

41/09/0002

MR F COATE

CHANGE OF USE OF LAND TO SITE TEMPORARY MOBILE HOME FOR AN AGRICULTURAL WORKER AT SUNNYSIDE FARM, TOLLAND DOWN, TOLLAND AS AMENDED BY LETTER DATED 11TH AUGUST 2009 AND PLAN 165/AL2B AND PLAN 165/AG1A

309833.132887

Full Planning Permission

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PROPOSAL

Planning permission is sought for a temporary workers dwelling to serve the agricultural holding. The supporting information sets out the background to the applicant's business. The applicant has recently set up a donkey stud enterprise to diversify and support the more conventional agricultural farming elements of the holding. This comprises of 140 suckler cows and a bull, 150 ewes and plans for a further 60 calves to be reared upon completion of the buildings. The application also includes a copy of the contract with Butlins to train and provide donkey rides 7 days a week all year round (indoors in the winter). The existing donkey stock comprises of 27.

A concurrent application, planning reference 41/09/0001, has been submitted seeking permission for the erection of two stable blocks (mainly for donkeys), and two other barns for cattle and sheep, and general storage as required. It would normally be expected that the proposed buildings would be included in the same application. However, as they have been submitted separately it is recommended that Members consider the applications together. In other words if Members are minded to refuse the application for the additional buildings referred to above, there would be no requirement for a temporary workers dwelling.

As part of the consultation process the landscape officer has requested the mobile home to be re-sited in order to lessen its impact on the character and appearance of the area. Amended plans have been submitted to re-site the mobile home closer to the proposed agricultural buildings.

SITE DESCRIPTION AND HISTORY

The site comprises agricultural land and is accessed via a field gate from the B3224. To the west is the tree plantation at Willet Hill. The character of the area is of undulating countryside with the application site located on higher ground. The main views towards the site are from the West. The site is not subject to any national landscape designation.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SOMERSET COUNTY COUNCIL - TRANSPORT DEVELOPMENT GROUP - The proposed development site is remote from any urban area and, therefore, distanced from adequate services and facilities, such as education, employment, health, retail and

leisure and, in addition, there is no public transport services in close proximity of the site. As a consequence, occupiers of the new development are likely to be dependant on private vehicles for most of their daily needs. Such fostering of growth in the need to travel would be contrary to the government advice given in PPG13 and RPG10 and to the provisions of policies STR1 and STR6 of the Somerset & Exmoor National Park Joint Structure Plan Review (adopted April 2000).

It must be for the Local Planning Authority to determine if there is need and/or justification for an agricultural/temporary mobile home in this location, which will outweigh the highway sustainability issues raised that seek to reduce the reliance on the private car.

It would appear that the red line of the application site does not extend to any highway and therefore this is an issue that the Planning Officer may need the applicant to address.

If the Local Planning Authority is minded to grant consent it should be ensured that there is sufficient onsite parking and turning provided within the site, in connection with the development being proposed.

LYDEARD ST LAWRENCE & TOLLAND PARISH COUNCIL - The Parish Council objects to the proposal, as it did for application 41/09/0001, because the site is highly visible and because development in this rural area would be out of place.

HERITAGE AND LANDSCAPE OFFICER - Subject to a suitable landscape scheme and clearly defined curtilage it should be possible to erect the mobile home without significant landscape impact.

Revised comments 19 August 2009 – Subject to the additional landscaping and earth mounding the mobile home should have limited landscape impact.

DRAINAGE ENGINEER - It is noted that a septic tank is to be installed to treat foul sewage. Percolation tests should be carried out to ascertain the required length of sub surface irrigation drainage. The Environment Agency's Consent to discharge to underground strata is also required and they should be consulted. No details of how surface water is to be disposed are shown. These details should be provided before any approval is given

ENVIRONMENT AGENCY - The applicant proposes use of non-mains (private) drainage facilities. However, if the site is located within an area served by a public sewer, in accordance with Circular 3/99 (Planning requirement in respect of the Use of Non-mains Sewerage incorporating Septic Tanks in New Development), connection should be made to this sewer. The applicant must provide good reasons why a connection is unfeasible.

If a new septic tank/treatment plant is the only feasible option for the disposal of foul, or if there is an increase in effluent volume into an existing system, Consent to Discharge may be required. This must be obtained from the Environment Agency before any discharge occurs and before any development commences.

Representations

TWO LETTERS OF OBJECTION – making the following points.

- Intrusive and detrimental to the landscape.
- Temporary mobile home will inevitably be followed by an application for a permanent residential dwelling.
- If donkeys are to be regularly transported back and forth to Minehead and sold to allcomers both home and abroad, would it not be altogether more sensible to stable them within easy access of the highway?; it is understood the applicant already has suitable land fronting the B3224.
- The size of the new buildings seems to be excessively large for this purpose.
- Remote location – nearest settlements of Tolland and Willet have little or no services.
- The application fails to accord with the requirements of both Policy H12 and PPS7.
- Proposal fails the Functional Test of PPS7 – the donkey enterprise, which specialises in breeding hardy foragers, represents a wholly different situation to a large intensive pig or cattle enterprise.
- The appraisal sets out the time spent with the donkeys from 9am to 5.30pm (and 8am to 6.30pm off site) – the required activities can be undertaken during normal working hours.
- The off-site work, by definition, cannot create a functional need for a worker to be present on site at most times.
- There is evidence that donkeys are able to (and usually do) give birth unattended.
- If there is a genuine functional need to be resident on site during the birthing period, this need could be satisfied by the presence of a seasonal workers dwelling.
- Applicant has been running the farm enterprise from Milverton and no evidence has been put forward as to when the applicant had to be present on site outside of normal working hours.
- Question the man hours attributed to donkey element of the appraisal.
- The calf rearing business will be phased out over the next 3 years. On the basis that a previous inspector considered labour requirement for breeding donkeys would be similar to other breeding livestock the labour requirement would be reduced to 0.56 standard man hours.
- The decision to submit separate applications must mean the applicant would be satisfied with an approval in respect of the application for the buildings, but a refusal in respect of an agricultural worker's dwelling, it must therefore be assumed the applicant is satisfied that the business can function without the need for someone to be present day and night.
- Security – the security of farm equipment is not a relevant consideration with regard to the functional test.
- The protection of livestock from theft or injury by intruders may contribute on animal welfare grounds, although it will not be sufficient to justify one (para 6, Annex A, PPS7). Accordingly, as the functional test has not been met the fact there have been thefts cannot justify the grant of planning permission in this case.
- Sound Financial Basis – Lack of detail regarding the way in which the enterprise has been financially planned.
- No business plan has been provided or evidence of future financial planning.
- Cost of producing the donkeys would appear artificially low (donkey passport costs when selling, vet fees, breeding costs, insurance, maintenance, depreciation, professional fees etc).
- The budget does not account for the cost of the mobile home or the buildings

subject to application 41/09/0001.

- Other existing accommodation in the area – The applicants currently reside in Milverton (6.5 miles or 25 minutes drive from the site) and there is nothing in the appraisal that suggests the enterprise could not be properly and efficiently operated from the applicant's current home.
- Other normal planning requirements, e.g. siting and access. The site is very remote with no facilities or bus stops within walking distance and the applicants will be dependant upon the motor vehicle.
- The residential use of the site will, therefore generate a significant number of journeys by private motor car and other vehicular movements. This is certainly not a sustainable use of the site.
- Increased danger from intensification of the use of the existing access onto the highway.
- Other Material Considerations – Copy of appeal decision submitted relating to an application for a temporary agricultural workers dwelling in connection with a donkey breeding enterprise. Appeal was dismissed.

FOUR LETTERS OF SUPPORT – making the following comments.

- The Donkey Sanctuary express concern at the number of donkeys stolen across the country and are able to offer advice to the applicant to deal with such risks.
- Support the man hour requirements for training donkeys and dealing with the breeding and care of pregnant mares.
- The Royal Agricultural Society of England support the application as the development of the farm enterprise will attract new vibrant agricultural people into the local agricultural industry by expanding their farm and business.
- There is no doubt that the farm is in capable hands.
- Withholding permission would cause the business to plateau.

PLANNING POLICIES

PPS1 - Delivering Sustainable Development,

PPS7 - Sustainable Development in Rural Areas,

PPG13 - Transport,

PPS25 - Development and Flood Risk,

STR1 - Sustainable Development,

STR6 - Development Outside Towns, Rural Centres and Villages,

S&ENPP49 - S&ENP - Transport Requirements of New Development,

S1 - TDBCLP - General Requirements,

S2 - TDBCLP - Design,

S7 - TDBCLP - Outside Settlement,

H13 - TDBCLP - Agricultural of Forestry Workers,

M1 - TDBCLP - Non-residential Developments,

EN6 - TDBCLP -Protection of Trees, Woodlands, Orchards & Hedgerows,

EN12 - TDBCLP - Landscape Character Areas,

DETERMINING ISSUES AND CONSIDERATIONS

The main issues in the consideration of this application relate to the principle of the development, impact on the visual amenities of the landscape, and impact on the highway network.

It is noted that the donkey element (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 be carried out in a rural area and would be considered ancillary to the agricultural holding in its present form. This application is linked to the concurrent scheme, reference 41/09/0001 seeking permission for the erection of two stable blocks (mainly for donkeys), and two other barns for cattle and sheep, and general storage as required. The donkey component of the enterprise is a specialist element where further advice was sought to inform the decision-making process. Acorus Rural Property Services were commissioned to appraise the requirement for a full time agricultural worker to be on site. This included interviewing the applicant and his agent on site.

The Acorus report sets out the history of the applicant's farming business. The farm was purchased in April 2007 and extends to about 20.2 ha (50 acres) which is owner occupied. An adjoining 16.2 ha (40 acres) is rented on an informal basis from the neighbouring landowner. The business comprises both agricultural (beef and sheep) and non-agricultural (breeding donkeys) enterprises. The business plan is to manage the ewe flock to produce early season lamb, maintain the suckler cows and sell stores at about 6-7 months of age, have a contract calf rearing business and develop the donkey enterprise which has various elements, breeding, stud work with the Jacks (male donkeys), donkey rides with Butlins, attending various local shows, fetes and other events.

PPS7, Annex A, indicates that residential 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 are fulfilled. The current proposal provides a mix of both the donkey enterprise and livestock in the form of sheep and cattle. The tests set out in PPS7, essentially are as follows: - 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 met the provision of a dwelling for a temporary period would be acceptable in principle.

The Acorus appraisal concludes that there is clear evidence of a firm intention and ability to develop the enterprise concerned. In coming to this view the consultant has had mind to the following: - the initial investment in the purchase of the land, expenditure on livestock, a previous planning approval (AGN) granted for improvements to the access track and the current planning application for additional buildings together with the mobile home to support the business development.

The Acorus appraisal also confirms the recommendation of the applicant's agricultural appraisal that there is a functional need for a full time worker to be resident on the application site. This is based on the welfare needs of all the livestock. The basic requirements for the welfare of livestock are a husbandry system appropriate to the health and, so far as practicable, the behavioural needs of the animals and a high standard of stockmanship. The agent has also made further representations as a result of comments received during the publicity period – in particular those disputing the functional need for a full time worker. The agent puts forward the case that there are over 194 animals that will give birth in a year and a high standard of care is required for all classes of livestock and it is necessary that a stockman is on hand for all births. This is not seasonal. The 60 calves being reared on site require essential care and supervision at all times. The agent states that every stockperson is likely to plan what they will try and achieve in normal working hours 9 to 5.30. However, it would not be

correct to assume that all the demands of the livestock will be met between these hours. The agent also disputes the validity of the appeal decision with regards to this case due to the limited size of the holding (1.7 ha) and the fact the enterprise bred miniature donkeys.

The objections to the proposal, specifically relating to the functional and financial tests, received during the consultation process have been forwarded to Acorus to respond. The Acorus response notes the objections were submitted before the Acorus report. Acorus reaffirm the view that the proposal accords with the function and financial test requirements. The objection letter focuses specifically on the donkey element, whereas the business will comprise, the donkeys, calf rearing, sheep and the suckler cows. Acorus set out a range of cases where an emergency situation could arise including: - birthing periods; disease; preventing theft; attention to young animals; supervising sick animals; animals fighting or jostling - particularly if new animals are introduced to the group; making sure animals do not get caught up in gates/fences or escape; ensuring dangerous areas are secure (slurry stores etc); maintaining physical security and bio-security of the unit; faults with services such as water; electrical faults that could lead to the outbreak of fire. Acorus also consider the appeal decision accompanying the objection representation for 'miniature donkeys' is not comparable.

The Acorus report also finds that there is clear evidence that the business has been planned on a sound financial basis. The Acorus calculations report a Return to Unpaid labour of £35,000. The current minimum wage for adult agricultural workers for the basic 39 hour week is £12,695.

The Highway Authority has commented that the site is in an unsustainable location in highway terms, being remote from facilities, services and public transport. However agriculture is a rural, land based activity that cannot be located in an urban area, or other settlement. Absence of a residential presence would also result in the need for more commuting to and from site. It is therefore considered that an objection on this basis would be unreasonable. The Highway Authority has not raised any specific technical objections to the proposal.

To conclude, the provision of a temporary mobile home to serve the holding is considered to be acceptable. This is supported by the applicant's agricultural appraisal and the commissioning of Acorus to provide their expertise to the Council in order to inform the decision-making process. 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 basis. The mobile home would be partially screened and it is the view of the landscape officer that the proposal would not adversely affect the visual amenities of the area subject to the condition requiring further landscape mitigation. With regards to these factors, the development is considered acceptable and it is, therefore, recommended that planning permission be granted.

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval

Subject to Members being minded to grant planning permission for the additional buildings sought under planning application 41/09/0001 - Permission be GRANTED subject to the imposition of conditions.

The proposed mobile home for an agricultural worker has a proven functional need in connection with a potentially viable business and as such provides suitable justification for its location outside the limits of a settlement. The visual and residential amenity of the area would not be detrimentally affected. The scheme therefore accords with Taunton Deane Local Plan Policies S1 (General Requirements), S2 (Design), S7 (Outside Settlement), H13 (Agricultural or Forestry Workers) and M4 (Residential Parking Provision).

Should members be minded to refuse planning permission 41/09/0001, permission be refused for the following reason.

The site is located in the open countryside where presumption is against the development of new dwellings unless an agricultural need can be proven. In light of the refusal for agricultural buildings refused under planning reference 41/09/0001, the Local Planning Authority is not satisfied by the evidence submitted that there is clear evidence of a firm intention and ability to develop the enterprise. Without the provision of the buildings there would be no functional need which requires on-site-presence. The proposal is therefore contrary to Taunton Deane Local Plan Policy H13 and Guidance contained within PPS 7,

RECOMMENDED CONDITION(S) (if applicable)

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. The occupation of the caravan shall be limited to a person solely or mainly working, or last working in the locality in agriculture or in connection with the commercial donkey business, or a widow or widower of such a person, and to any resident dependants.

Reason: The site lies in area where new development is generally restricted to that for which there is a proven need in accordance with Policy H13 of Taunton Deane Local Plan and Guidance in PPS7.

3. The caravan shall not be stationed on the site until the agricultural buildings, approved under planning reference 41/09/0001, have been built in accordance with the approved plans. Once completed the mobile home shall be sited in accordance with the approved plan and there shall be no material change to the position of the mobile home, or its replacement by another mobile home in a different location.

Reason – Without the erection of the agricultural buildings there would no justification for the provision of a temporary agricultural workers dwelling and, with regards to siting, in

order to protect the visual amenities of the landscape in accordance with Taunton Deane

Local Plan Policies S1, S2, H13 and EN12.

4.
 - (i) Before any part of the permitted development is commenced, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority.
 - (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority.
 - (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policy S2.

5. No development shall take place until details of the foul water drainage system and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details before the mobile home on the site is occupied.

Reason - To avoid pollution of the environment and/or flooding in accordance with

Taunton Deane Local Plan Policy S1 and EN26 and advice contained within PPS25.

Notes for compliance

1. The application seeks the use of non-mains (private) drainage facilities. The applicant should ascertain if the site is located within an area served by a public sewer and if this is the case connections should be made to this sewer, in accordance with Circular 3/99 (Planning requirement in respect of the Use of Non-Mains Sewage incorporating Septic Tanks in new Development).
2. If new septic tank/treatment plant is the only feasible option for the disposal of foul water, or if there is an increase in effluent volume into an exiting system, Consent to Discharge from the Environment Agency may be required. In the event that Consent to Discharge is required this must be obtained before any discharge occurs and prior to the development commencing. The applicant is advised that this process can take up to four months to complete and should contact the Environment Agency on 08708 5066506 for further details.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1988.

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