

MR & MRS A COURTNEY

SITING OF A TEMPORARY AGRICULTURAL WORKERS MOBILE HOME FOR A PERIOD OF THREE YEARS AT THE WILLOWS, NOAHS HILL, WEST MONKTON (RETENTION OF WORK ALREADY UNDERTAKEN)

Grid Reference: 325794.128468

Retention of Building/Works etc.

RECOMMENDATION AND REASON(S)

Recommended Decision: Refusal

- 1 The site lies in a countryside location, where it is the policy of the Local Planning Authority to resist new housing development unless it is demonstrated that the proposal serves a genuine agricultural or other appropriate need. Whilst the business being operated from the site comprises a mix of enterprises, the overall business remains of a small scale and of a nature where the vast majority of work can be carried out and most problems/emergencies are likely to occur during part of the normal working day (however long that day may be). As such, it has not been proven that it is essential for the proper functioning of the enterprise for a worker to be readily available at most times. As such, the functional need for the retention of the mobile home has not been demonstrated and the development fails the tests set out in Planning Policy Statement 7, Annex A. The proposal therefore represents an unjustified dwelling in the countryside, contrary to Policies S1 (General Requirements) and S7 (Outside Settlements) of the Taunton Deane Local Plan and Policies STR1 & STR6 of the Somerset & Exmoor National Park Joint Structure Plan Review.
- 2 The approach roads providing access to the site, by reason of their restricted width, poor alignment, condition and maintained standard, are considered unsuitable to serve as a means of access and accommodate the volume and type of traffic likely to be generated by the proposed development. The proposal is therefore contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.

As the mobile home is already on site with residential use occurring, it is further recommended that should residential use continue the Solicitor to the Council be authorised to serve an Enforcement Notice to ensure that the mobile home is not used for residential purposes and take prosecution proceedings, subject to satisfactory evidence being obtained that the notice has not been complied with.

RECOMMENDED CONDITION(S) (if applicable)

PROPOSAL

The Willows is situated at Noah's Hill, West Monkton. It is a block of land of approximately 2.5 acres, owned by the applicants. On the site is a stable block and agricultural barn, for which permission has been granted. A mobile home has also been sited on the land. This application seeks permission to retain the mobile home for a period of three years.

The applicants are currently using the site for the breeding of micro pigs and the appraisal states that they have obtained a herd of five sows/gilts and one stud boar, with a target of producing approximately 100 pigs per annum. In addition, the site is used for free range egg production currently with a small flock of 100 birds (proposed to be increased to up to 350 in the future) supplying eggs on a farm gate sales basis; ornamental poultry breeding with a view to producing 100 per annum; and the breaking in of young horses/ponies, approximately 4 horses in the first year. (Figures taken from Appraisal and Business Plan). The site itself is approximately 2.5 acres, with a further 10 acres opposite held on a Farm Business Tenancy and small parcels elsewhere on annual informal agreements (although no information has been provided on this).

The applicants state that they have entered into an agreement with the Little Pig Farm Limited to sell all piglets to them and also agreed that "at least one person be on site at all times."

During the processing of the planning application (February 2011), an update to the business plan was received stating:

- Due to the loss of a breeding sow, year one of the micropigs operation was behind the budgeted target, but year two is on target.
- The equine element has progressed as planned, although this did state that only one horse had been broken and schooled (although 4 were planned in the first year).
- The egg-laying flock is at the initial budgeted 100 birds with egg sales achieving the budgeted revenue.
- The ornamental poultry season is about to begin, being a spring business.
- It is proposed to expand with a small flock of pedigree Wiltshire Horn rare breed sheep. This will begin with 12-15 ewes and a ram and expand to 20-25 ewes in the future.

SITE HISTORY

An outline application for a bungalow (48/85/0024) was refused in August 1985. Subsequently, an earth-sheltered dwelling (48/90/0035) was refused by planning committee in November 1990 on the grounds that the site lies in open countryside and there is no genuine agricultural or other appropriate need; the proposed access would be detrimental to the visual amenity and character of the rural lane; the approach road by reason of its restricted width and poor alignment is considered unsuitable to serve as a means of access to further residential development; and the proposal would constitute undesirable development and an inappropriate level of domesticity, which would be detrimental to the character and visual amenity of the area. This was subsequently dismissed at appeal in August 1991.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SCC - TRANSPORT DEVELOPMENT GROUP - The proposed development site lies outside any Development Boundary Limits and is therefore distant from adequate services and facilities, such as, education, health, retail and leisure. In addition, public transport services are infrequent. 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 government advice given in PPG13 and RPG10, and to the provisions of policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted April 2000) and Policy S7 of the Taunton Deane Local Plan, and would normally receive a recommendation of refusal from the Highway Authority as a result.

However it is noted that the application is for an agricultural workers dwelling and therefore it must be a matter for the Local Planning Authority to decide whether there is sufficient need or justification for such a development in this location, which outweighs the transport policies that seek to reduce reliance on the private car.

In terms of the technical detail the applicant has indicated that by allowing this proposal it would reduce the level of vehicle movements as the applicant would not need to visit the site twice a day as indicated in the Design and Access Statement. However it should be noted that a normal dwelling would generate 8-10 vehicle movements per day. Reading the other documentation submitted as part of the proposal it is apparent that this site has a number of uses which potential generate an increase in vehicle movements. Although no details have been provided on the exact number of movements I have concerns that these uses would generate an increase in vehicle movement. From visiting the site it was observed that the approach roads are single width and sinuous in nature with high hedges either side of the carriageway. I do not believe that these approach roads are of sufficient standard to accommodate any additional vehicle movements.

I note that part of Design and Access Statement refers to previous applications on this site. One related to the erection of an earth-sheltered dwelling this proposal went to appeal where it was dismissed. The applicant has indicated that part of the appeal related to highway issues. These issues were dismissed by the Inspector as such the applicant feels that this appeal is a material consideration. In response to this although I note the Inspectors comments this appeal was in 1991 and planning and highway policy has significant changed since then as such any highway concerns should still be considered to be relevant. Raise objection.

WEST MONKTON PARISH COUNCIL - 4 votes in support, 3 votes against and 2 abstentions. Request application considered by planning committee. Comments – represents sustainable use of land; at the end of 3 years if another application forthcoming, evidence must show realisation of business plan submitted; insufficient visibility splay to west, made worse by sale at gate of free range eggs; permission is for 3 years and at end it must come back to TDBC for review.

LANDSCAPE LEAD - No further comments

WESSEX WATER - The development is located within a foul sewered area although as temporary a septic tank has been indicated. There are water mains within the vicinity of the proposal and it will be necessary for the developer to agree a point of connection onto the system. Council should be satisfied with arrangements for surface water disposal. Suggests note to applicant regarding uncharted sewers or water mains.

DRAINAGE ENGINEER - Note that foul flows are to connect to an existing septic tank. The applicant shall ensure that suitable and satisfactory drainage provision is made. The applicant shall ensure that the capacity of the septic tank system is satisfactory to provide for the maximum possible number of occupants and only appliances that discharge foul water into the existing system, including flows from any source for which it already serves. With regard to surface water drainage, I note soakaways are to be utilised. These should be constructed in accordance with Building Research Digest 365 (September 1991) and made a condition of any approval.

Representations

Four letters received in support on the grounds of:

- Important to be on site to look after livestock, due to developing specialist breeds, more important to protect their investment and maintain quality and security.
- Great importance for security, supervision and care/welfare of the animals.
- Security of neighbouring property is enhanced.
- Project of this type and size would not be detrimental to the area and maintain village roots in agriculture and livestock production. This type of enterprise should be encouraged.
- Brings business to a small village, helping local economy grow and bring opportunities for local children.

One letters received stating no objection.

Four letters received raising concerns/objections on the grounds of:

- Development already undertaken seems excessive for a small agricultural unit.
- Site outside village boundary. Previous unsuccessful planning permissions.
- Concern over future attempt to build a permanent residence, setting a precedent. After 3 years, owner will seek permission to build a dwelling, an application that the previous West Monkton Parish Council consistently refused.
- Does not enhance the area.
- Concerns regarding smell, noise, several vehicles, effluence.
- Inadequate room for free range poultry on the 2.5 acres.
- Poor exit at the top of hill, people pulling up immediately outside force oncoming traffic from the west blindly into the path of upcoming traffic. Traffic in this area often travels at speed. Hazardous and unsafe.
- Equine and livery is not an agricultural need. Stables built for owner occupation, not for business. Business will again increase traffic.
- No clear intention and ability to develop. Existing farm buildings were not built in relation to this proposed enterprise.
- Owner has dwelling house not too far from the site.
- Previous application for small barn was allowed with serious planning restrictions sought by Parish Council.
- Concerns regarding effluent and impact it will have on nearby freshwater lake.
- Queries parking facilities for customers buying eggs

Letter received from Black Rock Vets stating:

- Micro pigs are labour intensive
- Mating needs to be accurately timed and monitored to ensure animals safety, by handlers that pigs are used to.
- Problems can occur during farrowing that need prompt response.
- Piglets can deteriorate rapidly if ill, regular checks required.
- Vet practice attended farm three times in two month period and prescribed animals antibiotics that need injecting daily.

PLANNING POLICIES

EN12 - TDBCLP - Landscape Character Areas,
EN8 - TDBCLP - Trees in and around Settlements,
S1 - TDBCLP - General Requirements,
S7 - TDBCLP - Outside Settlement,
STR1 - Sustainable Development,
STR6 - Development Outside Towns, Rural Centres and Villages,
S&ENPP49 - S&ENP - Transport Requirements of New Development,

DETERMINING ISSUES AND CONSIDERATIONS

Whilst the agent is of the opinion that the mixed enterprise operating from the site does not require planning permission, the local planning authority is not in agreement with this. The local planning authority consider that that the breeding of micropigs as domestic pets; and the equestrian activities being undertaken at the site, do not fall within the definition of agriculture and as such, planning permission is required for these aspects. This is a view shared by Kernon Countryside Consultants (KCC), who have been consulted on the application as specialists in the agricultural field.

Whilst the agent considers micro pigs do fall within the definition of agriculture and that KCC have misunderstood the definition of agriculture, as agricultural specialists it is believed that they would be well versed in the definition of agriculture and qualified to comment on whether a business falls within this.

However, notwithstanding the agent's dispute over the definition of agriculture, he then goes on to say that in any event, the main use of the holding will (in time) be 350 free-range hens and 25 ewes. As such, in comparison, the micro-pig enterprise and equestrian activity is small and is consequently ancillary to the main primary use, being chickens and sheep. As such, he is not of the opinion that planning permission is required for those aspects. It is important to note that in disputing the need for planning permission, the agent points out that the micro pig breeding enterprise and equestrian activity is small, weakening his later argument that they do in fact form a large part of the business, fundamental in justifying the need for a dwelling on site.

However regardless of this, the main issue for consideration is whether the retention of the unauthorised mobile home on site is essential to support the business as described above. In assessing this need, it is necessary to consider whether the following criteria are satisfied:

- i) Clear evidence of a firm intention and ability to develop the enterprise concerned;
- ii) there must be a functional need for one or more workers to be readily available on the holding at most times. For example, if workers are needed to be on hand day and night;
- iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;
- iv) no other dwellings should be capable of meeting the identified need, either on the property or in the area, which is suitable and available;
- v) other planning requirements. For example, access or impact upon the countryside must be satisfied.

Each of these Criteria are discussed below:

Intention and ability to develop the enterprise

As mentioned above, the local planning authority is not of the opinion that the necessary consents have been obtained at the site for the breeding of micro pigs and the commercial equestrian activities. As such, in the absence of the necessary planning permissions, it is not considered that the applicants have the ability to operate the current enterprise.

The agent's view is acknowledged, although not accepted. However, even if the applicants did have the required consents, this would not automatically mean that a dwelling is acceptable. The need for this is considered through assessment against four other criteria, including the functional need.

Functional need

Annex A Paragraph 4 states that it should be essential for the proper functioning of the enterprise for the worker to be readily available at most times, for example if he/she is needed to be on hand day and night. In assessing this, it is necessary to take into account whether the required problems/emergencies are likely to occur during normal working hours (even if these hours are long). If this is the case, emergencies/problems can be dealt with as part of the day to day routine and this does not call for a worker to live on site.

Whilst it is considered that the necessary planning consents for the micro pigs and commercial equestrian enterprise have not been obtained, for the purpose of the functional test, the requirements of these enterprises have been taken into account. Although in doing so, the functional test has still not been met.

In terms of the micro pigs, the business plan states that the target is to provide 100 pigs at 8 weeks old per year, though 24 farrowings. The nucleus herd currently on the site contains 5 sows and gilts and as pigs generally produce 2 litters per year, this number of farrowings is not achievable (no information is provided as to any proposed increase in this herd). In any event, whether the number of farrowings is to be 10 per year, based on the existing number of sows or increased to 24 per year by expanding the herd size, the enterprise remains reasonably small, as would be the risk of problems occurring that need essential care at short notice.

Regardless of whether there are 10 or 24 farrowings per year, the mating of boar and sow would normally be undertaken as part of the normal working day, allowing adequate supervision of this. Whilst it is acknowledged that problems can occur

during farrowing, which require rapid action, the limited amount of farrowings, being no more than 2 per month, is not considered to be of a size that warrants a worker being readily available at most times. It is important to note that a competent stock man would have a good idea of when a sow is likely to farrow, and whilst many would farrow down in the day, if necessary he/she could return to the site to check the occasional sow that might farrow at night. Furthermore the large workload associated with feeding, cleaning, monitoring, treating with antibiotics and additional handling due to breeding for the pet market would all be carried out as part of the normal working day, rather than at night. As such, these tasks do not add to the justification of a worker being readily available at most times.

There are currently 100 free range poultry on site, although this is proposed to be increased to 350 in the future. Even using the upper figure of 350, the associated activities of feeding, watering and egg collection are all activities that would be undertaken as part of a normal working day and do not necessitate a worker being readily available at most times.

Whilst little information has been provided about the operation of the poultry enterprises, it is normal to assume that the laying birds are shut up at night to protect them from predators. On this basis, they are at little risk at night and as none of the birds are housed within controlled conditions, there is no requirement for someone to be on hand to deal with any power/system failure, in order to prevent suffering. Whilst it is accepted that eggs are likely to be incubated and young birds likely to be reared under heat, it is not stated that these systems are linked to an alarm. As such, even if a worker was living on site, a change in temperature is not something he/she would be aware of until checking the stock in the morning. Furthermore, due to the small scale of these enterprises, it follows that the risk of loss would be minimal.

As such, it is not considered that an on-site dwelling is essential to provide an adequate level of welfare for the poultry enterprise. It is also important to note that welfare could be significantly improved with the introduction of an alarm system, which triggered calls to a mobile phone if temperatures fell/rose to critical levels, enabling a worker to return to the site to check the eggs and chicks.

The sheep enterprise of 25 ewes is also small scale and lambing would take place over a relatively short time period. As such, if a worker wanted to reside on site during the lambing period, this could be accommodated through the provisions for seasonal workers under the General Permitted Development Order. There is therefore no justification for a worker being readily available at most times for this element of the business.

Whilst there is also the equestrian business of breaking in/schooling horses, there would only be one horse on site at any one time. Due to this being a very small scale and entailing work that would take place during the course of a normal working day and not at night, this is not considered to warrant a worker to live on site

In summary, there are several different enterprises being operated on the site, being poultry breeding, free range egg laying, micro pig breeding, commercial equestrian activities and sheep breeding. Each part of the business is reasonably small scale and even when considered together, the vast majority of the work/problems/emergencies can be dealt with during a normal working day, albeit possibly a long working day.

With livestock, there will always be the occasion where emergencies may arise or problems require an animal to be carefully monitored, however due to the scale of the business on the holding, it is not considered essential to the proper functioning of the enterprise for a worker to be readily available at most times. As a result, a functional need has not been proven.

The agent argues the need for security of the stock. PPS 7 clearly states that "the protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify an agricultural dwelling".

It is understood that the applicants signed a contract with the Little Pig Farm Limited in August 2010, agreeing that "at least one person be on site at all times". The agent states that the only way this can be achieved is through a dwelling on the site and if no worker is available, the contract will be broken. Therefore he considers it is essential to the proper functioning and viability of the enterprise that a worker can live on site.

Members should be aware that the applicants signed the contract in August 2010, having no consent to live on site. In view of the fact that they signed the agreement in the absence of such permission, it is considered that they must have felt that they could comply with the terms of the agreement without having a residential unit on site.

Furthermore it is important to note that simply because an applicant signs an agreement which requires a worker to be on site at all times rather than "readily available at most times" as per the requirements of PPS 7, does not automatically mean that the functional test is met. This is an argument that could be repeated all too often by other farmers/rural business operators, who would only need to sign a contract that required them to live on site, in order to meet the functional test and consequently demonstrate the need for a dwelling.

An additional consideration is that even if there was a residential presence on site, that does not necessarily mean that somebody would be on site at all times as per the requirements of the contract. This would be almost impossible to achieve as the occupier(s) of the dwelling will no doubt have to leave the site at certain times i.e. social activities, shopping, to make deliveries etc. Accordingly the only way that it can be ensured that a worker is on site at all times is if shifts are undertaken - as is regularly the case with other enterprises where staff are needed on site at all times. As such, if shifts are worked, the workers do not need to live on site and there is no justification for an agricultural dwelling.

Proposed enterprise planned on a sound financial basis

The budgets provided include all of the aforementioned enterprises. As stated above, the local planning authority is not of the opinion that the required consents have been obtained and as such, is not of the opinion that these unauthorised enterprises should be taken into account in the financial information.

The micro pig enterprise accounts for a significant proportion of the income, with the equine enterprises being the next highest. Without taking these two aspects of the business into account, the profitability of the business is significantly reduced to a

level that would not even be capable of providing a full time wage. As such, taking into account the aspects of the business that can be operated from the site under the current consents, it has not been planned on a sound financial basis.

If however, the outstanding issues were dealt with, enabling the micro pigs and equine enterprises to be taken into account, the budgets would indicate a reasonable profit before drawings. It must be noted however, that the financial test is not met at the current time.

No other dwellings

Based on the above, it is not considered essential for the proper functioning of the enterprise for a worker to be readily available at most times. The agent states that the applicants have a dwelling 3.2 miles away, which is not considered an excessive distance to travel to be able to operate the business on a daily basis, returning to the site for a night time check on the rare occasion that this may be necessary.

The agent has stated that the nearby dwellings in West Monkton are not within sight and sound of the site and would not therefore meet the functional test. However, the local planning authority, as mentioned above, are not of the opinion that there is a functional need to live on site.

Furthermore it is stated that house prices in West Monkton are well above average and as such there is little likelihood that these would be within the affordability of the business. However, no information has been provided regarding any houses currently on the market in close proximity and the guide prices.

v) Other planning requirements satisfied

Whilst the proposal is not considered to satisfy the other necessary criteria as set out in Annex A of PPS 7, the siting of the mobile home is not considered to result in an unacceptable impact upon the surrounding landscape.

However, there are issues on the grounds of highway safety and sustainability.

The site lies in a remote countryside location, some distance from any urban area and therefore distant from adequate services and facilities, such as education, employment, health, retail and leisure. There are very limited public transport services in close proximity to the site and therefore very limited transport opportunities other than the private car. As such, occupiers of a residential unit in this location would be largely dependent on private vehicles, rendering this an unsustainable form of development.

In view of the lack of functional need for the agricultural worker's dwelling, it is not believed that there are any planning merits of this proposal that would outweigh the highway sustainability concerns raised.

In terms of highway safety, whilst it is acknowledged that agricultural activities can be undertaken on the site, as can small scale activities ancillary to those, such as farm gate sales of the eggs, there are other unauthorised activities being carried out on the site, including the micro pig breeding and equestrian enterprises, which generate additional traffic. The surrounding network of roads are single width, sinuous in nature with high hedges either side of the carriageway and unsuitable to

serve as a means of access for the associated type of traffic. As such, the approach roads are not deemed to be of sufficient standard to accommodate the level and type of traffic to be generated by the development proposed.

It is not therefore considered that other planning requirements have been satisfied.

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

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