F	Erection of extension to sheep barn (Retrospective).	Application Permitted
16/00763/F	Washing facility for campsite	Application Permitted
16/00988/AGN	Silos (planning approved) altered for bagged feed stored in bulk bags and not loose feed	Agri Notice requires full planning

3.2. Whilst this is a full history of the applications that have been determined on the site in relation to the farm holding the most relevant applications are 03/01077/F, 06/00146/OUT, 06/01383/F and 07/02666/F.

3.3. Under application 03/01077/F planning permission was granted for a 3 year temporary period for the erection of a mobile unit to provide accommodation for an agricultural worker.

3.4. Consent was granted under application 06/01383/F for the renewal of the temporary consent for a period of two years or until the permanent dwelling approved under application 06/00146/OUT was complete or ready for occupation, whichever was the soonest.

3.5. 06/00146/OUT was the subject of a condition requiring the temporary dwelling to be removed prior to the occupation of the permanent dwelling.

3.6. Subsequently planning permission was granted for a permanent dwelling under application 07/02666/F. This required that the temporary dwelling was removed within 3 months of the permanent dwelling being first occupied.

#### 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>
16/00002/PREAPP	Pre-application advice - Various buildings and business activities for regularisation

4.2. The advice given was that planning applications should be submitted to seek to regularise various buildings and business activities.

#### 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 was 01.02.2018, although comments received after this date and before finalising this report have also been taken into account.

5.2 The comments raised by third parties are summarised as follows:

- Objections
  - Income not generated by farming
  - Lack of control by CDC resulting in unauthorised operations/activities/development at the site

- Highway safety arising from the various activities/operations on the site
  - Little evidence of farming
  - Impact on ecology arising from the various activities/operations on the site
  - Noise and disturbance from non-farming activities
  - Loss of value to property
  - Drainage
  - Visual impact of whole site
  - Breach of occupancy condition
  - Lack of need for an additional dwelling.
- Support (including a survey of residents in Hampton Gay and Hampton Poyle and standard letters from local residents and distant supporters).
    - Survival of sustainable rural business
    - Proper functioning of enterprise
    - Essential for farm manager to continue to live on the farm
    - Environmentally friendly farm
    - Education of customers
    - Positive contribution to biodiversity
    - Employment for local economy

5.2. 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. HAMPTON GAY & POYLE PARISH MEETING: **Objects** for the following reasons:

- That retaining the temporary building is not justified on agricultural use grounds alone
- The applicants' stated concerns about age and ill health do not justify keeping a second property on site which would break the tie to agricultural use
- Activities at Willowbrook Farm include non agricultural uses which are not properly permitted but contributing to the request to retain the temporary dwelling
- The scale of development at the farm is inappropriate development in the Green Belt and is causing undue disruption to the nearest neighbours at Hampton Gay
- The application is the latest in a series of applications, including some retrospective applications which has led to 'creeping development' away from the original permission for a chicken hatchery.

The Parish Meeting's full response can be viewed on the Council's website.

### STATUTORY CONSULTEES

6.3. HIGHWAY AUTHORITY: **No comment to date**

### NON-STATUTORY CONSULTEES

6.4. AGRICULTURAL CONSULTANT: **No objection.** The Consultant's report concludes that there is an essential need for an agricultural worker to be present at Willowbrook Farm and financial viability and sustainability have been demonstrated. Subject to the applicant's ability to manage the farm it is considered that Willowbrook Farm house cannot be considered to be a relevant dwelling for the purposes of meeting the identified essential functional need. There is an essential need to retain the temporary dwelling at Willowbrook Farm on a permanent basis for an agricultural worker. The full report can be viewed on the Council's website.

## **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)

- ESD1 – Mitigating and Adapting to Climate Change
- ESD10 – Biodiversity and Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD14 – Oxford Green Belt
- ESD15 - The Character of the Built and Historic Environment
- Villages 1 – Village Categorisation

### CHERWELL LOCAL PLAN 1996 (SAVED POLICIES)

- H18 - New dwellings in the Countryside
- C8 - Sporadic development in the countryside
- C28 - Layout Design and External Appearance of New Development
- C30 – Design Control

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

## **8. APPRAISAL**

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

- Principle of development (a) in the Green Belt, (b) in terms of essential need
- Impact on Visual Amenities including the Green Belt
- Highway safety

### Principle of development

8.2 Government guidance contained within the NPPF attaches great importance to the design of the built environment as good design is a key aspect of sustainable development. Good design should contribute positively to making places better for people. Planning decisions should aim to ensure that developments will function well

and add to the overall quality of the area and are visually attractive as a result of good architecture and appropriate landscaping.

- 8.3 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 where the development plan is absent, silent or relevant policies are out of date, approving applications 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.
- 8.4 The current proposal is for the retention of a temporary agricultural workers dwelling, originally consented in 2003, in association with an existing farm.
- 8.5 The site lies within the Oxford Green Belt. Paragraph 87 of the NPPF states that “inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances”. Paragraph 88 states that “when considering any planning application local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt, by reason of its inappropriateness and any other harm, is clearly outweighed by other considerations.”
- 8.6 Paragraph 89 of the NPPF states that the construction of new buildings should be regarded as inappropriate unless it falls within one of the exceptions listed. This includes buildings for agriculture and forestry. Policy ESD14 of the Cherwell Local Plan 2011-2031 states that “development proposals within the Green Belt will only be permitted if it maintains the Green Belt’s openness and does not conflict with the purposes of the Green Belt or harm its visual amenities”.
- 8.7 In this case it is considered that, whilst the development does not involve the erection of a new building as such, the temporary dwelling was only approved (originally in 2003) to serve an essential need which was subsequently met with the erection of the permanent dwelling. The temporary dwelling should have been removed from the site within 3 months of the permanent dwelling being occupied but this has not happened and the Council has not taken any formal action to date to seek its removal. Due to the personal circumstances of the applicant the essential need for an agricultural workers dwelling to serve the farm would be no longer met and the retention of the temporary dwelling in my opinion would therefore be tantamount to the erection of a new dwelling.
- 8.8 The planning statement supporting the application sets out the applicant’s case for the permanent retention of the temporary dwelling and this can be viewed on the Council’s website. Financial information has been submitted in the form of accounts for the enterprise along with letters from the applicants’ doctors to support the applicant’s claim that he is no longer able to carry out the essential functional requirements of the farm business, which are confidential.
- 8.9 An appraisal of the farm and the need for the retention of the dwelling on the site for a worker to facilitate the enterprise has been carried out on behalf of the Council by Rhodes Rural Planning. The report can be viewed on the Council’s website. The conclusions reached are as follows:
- There is an essential need for an agricultural worker to be present at Willowbrook Farm and financial viability and sustainability have been demonstrated.
  - Subject to the applicant’s ability to manage the farm it is considered that Willowbrook Farm house cannot be considered to be a relevant dwelling for the purposes of meeting the identified essential functional need.

- There is an essential need to retain the temporary dwelling at Willowbrook Farm on a permanent basis for an agricultural worker.
- 8.10 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".
- 8.11 Policy Villages 1 of the Cherwell Local Plan 2011-2031 provides a categorisation of the district's villages based on their relative sustainability, and the amount and type of development that could be appropriate in sustainability terms within the built up limits of a village depends on its categorisation under Policy Villages 1. Hampton Gay is a category C village, which is the category of least sustainability, and Policy Villages 1 states that within category C villages only infilling or conversions will be appropriate.
- 8.12 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 undertakings.
- 8.13 Paragraph 55 of the NPPF 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".
- 8.14 The conclusions of the appraisal indicate that there is an essential need for a permanent agricultural worker's dwelling at Willowbrook Farm and whilst there is a permanent dwelling on the site currently occupied by the applicant and his family the applicant is in declining physical health and wishes to retire from the business. The condition relating to the occupancy of the permanent dwelling allows for those solely or mainly or last solely or mainly employed in agriculture to live in the property. It is considered therefore that the continued occupancy of the permanent dwelling by the applicant and his family once retired is in compliance with this condition.
- 8.15 As such the permanent dwelling would not be capable of meeting an identified functional need. Case law makes it clear that where a clear essential need has been demonstrated for a new dwelling it is considered unreasonable to require two families to share a property or for the older generation to vacate their family home to make way for the next generation or for a worker.
- 8.16 However, given the relationship between the permanent farmhouse, the farming activities and the dwelling the subject of this application, it would be unacceptable in amenity terms for the dwelling to be occupied separately from Willowbrook Farm. A condition is therefore recommended restricting the occupancy to an agricultural worker at Willowbrook Farm (or a retired worker) or as ancillary accommodation to the permanent dwelling, Willowbrook Farmhouse, and this is set out in the recommendation below..

Impact on Visual Amenities including the Green Belt

- 8.17 The application site lies within open countryside forming part of the loose-knit hamlet of Hampton Gay. Whilst the application site is screened from the highway by hedging the area has the open and rural character that is desired of the Green Belt.
- 8.18 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. Similarly Saved Policy C8 of the Cherwell Local Plan 1996 states that sporadic development in the open countryside will be resisted to preserve its open and rural character.
- 8.19 It is considered that retaining the temporary dwelling on the site would not result in any detriment to the visual amenities of the Green Belt or rural character of the area.

#### Highway safety

- 8.20 The Highway Authority has not responded to date. However, it is considered that the retention of the dwelling would not give rise to any significant detriment to highway safety. The Highway Authority did not raise any objections to the original consent or for the application for the permanent dwelling erected under application 07/02666/F.

#### Other Matters

- 8.20 Concerns have been expressed by local residents that there are various unauthorised activities/operations taking place on the holding and that there are unauthorised buildings/uses. These issues are currently being investigated and the outcome of these investigations will not have a bearing on the current application bearing in mind the response from the Council's Agricultural Consultant.

### **9. PLANNING BALANCE AND CONCLUSION**

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. It is considered that sufficient justification has been provided to show that there is an essential need for a permanent agricultural worker's dwelling to serve the business. In addition it is considered that whilst the site is within the Green Belt, the proposed development is appropriate development within the Green Belt and would not conflict with the purposes of including land within it. It is considered that when analysing the economic, social and environmental impacts of the development as a whole, the benefits of the proposal to support an existing rural enterprise enabling its continued functioning outweigh any harm to the landscape.

### **10. RECOMMENDATION**

That permission is granted, subject to the following conditions

1. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Site Plan, Supporting Statement dated December 2017.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.



2. The dwelling hereby approved shall be either:
  - (a) occupied only by a person solely or mainly employed, or last solely or mainly employed, in connection with agriculture (as defined in Section 336(1) of the Town and Country Planning Act 1990) at Willowbrook Farm, Hampton Gay, Kidlington including any dependants of such a person residing with him or her or a widow or widower of such a person; or
  - (b) used solely as ancillary accommodation to the existing dwellinghouse, currently known as Willowbrook Farm, Hampton Gay, Kidlington, and as such shall not be sold, leased, let, sub-let or used as an independent dwelling unit.

Reason - The site is in an area where permission for development unrelated to the essential needs of agriculture or forestry would not normally be granted, and this consent is only granted on the basis of there being demonstrated an essential and overriding need for a new dwelling/residential accommodation in this location in accordance with saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. Furthermore, given the proximity of the dwelling hereby approved to the new thatched farmhouse and to the farm buildings (and the potential on-going farming activities) it would be unacceptable in amenity terms if the dwelling hereby permitted was sold or leased separately from Willowbrook Farm.

3. Notwithstanding the provisions of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the approved dwelling(s) shall not be extended, nor shall any structures be erected within the curtilage of the said dwelling(s), without the grant of further specific planning permission from the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the occupants of the adjoining dwellings in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. That full details of the enclosures along all boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development, and such means of enclosure shall be erected prior to the first occupation of the dwelling.

Reason - To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policy G2 of the Oxfordshire Structure Plan 2016 and saved Policies C28 and C30 of the Cherwell Local Plan 1996.

CASE OFFICER: Shona King

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