

**Case Officer:** Katherine Daniels

**Applicant:** Mr Geoffrey Taylor

**Proposal:** Change of use of existing poultry shed to container storage (Use Class B8) including associated landscaping

**Ward:** Deddington

**Councillors:** Councillors Andrew McHugh, Eddie Reeves, David Rogers

**Reason for Referral:** Called in by Councillor Andrew McHugh for the following reason:

To consider the benefits of farm diversification away from poultry

**Expiry Date:** 23 February 2024

**Committee Date:** 1<sup>st</sup> August 2024

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**SUMMARY RECOMMENDATION: REFUSE PERMISSION**

**BACKGROUND:** Members may recall that this application was presented to the planning committee on 15<sup>th</sup> February 2024 with a recommendation for refusal. Members resolved to approve the application; however, this decision was challenged on the basis that the Council had “not recorded the reasons of the Committee for departing from the advice of the officers either at the meeting or subsequently”. The decision was quashed, and the Council now has to reconsider the application. The application has now been brought back to committee for its redetermination.

The agent has written to the Council following the quashing of the original decision, commenting on the materiality of the February Planning Committee’s discussion, and also the 2024 amendments to the General Permitted Development Order although noting those amendments are not relevant to this application because permitted development rights were removed from planning permission: 21/03635/F.

Officers note that no appeal was lodged against the conditions of the 2021 permission and that, notwithstanding, the aforesaid new agricultural permitted development rights do not provide a ‘fall back position’ because planning permission is required for the change of use of the site. The proposal must be considered on its own planning merits, as outlined in the officer’s report.

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site forms part of an agricultural unit located at Rickyard Farm, approximately 500 metres south-west of the village of Milcombe. The site is located within the open countryside. The application relates to a poultry shed and Dutch barn. The poultry shed is relatively enclosed, whereas the Dutch barn is a steel framed building which is open on all 4 sides.
- 1.2. The buildings are east of an existing building which benefits from planning permission for a mixed Class B2 (general industrial) and B8 (storage and distribution) use. To the

north and south of this site are storage containers, which do not benefit from any planning approval. The north site has 39 storage containers (and is subject to a refused Lawful Development Certificate application – 23/02626/CLUE), and the south site has 53 storage containers.

- 1.3. A solar farm exists to the east of the site and is in the same land holding as the application site.

## 2. CONSTRAINTS

- 2.1. To the west of the site is a public bridleway which goes through a local wildlife site (South Newington Valley). To the west of the site is a Conservation Target Area and the habitat is noted to be potential NERC S41 priority habitat (lowland mixed deciduous woodland). These do not extend into the site.

## 3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks approval for a change of use of existing poultry shed and Dutch barn to include shipping container storage. This would include 56 containers in the existing poultry shed building. The proposal includes landscaping.
- 3.2. The application is a re-submission of a refused application – 23/02423/F – which sought permission for 70 storage containers within the poultry shed and adjacent Dutch barn.

## 4. RELEVANT PLANNING HISTORY

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

<b>Application: 23/02423/F</b>	Refused	2 <sup>nd</sup> November 2023
Change of Use of existing poultry shed and Dutch barn to container storage (Use Class B8) including associated landscaping		

- 4.2. The application was refused for the following reason:

- The self-storage facility is in a geographically unsustainable location. The scale and nature of the use is considered inappropriate in a rural location and the application fails to demonstrate exceptional circumstances or adequate justification for why the development should be located on an unallocated rural site. In addition, the siting of storage containers within the Dutch barn would have an urbanising effect and would adversely affect the character and appearance of the area. The proposed development is therefore contrary to Policies SLE1, ESD1 and ESD13 of the Cherwell Local Plan 2011-2031 and Government guidance in the National Planning Policy Framework.*

- 4.3. The following planning history is associated with the wider site:

<b>Application: 23/02626/CLUE</b>	Refused	17 November 2023
Certificate of Lawfulness for the Existing Development: Operational development - comprising 25no storage containers - which have been sited on land at Rickfield Farm, Station Road, Milcombe, Oxfordshire, OX15 4RS for longer than 4 years.		
<b>Application: 23/02024/F</b>	Permitted	27 September 2023

Erection of 2no proposed polytunnels and retention of existing hardstanding and bunds (part retrospective)		
<b>Application: 22/00536/F</b>	Permitted	17 June 2022
Variation of Condition 4 (hedgerow management scheme) of 21/03635/F		
<b>Application: 21/03838/F</b>	Refused	28 January 2022
Retrospective - Development of the container storage facility		
<b>Application: 21/03635/F</b>	Approved	31 January 2022
RETROSPECTIVE - Change of Use of agricultural building to B2 General Industrial and B8 Storage and Distribution - re-submission of 21/02648/F		
<b>Application: 21/02648</b>	Refused	7 October 2021
Retrospective - Change of use of agricultural building to B2 General Industrial and B8 Storage and Distribution		

## 5. PRE-APPLICATION DISCUSSIONS

5.1. No pre-application discussions have taken place with regard to this proposal.

## 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, 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 **4 January 2024**, although comments received after this date and before finalising this report have also been taken into account.

6.2. The comments raised by third parties are summarised as follows:

- The scale of 56 storage containers is still significant
- The nature of use has not changed since the previous refusal
- Farming pressures are not exclusive to the applicant, and there are different farms that have used different farming methods to diversify
- No exceptional circumstances presented to justify the proposal
- Would not constitute sustainable development
- Granting permission for more storage containers in geographically unsustainable locations could result in more farms nearby submitting similar proposals
- Detrimental impact to the character of the countryside location
- The use of storage container does not relate to a regenerative agricultural operation

- Diversification has already taken place through the solar farm and change of use of other buildings
- Only agricultural building left on site, and could be considered the loss of the farm holding in its entirety
- More traffic movements, including lorries, to the site as existing beyond what has been described within the application
- Associated traffic relating to the proposal increases the urbanising effect of the change of use and will cause visual intrusion and undue harm
- Proposal would result in damage to adjacent site of biodiversity

6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

## **7. RESPONSE TO CONSULTATION**

7.1. 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

7.2. MILCOMBE PARISH COUNCIL: **no objections.**

### OTHER CONSULTEES

7.3. CDC DRAINAGE: **No comments or objections** to make.

7.4. CDC ENVIRONMENTAL HEALTH: **No comments** to make on noise, contaminated land, air quality, odour or light.

7.5. OCC HIGHWAY AUTHORITY: **No objections** or conditions suggested.

## **8. RELEVANT PLANNING POLICY AND GUIDANCE**

8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2. 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)

- PSD1 – Presumption in Favour of Sustainable Development
- SLE1 – Employment Development
- SLE4 – Improved Transport and Connections
- ESD1 – Climate Change
- ESD7 – Sustainable Drainage Systems
- ESD10 – Protection and Enhancement and the Natural Environment

- ESD13 – Local Landscape Protection and Enhancement
- ESD15 – The Character of the Built and Historic Environment

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8 – Sporadic development
- C28 – Layout, design and external appearance of new development
- ENV1 – Pollution control

#### 8.3. Other Material Planning Considerations

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

### 9. APPRAISAL

#### 9.1. The key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highway safety

#### Principle of Development

9.2. Government guidance contained within the NPPF seeks the promotion of a strong rural economy, through the support of sustainable growth and expansion of all types of business and enterprise in the rural areas and the promotion of the development and diversification of agricultural and other land-based rural businesses.

9.3. Paragraphs 88 and 89 of the NPPF outlines parameters for supporting a prosperous rural economy. Paragraph 88 outlines that *“planning policies and decisions should enable:*

- a) The sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- b) The development and diversification of agricultural and other land-based rural businesses;*
- c) Sustainable rural tourism and leisure developments which respect the character of the countryside; and*
- d) The retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.”*

9.4. Paragraph 89 outlines that *“policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances, it will be important to ensure that development is sensitive to surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable...The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.”*

9.5. Policy SLE1 of the Cherwell Local Plan 2011-2031 ('CLP 2015') relates to employment development, defined as B Use Classes, and has a strong urban focus. In the rural areas it states that unless exceptional circumstances are demonstrated,

employment development should be located within or on the edge of Category A villages. The applicant points to paragraph 84 and 85 of the NPPF (now paragraphs 88 and 89 in the NPPF published on 20<sup>th</sup> December 2023) which provides support of sustainable growth of rural businesses and diversification of agricultural and other land based rural business. However, this sits alongside the Local Plan policies which allows for such development where it is adequately justified. The NPPF is not considered to be interpreted as unconditional support for the provision and expansion of rural businesses or farm diversification in geographically unsustainable locations and still needs to be balanced against other objectives such as reducing the need to travel, reducing car dependency and associated carbon reductions. Policy SLE1 and ESD1 which sits alongside this is therefore considered to be consistent with the NPPF and given full weight.

- 9.6. The closest village to the site is Milcombe, which is a category A village. However, given the site is located approximately 500 metres from the edge of the village it is not considered to be 'on the edge of the village' as required by Policy SLE1. Therefore, in accordance with the wording of Policy SLE1 the proposal would need to demonstrate 'exceptional circumstances' to justify its location.
- 9.7. In addition to the policy requirement to demonstrate exceptional circumstances, Policy SLE1 goes on to note that new employment proposals within rural areas on non-allocated sites will be considered against a list of criteria. These are also considered to be relevant to the assessment of whether the location has been adequately justified. Below is an assessment of the proposal against the most relevant these criteria:

- *Be outside of the Green Belt* – The proposal meets this criterion
- *Sufficient justification has been provided to demonstrate why the development should be located in a rural area on a non-allocated site* – Limited evidence has been submitted to justify the proposed development, other than stating it would constitute a farm diversification. There is little to justify how the use links to the farming enterprise and it does not appear to have a functional link. Financial pressures are noted, as there are pressures throughout the farming sector which are not exclusive to the current applicant. The financial benefits of the storage would largely amount to a private rather than wider public benefit. From the information provided, other than a financial link the self-storage would not appear to link back to the operation of the farm. It would appear to operate as a totally distinct and separate business and would appear not to represent farm diversification but would simply constitute the creation of a new business in a rural location.

The proposals under 21/03635/F for the conversion of the western building to a mixed B2 and B8 use were considered acceptable on a very fine balance (paragraph 8.21 of the officer report). At paragraph 8.15 of the report the officer highlighted that the scale of non-farming activities on this part of the site could be out of scale with the farming enterprise at this part of the farm holding. The loss of the poultry shed and Dutch barn would reduce the farming activity significantly - to the extent that it would be a minority activity, and would not constitute farm diversification, replacing a significant part of the agricultural activity rather than supporting it.

There is no justification for the need for level of self-storage proposed here, in this location.

Taking matters into account, it is not considered that the use of the site for this scale of storage has been justified and would therefore result in the creation of a new storage facility in a geographically unsustainable location.

- *High quality design, appropriate in scale and respect the character of the villages and surroundings* – The scale of the proposal is discussed further in the above point. The assessment of the impact on the character and appearance is outlined later in the report.
- *No detrimental impact on amenity or highway network* – Outlined below.
- *No suitable available plots or premises within existing nearby employment sites in rural area* – No information has been provided in this regard to justify the rural location.

9.8. Policy SLE1 goes onto note that the Local Plan has an urban focus, and that justification will be required for new sites in rural areas, and this should include applicants demonstrating a need for and benefits of employment development in a particular location and explaining why the proposed development should not be located at the towns.

9.9. The applicant has highlighted paragraphs 84 and 85 of the NPPF (now paragraphs 88 and 89 in the NPPF published on 20<sup>th</sup> December 2023) support sustainable growth of rural businesses and diversification of agricultural and other land based rural villages. This sits alongside the assessment required to be made from the Cherwell Local Plan, specifically Policy SLE1 as discussed above. The NPPF should not be interpreted as unconditional support for provision and expansion of rural businesses or farm diversification in geographically unsustainable locations and still needs to be balanced against other objectives such as reducing the need to travel, reducing car dependency and associated carbon reductions.

9.10. Further, the Council does not consider the proposal to constitute farm diversification, as the farm use would be minimal, and therefore the application would be contrary to the NPPF.

9.11. The proposal has been reduced from the previous refusal from 70 storage units to 56 storage units. The previous refusal included the adjacent Dutch barn which has been omitted from the application, so the storage containers would be sited solely within the poultry shed. The scale of 56 storage containers is still considered to go beyond what can be reasonably regarded as farm diversification.

9.12. The Council considers there has not been sufficient information demonstrated beyond the previous refusal to highlight exceptional circumstances have been met as required by Policy SLE1, or that sufficient justification has been provided for the scale of the development in a rural location.

9.13. The proposal would create a limited number of jobs through the construction phase of this development, and there is no information detailing what jobs would be created from the use as storage containers facility. It is expected job creation would be limited, as the Design and Access Statement relates a lot to self-storage containers, and would therefore unlikely require significant staff support.

9.14. Based on the information submitted, it is considered that the proposals are contrary to Policies ESD1 and SLE1 which have a strong urban focus for B class development. The updated proposal does not resolve the refusal reason of the previous application.

Design, and impact on the character of the area

- 9.15. Policy ESD13 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. It also states that proposals will not be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural features, be inconsistent with local character, harm the setting of settlements, or harm the historic value of the landscape. Policy ESD15 states that new development will be expected to complement and enhance the character of its context through sensitive design and siting. Saved Policy C8 seeks to resist sporadic new development in the open countryside. This is considered to be consistent with the NPPF which seeks to ensure that planning decisions recognise the intrinsic character and beauty of the open countryside. Policy SLE1 requires “*High quality design, appropriate in scale and respect the character of the villages and surroundings*”.
- 9.16. In line with the previous refusal, the Council consider the poultry shed to be relatively enclosed, so there would be a limited impact on the character of the area from the siting of storage containers within the poultry barn. The change to the character would result in the travel movements to the site increasing as a result of the self-storage use.

#### Residential amenity

- 9.17. Policy ESD15 of the CLP 2015 requires a good standard of amenity for future and proposed residents. Saved Policy ENV1 seeks to restrict development which would be materially harmful by way of noise or air pollution.
- 9.18. Environmental Health Officers do not consider there to be any harm to odour, light, or noise, and would therefore not impact any neighbours in this respect. There are no neighbours in close proximity to the site, and therefore the Council does not raise any concerns in regard to residential amenity.

#### Highway safety

- 9.19. The proposed development would utilise the existing access from the main road serving the farmyard. The Local Highway Authority (LHA) has raised no objection, as the proposed increased vehicle trips would be 7 per day, which the LHA considers to be minimal in terms of impact on highway safety. The site is set back from the highway by approximately 500m, and as a result there is minimal risk of parking overspill onto the highway.

### **10. PLANNING BALANCE AND CONCLUSION**

- 10.1. 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.
- 10.2. The proposal is considered to conflict with Policies SLE1 and ESD1 and result in the creation of a relatively sizable storage facility in a rural location. While the proposal has been reduced since the previous refusal, the principle of development is not acceptable within the rural area. The proposal is considered to result in environmental harm. There are not considered to be any material considerations, including farm diversification or provision of jobs, which would outweigh this conflict. It is therefore recommended that planning permission be refused.



**11. RECOMMENDATION**

**THAT PERMISSION IS REFUSED, FOR THE FOLLOWING REASON:**

1. The self-storage facility is in a geographically unsustainable location. The scale and nature of the use is considered inappropriate in a rural location and the application fails to demonstrate exceptional circumstances or adequate justification for why the development should be located on an unallocated rural site. The proposed development is therefore contrary to Policies SLE1, ESD1 and ESD13 of the Cherwell Local Plan 2011-2031 and Government guidance in the National Planning Policy Framework.

CASE OFFICER: Katherine Daniels

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