

06/2008/057

DR TIM WOODGATE--JONES

CHANGE OF USE FOR MOBILE HOME FOR AGRICULTURAL WORKER AND PHEASANT REARING AT MILL FIELD, BISHOPS LYDEARD AS AMENDED BY PLANS RECEIVED 3 SEPTEMBER 2008

316639/129306

FULL

PROPOSAL

This application seeks full planning permission to retain a change of use of the land for pheasant rearing and to retain a mobile home for a worker for a temporary period. It also proposes a new access and landscaping.

The site comprises agricultural land, on the edge of the village of Bishops Lydeard. The land is currently accessed via a field gate from Minehead Road, adjacent to the neighbouring property. The land slopes down from Minehead Road to the west down to a stream on the east side of the field. The applicant's land ownership continues on the opposite side of the field, but this does not form part of the current application site.

The site is bordered by hedges and a number of mature trees to the north, east and west. There is a weaker boundary of trees to the south, where the site borders a neighbouring dwelling. This dwelling has windows overlooking the site.

Application 06/2006/029 sought planning permission for the use of land for pheasant rearing and the siting of an mobile home. The application was refused on the grounds that there was insufficient evidence of an overriding functional need or financial justification for the dwelling; inadequate information had been submitted to demonstrate that a satisfactory access could be achieved; and that the existing access did not incorporate the necessary visibility splays required to create a safe access.

Following this refusal, an enforcement notice was served. The applicant appealed the notice on the grounds that the time specified to comply with the notice (by March 2008) was too short and requested an extension until the end of the summer. By the time the appeal was determined in July 2008, 4 months had passed and the inspector upheld the notice in the form it was served. The Council is now in a position to take further action if desired, but that action is being held in abeyance pending the outcome of the current application.

Application 06/2006/041, determined by Somerset County Council, granted permission to in-fill a ditch along the boundary of the site with Minehead Road.

This application seeks to retain the presently unauthorised use of the site for the rearing of pheasants. It also seeks to retain the worker's caravan for a temporary period of 3 years, although this would be moved closer to the neighbouring dwelling

to the south of the site. A new access is proposed slightly to the north of the existing, closer to the junction of Minehead Road with the A358. This would provide visibility splays of 60 metres to the north and 40 metres to the south, although it would require the removal of a number of large trees and the trimming back of the existing hedgerow to create the required splays. The existing access would be closed, and the gap planted with a new hedgerow.

CONSULTATIONS AND REPRESENTATIONS

WESSEX WATER: The proposal is not within a Wessex Water sewered area. The developer has not indicated how foul water would be disposed of. Surface water would be disposed of via soakaways. TDBC should be satisfied that the proposed arrangements are acceptable.

SCC HIGHWAYS: The site is outside the settlement limit of Bishops Lydeard and the Local Planning Authority must decide whether there is an overriding functional need for the proposal. ... "In detail the proposal will derive access from/onto Minehead Road which is a classified unnumbered highway. The existing access is substandard and as part of the application it is proposed to stop up this access and form a new one...Whilst the new access will be sited just outside of the 30mph speed limit, the road layout and traffic priority will mean that vehicle speeds are decreasing as they exist they A358 approaching the village and 30 mph restriction"...The highway Authority [consider] that Manual for Streets visibility splays would be appropriate in this location, therefore the splays denoted on the submitted plan are acceptable and meet this criteria. The visibility for vehicles emerging to see and be seen from the new access compared to the existing access is considered to be an improvement to highway safety and on this basis I do not intend to raise a highway objection"

The parking and turning indicated needs to provide for residential and commercial vehicles, so that all vehicles can enter and leave the site in a forward gear. The present layout may not be sufficient, but further details can be required by condition. Recommends conditions to ensure that the visibility splays are implemented, the turning area is surfaced with a properly consolidated surface, a revised parking area should be submitted, entrance gates should open inwards, the existing access should be stopped up, the gradient of the proposed access should not be steeper than 1 in 10, provision should be made for the disposal of surface water so that none drains onto the highway.

TAUNTON DEANE BOROUGH COUNCIL ENVIRONMENTAL HEALTH OFFICER: No observations to make on this application.

TAUNTON DEANE BOROUGH COUNCIL LANDSCAPE OFFICER: The proposed access alignment will require the felling of an oak and greater soil grading than a less impacting access further south. Subsequently verbally agreed that if a need was demonstrated, it would be difficult to resist the application on the grounds of the loss of trees, as they are not fundamental to the amenity of the area.

TDBC DRAINAGE: Details are required of the proposed system to treat foul sewage, prior to the determination of the application. With regards to surface water

disposal, it is noted that soakaways are proposed. These should be constructed in accordance with Building Research digest 365 (September 1991) and made a condition of any permission.

BISHOPS LYDEARD AND COTHELSTONE PARISH COUNCIL: The Council objects to the proposal and has the following comments to make:

- The proposal is too large a commercial operation for a village site.
- The proposal is too close to a residential area.
- Public health issues such as flies, vermin and effluent from the birds are of concern.
- The proximity to a river, on a sloping site, gives concern over effluent run off into the watercourse.
- There are a dangerous number of gas cylinders located very close to residential properties.
- The assessment provided with the proposal is based on extra land not included in this application and is therefore inconsistent.
- Proposed access appears less safe than existing. The Council would like to point out that the road is in fact heavily trafficked, not lightly trafficked as claimed in the assessment.

NINE LETTERS OF OBJECTION have been received, raising the following issues:

- Pheasant rearing for sport is not an agricultural activity;
- The mobile home does not meet the criteria for an agricultural worker's home;
- It is understood that the operation has to be on the land for a full 12 months of the year and be full-time;
- The applicant is a gardener who works away from the site;
- The huge rises in fuel and food will make the activity uneconomical;
- The proposal relies on excessive transport movements;
- There is not space to expand or rotate the land as recommended by the Game Keepers' Association;
- The pens are not dismantled at the end of the rearing season;
- There is likely to be contaminated run-off into Mill Stream;
- There is an unacceptable transfer of noise and smell to neighbouring properties that will be worse with the planned intensification;
- There have been an influx of pests (rats, mice and flies) since the operation began;
- There is a risk from avian influenza;
- There is a sewer in Minehead Road (contrary to the comments in the application). No mention of how the foul drainage will be disposed of has been given – the current septic tank system is not adequate and is leading to pollution;
- Minehead Road is a busy road with no footway, no traffic survey has been carried out;
- The slip road should be treated as part of the A358 and access should not be allowed onto it.
- Minehead road and the access cannot accommodate the traffic generated by the development;

- The impact of the access on the trees cannot be assessed without a full tree survey;
- The proposed landscaping would not provide an adequate screen and could take several years to grow;
- There is no mention of any screening to Lydeard Mead;
- There are no details of the proposed screen for the gas bottles.
- No details of drainage for the access/turning area have been provided;
- The development affects the setting of the settlement;
- The supporting statement relies on an additional 6 acres for stock rotation, but this is outside the application site and prone to flooding;
- Queries why the mobile home is proposed to be moved closer to existing properties;
- Queries why the proposed enhancements/screening are now proposed when they have not been in place for the last 2 years;
- The submitted site plan is not up to date;
- The application is retrospective;
- Withholding the financial information denies the public the opportunity to comment fully.

ONE LETTER OF REPRESENTATION has been received in respect of this application raising no objection but noting that the mobile home is not currently sited as indicated in the application and requesting screening if it is to remain where it is.

POLICY CONTEXT

GOVERNMENT GUIDANCE: PPS7 (Sustainable Development in Rural Areas); PPS25 (Development and Flood Risk).

SOMERSET AND EXMOOR NATIONAL PARK JOINT STRUCTURE PLAN REVIEW: STR1 (Sustainable Development); STR6 (Development outside Towns, Rural Centres and Villages); Policy 49 (Transport Requirements of New Developments).

TAUNTON DEANE LOCAL PLAN: S1 (General Requirements); S2 (Design); S7 (Outside Settlements); H13 (Agricultural or Forestry Workers); M1 (Transport, Access and Circulation requirements of New Developments); EN6 (Protection of Trees, Woodlands, Orchards and Hedgerows).

ASSESSMENT

The main issues in the consideration of this application relate to the principle of the development, flood risk, impact on neighbouring property, potential pollution, impact on the visual amenity of the area, and impact on the highway network.

PRINCIPLE

Pheasant rearing for sports purposes (as proposed here) does not constitute agriculture within the meaning of the Town and Country Planning Act. However, it is an activity which one would expect to find in the rural area and it is considered that the change of use of agricultural land to this purpose is acceptable in principle.

In respect of the dwelling, PPS7, Annex A, indicates that dwellings for non-agricultural rural land based enterprises may be acceptable in principle, provided that the same stringent tests that would be applied to applications for agricultural worker's dwellings had been fulfilled. Essentially, these tests require that there must be a clear intention to develop the enterprise, there must be a functional need for the dwelling (the *functional* test) and that the enterprise has been planned on a sound financial basis (the *financial* test). If these tests are fulfilled, it is considered that the provision of a supervisory dwelling for a temporary period would be acceptable in principle.

Much has been said in the representations and consultations that the pheasant rearing is not agriculture, and as such, references to an 'agricultural worker's dwelling' in the submitted appraisal are misguided. Whilst this is, strictly speaking, the case, PPS7 makes clear that such dwellings can be acceptable in principle and the reference to an agricultural dwelling as opposed to a game farm workers dwelling is not considered to be material to the decision making process.

FUNCTIONAL TEST

To pass the functional test it must be demonstrated that it is essential for the proper functioning of the enterprise for one or more workers to be resident on the site at most times. It is considered reasonable to interpret this as relating to a full-time requirement.

The applicant's business involves rearing batches of day-old pheasants to 7 weeks and then selling. In 2007, the applicant reared a single batch of 5000 pheasants on the site. In 2008, this was increased to 8000. In 2009 and 2010, it is proposed to increase this figure to 16,000 by rearing two batches back to back across the summer months. It is proposed to hold back 350 of the hens from 2008 to breed in 2009. Thus, by 2009, it is proposed that no day-old chicks will be purchased and all pheasants will be reared on the land.

The application is accompanied by an appraisal document which sets out the likely labour requirements for the enterprise. The nature of the enterprise means that there are significant variations in the labour requirements throughout the year. The applicant's agent has submitted some information about the seasonal variations based on the 2009 and 2010 business plan. Your officers have rearranged the information into a 'month by month' display and this is provided for Members as appendix A to this report. The analysis indicates that during the summer months, when the batches of chicks are being reared, there is a requirement for over two full-time workers. During the 'shoulder' months of March and July, there is a requirement for over 1 full-time worker. It is considered that during these times, when there is a large amount of stock on site, in pens heated by gas heaters, there is a need for a worker to be resident on site to give diligent care and attention to the stock. In the months of October and November, there is still a requirement for almost one full-time worker, although most of the work would be associated with cleaning up and disinfecting of the site, which could be undertaken remotely, without any need to be resident on the site. From December to February, there would only be a need for around one third of a worker, with all of the requirement relating to the care of the retained breeding hens and cocks.

The annual spread of the labour requirement indicates that the enterprise functions very intensively, where there is a clear functional need for about 6 months of the year. For the remaining 6 months, the need is less apparent. However, even in the low season, there would still be some stock retained on the site, to which it may be reasonable to provide an element of supervision. Your officer's view is that taking into account the intensity of the use over the summer months, it can be argued that the need relates to a full-time worker at most times, in compliance with the guidance.

Comments raised in the representations relating to the applicants other work are noted, however this assessment is based upon the business forecasts over the next 24 months, which the applicant has stated can be realised in the event that a caravan is permitted. The purpose of a temporary permission is to allow an applicant the opportunity to develop a business and it is considered that in this instance, the benefit of the doubt should fall with the applicant.

FINANCIAL TEST

For applications for temporary dwellings on new enterprises, it must be demonstrated that the business has been planned on a sound financial basis. Forecast profit and loss accounts have been provided which indicate anticipated cash flow for the current and next two years.

One objector has suggested that the profits have been miscalculated by not taking into account the costs of rearing. However, examination of the figures indicates that that his interpretation is likely to be misguided, effectively discounting the cost of rearing the animals twice. It also works on the basis of rearing 5000 birds, as was the case in 2007. Your officers have studied the submitted forecasts and the figures stated appear to be reasonable. With regard to this it is, therefore, considered that the financial planning is sound.

One objector has commented that the public has been unable to comment fairly on the application as the Council has withheld detailed financial information about the application. Members should be aware that accounts and detailed cash-flow information can be commercially sensitive and it is standard and accepted practice for this Authority (and others) to remove the information from the public domain. It is considered that sufficient information has been made available to allow the public to comment on the proposal.

INTENT TO DEVELOP

PPS7 indicates that intent to develop may be demonstrated by a large investment in farm buildings. In this case, there is a limited need for such buildings that would indicate strong commitment to the land, however, the applicant has already purchased the rearing pens and animal housing, together with facilities to incubate some of the eggs. The investment demonstrated so far, with the business development outlined in the appraisal, is considered to show sufficient intent to develop the enterprise and on balance, the proposal is acceptable in principle.

FLOOD RISK

A small part of the site is within flood zone 3, the highest risk zone, with much of the neighbouring field also within this zone. Concern has rightly been expressed by a number of objectors that the appraisal document refers to all of the applicants owned land (including this neighbouring field) in justifying the functional and financial tests, even though the application site is largely excluded from the flood zone. The site's risk of flooding could seriously impact upon the viability of the business. However, the current enterprise functions entirely on the identified application site (outside the flood risk area) and the agent has confirmed that the outlined business plans could be entirely accommodated within this area.

In support of their argument, the objectors have referred to guidance on stock rotation from the Game Farmers Association regarding the field rotation required between flocks. However, as noted above, it has been confirmed that the identified land is sufficient, and it is not the place of the planning system to impose the working guidelines of other organisations. With regard to this, it is considered that the presence of flood risk, and the small application site presented, will not impact unduly on the submitted financial planning or development of the enterprise.

IMPACT ON NEIGHBOURING PROPERTY

A number of concerns have been raised from nearby residents about the transfer of smells from the site and the increase in vermin. However, concerns over the transfer of smells and spread of vermin have been reported by a number of other nearby residents. The Environmental Health officer has not raised any objection to the proposal on the basis of transfer of noise/smells and as such, it is not considered that sufficient weight could be attributed to the concerns of the neighbours to warrant refusal.

The closest dwelling to the south, which overlooks the site to some degree would likely be most affected by the use and the siting of the caravan. It is considered, however, that the siting of the caravan closer to this property would not give rise to unreasonable overlooking or other general disturbance to amenity.

One neighbour to the east has commented that the caravan can currently be seen from their dwelling. Simply being able to see a development is not grounds for its refusal and, in any case, the re-siting of the caravan further to the south should negate this concern.

With regard to these factors, it is considered that the impact of the development on the neighbouring residents is acceptable.

POLLUTION

Concern has also been raised regarding the potential pollution of the watercourse to the east of the site. Again, no objection has been raised from the Environmental Health officer or the Environment Agency, so an objection in this respect is not considered to be justified.

HIGHWAY SAFETY

The Local Highway Authority initially raised no objection to the scheme on the basis that a new access and visibility splays are constructed and that heavy goods vehicles (HGVs) are not allowed to access the site. The new access can be constructed, but it will result in the loss of a number of trees and will require the replanting of the hedgebank behind the new visibility splays – see below. It is considered that any condition preventing access for HGVs would be unenforceable and the Highway Authority have since confirmed verbally that that they would not object if their access was permitted. They would wish to see a condition imposed to require further details of the access and parking arrangements to be submitted to ensure that adequate facilities are provided.

Concerns raised in respect of misleading information in the supporting documents are noted. However, the Highway Authority will have made their assessment based on the characteristics of the road, not simply the applicant's opinion of local highway and traffic conditions. With regard to these factors, the impact on highway safety is considered to be acceptable, subject to conditions.

VISUAL IMPACT

Intensive pheasant rearing generates considerable building clutter due to the large number of small structures required in connection with the operation. However, the site is generally well-screened from the public domain due to the mature trees that surround the site and the buildings are only truly visible from within the site and some other neighbouring land.

Some trees and vegetation will be lost as a result of the access works. The agent has undertaken a detailed survey of the tree line to Minehead Road which reveals that a hornbeam, oak and field maple will be lost to create the access. Other than these, it is anticipated that the required visibility splays can be achieved by trimming the existing hedgerow and allowing it to re-grow behind the visibility splays. The applicant has agreed to supplement the boundary with additional landscaping, and as such, it is considered that the overall visual impact would be acceptable. A detailed landscaping scheme could be required by condition.

OTHER MATTERS

It has been suggested that there is a sewer available in Minehead Road, contrary to comments within the design and access statement. The application form states that the method of foul water disposal is yet to be decided and this can be agreed by condition.

The Parish Council raised concern over the scale of the operation and gas bottle storage so close to the village and neighbouring properties. After discussions with the Health and Safety Executive, it seems unlikely that the storage of gas bottles would be to such a level that would cause them concern. However, clarification is being sought and members will be updated at committee. In terms of the scale of the enterprise, it is considered that in light of the responses of the Highway Authority and Environmental Health officer, little weight could be attributed to the concerns

raised. Other concerns over threat of avian influenza and the applicants working practices are not material planning considerations. The fact that the application is retrospective cannot influence the decision and the application must be determined on its own merits.

CONCLUSION

The proposed change of use of the site to pheasant rearing is considered to be acceptable in principle, subject to the formation of a new access and vehicle turning facilities. It is considered that the removal of trees to create this access will have a limited impact on the overall character of the area and approach to Bishops Lydeard, subject to conditions to replant the hedgerow and enhance the tree planting. The majority of the screening will remain helping to retain the general visual amenities of the area. In respect of the proposed accommodation, it is considered that there is a functional need for a worker to be resident on site and that the enterprise has been planned on a sound financial basis. With regard to these factors, the development is considered to be acceptable and it is, therefore, recommended that planning permission is granted.

RECOMMENDATION

GRANT subject to the following conditions:

- occupation of caravan to person employed in pheasant rearing on this site;
- occupation of caravan limited to temporary 3 year period;
- implementation of access, having agreed details including visibility splays, surfacing, drainage requirements and gradients;
- provision of revised parking/turning arrangements;
- stopping up of existing access;
- entrance gates to open inwards;
- submission of landscaping scheme;
- confirmation of the method of disposal of foul drainage.

REASON(S) FOR RECOMMENDATION:-

The use is considered to be acceptable, not impacting unreasonably upon the character of the area, highway network or neighbouring property. There is considered that there is a functional need for the accommodation and the enterprise has been planned on a sound financial basis, in accordance with policies S1, S7 and H13 of the Taunton Deane Local Plan, Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review, and advice contained in Planning Policy Statement 7.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.

CONTACT OFFICER: MR M BALE: 01823 356454

APPENDIX A

The following table shows the estimated labour requirement for the enterprise for each month of the year on the basis that a full-time worker works 2200 hours per year, spread evenly across the year.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual total
Breeding hens & cocks	60.83	60.83	60.83	60.83	60.83	60.83	60.83	60.83	60.83	60.83	60.83	60.83	730
Set up & preparation			180.00	180.00									360
Incubate eggs				84.00									84
Rearing (1-14 days)				126.00	126.00								252
Rearing (14-28 days)					168.00								168
Rearing (28-56 days)						224.00							224
clear up & set up						8.00							8
Incubate eggs						84.00							84
Rearing (1-14 days)							252.00						252
Rearing (14-28 days)							84.00	84.00					168
Rearing (28-56 days)								112.00	112.00				224
Clear up & disinfect										120.00	120.00		240
Land management	2.33	2.33	2.33	2.33	2.33	2.33	2.33	2.33	2.33	2.33	2.33	2.33	28
Monthly totals	63.17	63.17	243.17	453.17	357.17	379.17	399.17	259.17	175.17	183.17	183.17	63.17	2822
2200 hours per labour unit =	183.33 hours per month												
Monthly labour units (whole enterprise)	0.34	0.34	1.33	2.47	1.95	2.07	2.18	1.41	0.96	1.00	1.00	0.34	
Discount setup and land management which does not require on-site presence and incubation, which is (largely) proposed off-site.	60.83	60.83	60.83	186.83	354.83	284.83	396.83	256.83	172.83	60.83	60.83	60.83	
Monthly labour units (likely essential on-site work)	0.33	0.33	0.33	1.02	1.94	1.55	2.16	1.40	0.94	0.33	0.33	0.33	