

MISS J WALLWORK-GUSH

CHANGE OF USE OF LAND FOR SITING OF TWO MOBILE HOMES FOR TRAVELLING FAMILY AT CARRIERS GATE ORCHARD, HIGHER POLESHILL FARM, LANGFORD BUDVILLE (RETENTION)

Grid Reference: 309139.123381

Full Planning Permission

RECOMMENDATION AND REASON(S)

(A) Subject to any further consultations responses received from Natural England and Somerset Wildlife Trust, in respect of the impact of the development on ecology, the application be refused for the following reasons.

Recommended Decision: Refusal

- 1 The proposal is contrary to Policies S1, S2, S7, EN2 and EN12 of Taunton Deane Local Plan and Policies 1, 5, STR1 and STR6 of the Somerset & Exmoor National Park Structure Plan, and guidance contained with PPS1, PPS7, PPS9 and PPG13 for the following reasons:

(i) The site is in an unsustainable location, outside of any defined settlement limit, poorly served by public transport, with no lit pedestrian footways, and is remote from services and amenities, and would therefore increase reliance on the private motorcar and foster growth in the need to travel.

(ii) The development by reason of its design and appearance is out of character with its rural setting and adversely affects the visual amenities of the area;

(iii) No overriding evidence has been submitted to demonstrate that the applicants' accord with the definition of a 'traveller' as defined, for planning purposes, in Circular 01/2006 - Planning for Gypsy and Traveller Caravan Sites. Therefore Policy H14 of the Local Plan is not applicable in the balance of planning considerations.

(B) Enforcement action be taken to cease the use of the land for residential purposes, remove the caravans from site and reinstate the land to its former condition within a compliance period of 3 months from the date of the planning decision notice.

RECOMMENDED CONDITION(S) (if applicable)

Notes for compliance

PROPOSAL

Planning permission is sought for the change of use of land to site two caravans (in the form of a camper van and touring van) for a traveller family. The application also identifies areas of parking and the location of a w.c facility. Access is derived from Carriers Lane.

Additional information

As a result of the publicity period and responses received the applicant has submitted a detailed response. The main planning points to note are:

- Mr Ridgeway is now running the farm following a stroke to the farmer, Mr Ridler, (with some assistance). A statement from West of Somerset Stroke Rehabilitation Unit has been submitted as verification of Mr Ridler's medical status. The enterprise includes 80 cattle and hay making duties. There is a requirement to oversee the welfare of the livestock. Mr Ridler has written in support of the requirement for an onsite presence in relation to ensuring animal welfare.
- The intention is to settle on this site. The applicant's son has returned to the site to complete his college education. Somerset County Council considered the son to be a traveller for his secondary education and received support from the Traveller Education and Welfare department on this basis.
- There is a vehicular right of way to access the site.
- To reduce impact on the local bat population solar power is used for electricity and kept to a minimum. 12 volt LED lights and the total number of lumens is less than 100w bulb in total.
- We are seeking a personal permission – we do not wish to see any increase in the number of people residing on this site.

An ecological survey and assessment has been submitted which at the time of writing is being considered by Somerset Wildlife Trust and Natural England.

SITE DESCRIPTION AND HISTORY

The site is located approximately one mile to the north west of the village of Langford Budville. The site comprises agricultural land and is accessed via a field gate from an unclassified road to the north. A public footpath runs parallel along the eastern boundary of the site (on the other side of the hedgerow). The site adjoins the Langford Heathfield Site of Special Scientific Interest.

There are sporadic residential dwellings to the north. Higher Poleshill (where one of the applicants undertakes seasonal farming work and is now overseeing farming duties) is located to the south west of the site.

Planning permission, reference 21/09/0021, was refused for the change of use of the land for the stationing of a caravan and mobile homes for an agricultural worker on 15 January 2010.

Permission was refused for two reasons:

- 1. The site is located in the open countryside where there is a strong presumption against residential development unless an agricultural or forestry need is proven. The Local Planning Authority considers that the functional need for an agricultural worker has not been proven. In addition no financial justification has been provided to demonstrate that the enterprise has been planned on a sound financial basis. Therefore the application fails to comply with Policies H13 of Taunton Deane Local Plan and national guidance contained within Planning Policy Statement 7: Sustainable Development in Rural Areas. Furthermore, as the proposed would fail to meet the tests set out for the provision of a temporary agricultural workers dwelling, the caravan and mobile home would represent an inappropriate and unsustainable form of development in the countryside which would adversely harm the visual amenities of the area. The proposal would therefore conflict with the provisions of Exmoor National Park Joint Structure Plan Review, Policies 1, 5, 49, STR1 and STR6, and Taunton Deane Local Plan Policies S1, S2, S7, EN2, EN6, and EN12, together with advice contained in Planning Policy Statements 1 and 7.*
- 2. No wildlife report has been submitted to ascertain the effect of the development on the Langford Heathfield Site of Special Scientific Interest (SSSI) and on any species and habitats protected by law under the Conservation (Natural Habitats, &c.) Regulations 1994 and the Wildlife and Countryside Act 1981 as amended by the Countryside and Rights of Way Act 2000. In the absence of such a report the Local Planning Authority is unable to determine whether the proposal will have a detrimental impact on local wildlife and habitat contrary to Somerset & Exmoor Joint Structure Plan Review 1991-2011 Policy 1 and Taunton Deane Local Plan Policies S1, S2, S7, EN2 and EN6 and guidance contained within Planning Policy Statement 9.*

Members agreed to take enforcement action to cease the use of the land for residential occupation and to remove the mobile home and touring caravan from the land and reinstate the land to its former condition. The notice was served on 22 March 2010 with a 3 month time period with compliance. The applicant appealed the enforcement notice. The Inspector varied the enforcement notice to allow a 6 month period for compliance (decision issued 17 January 2011) .

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

PARISH COUNCIL – Object to the proposal. In addition the following comments should be noted.

- Is Mr Ridler still farming?
- Has the Environment Agency been consulted in reference to the composting lavatory facility;
- Are they genuine travellers? The applicants letter reference 21/10/0006 INV appears to contradict this assertion.

LANDSCAPE OFFICER – The proposals are out of character with the local landscape and contrary to EN12.

HIGHWAY AUTHORITY – The proposed development site lies outside of any Development Boundary Limits and is therefore distant from services and facilities. As a consequence, occupiers of the proposed development are likely to be dependant on their private vehicles. Such fostering of growth in the need to travel would be contrary to advice given in PPG13 and RPG10, and to the provisions of STR1 and STR6 of the Somerset and Exmoor National Park joint Structure Plan Review (adopted: April 2000).

Policy 36 of the Somerset and Exmoor National Park joint Structure Plan Review adopted: April 2000), relates to the provision of sites for Gypsies and other travelling people and that they should be made where the site is within reasonable distance of a settlement.

The site is located on Carriers Lane, Higher Poleshill, which is an unclassified/unnumbered highway and is subject to the national speed limit of 60mph although it is accepted that speeds will be lower than this due to the rural nature and alignment of the road. The access onto Carriers Lane is located on a bend and is considered sub-standard in terms of its construction (loose gravelled surface). However, visibility from the access is considered adequate due to the low approach speeds to negotiate the bend.

The access roads leading to the site are narrow, with very few passing places. There are no pedestrian footways or street lighting in the vicinity of the site, or for the journey from the site along Carriers Lane to Langford Budville until you arrive at the village itself.

The route from the site, along the highway to Langford Budville has been measured at 2.6km and RPG10 identifies maximum walking distances as 1km.

The facilities at Langford Budville are limited, due to its nature as a rural village. It has a public house, a primary school and a post box. However, it does not appear to have any local shopping facilities.

Given the above comments, the Highway Authority would recommend refusal based upon:

- The site is located outside the confines of any major settlement, and in an area that has very limited services and facilities. The development will increase the reliance on the private motorcar and foster a growth in the need to travel, contrary to advice given in PPG13 RPG10 and Policy 36 of the Somerset and Exmoor National Park Joint Structure Plan (Adopted April 2000), and S1 and S7 of the Taunton Deane Local Plan.
- The proposal is contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011 (Adopted April 2000) since the proposed development is likely to generate an increase in pedestrian traffic on a highway lacking adequate footways with consequent additional hazards to all users of the highway.

NATURAL ENGLAND – Comments as follows:

Protected Species

The proposed location of the mobile homes lies immediately adjacent to Langford Heathfield SSSI. The SSSI comprises of a variety of semi-natural habitats which include natural marshy grassland and ancient woodland which is owned and managed by Somerset Wildlife Trust. We understand the only access to the mobile homes is via a track which runs from the north of the site through the SSSI. In order to avoid unnecessary disturbance within the SSSI, this track should ideally be used occasionally for farm access or SSSI management activities, there is concern that a permanent access will generate more traffic and parking of cars on the SSSI.

Biodiversity

The SSSI has a rich and diverse fauna. Many species of resident breeding butterfly have been recorded on the site including Marsh Fritillary, High Brown Fritillary, Wood White and Brown Hairstreak. There is a range of invertebrates of interest including the very local Beetles: *Mordellistena abdominalis* and *Ischnomera caerulea*, and the Hornet *Vespa crabro*. Four species of reptile of present: Adder, Grass Snake, Slow-Worm and Common Lizard. Palmate Newts and common frogs occur in the ponds. The SSSI is an ideal habitat for bats and they will forage on the invertebrates as they commute along the vegetation corridors. Bats, are a European protected species, and some species of bat are very sensitive to light spill.

No impact assessment or ecological survey has been submitted. This was previously raised with regards to application 21/09/0021 because of the lack of information on how this development will impact upon protected species like bats or on the SSSI. Until this information is available Natural England maintains its objection to the siting of two mobile homes adjacent to Langford Heathfield SSSI. This application contains insufficient information to satisfy us that there would be no adverse effects on the features of interest for which the SSSI is notified.

SOMERSET WILDLIFE TRUST – Somerset Wildlife Trust owns and manages Langford Heathfield Site of Special Scientific Interest (SSSI) – 91 hectares, to achieve favourable conservation status of the mosaic ancient woodland and neutral marshy grassland. The site is of national importance for biodiversity, and is particularly notable for the assemblages of butterflies and nationally scarce beetles.

The potential impact for the proposed development to impact indirectly upon the SSSI is of concern, and SWT is unclear why, given comments in relation to preceding applications, this particular area of land has once more been selected for the siting of the mobile homes. The landowner commands an extensive holding and there are certainly other areas on the farm away from the boundary of the SSSI which be less ecologically sensitive.

No ecological surveys have been submitted to inform the planning process. There is a high likelihood that this site lies on the foraging flight path of bat species commuting to and from Langford Heathfield, and therefore it is important that impacts from lighting are given consideration. The applicant states that a bat survey will be undertaken in June, this must be made available to officers' to give due consideration to the potential impacts to protected species. The local planning authority also has a duty to give consideration to the conservation of biodiversity,

and so thought needs to be given as to whether or not sufficient information has been made available to facilitate this.

At present there is no survey data to demonstrate potential impacts to the SSSI and protected species, or to identify potential enhancements to biodiversity that this development could generate, and therefore SWT is unable to present detailed comments at this stage.

Vehicular parking has now been addressed, and the 2 spaces are noted. SWT wishes to state clearly that although the site is accessed via a public right of way through the SSSI, this right of access certainly does not confer permission to park: parking on the right of way is strictly prohibited, and the parking of vehicles along the verge, on the SSSI, would equally be illegal.

If subsequently the Planning Authority is minded to permit this application, the Trust would strongly request the usage of the site be limited to the named applicants for the period of one year in order to allow their son to complete his formal education uninterrupted. Setting a precedent for permanent development for long-term occupation of this site has implications for the successful conservation of the SSSI. Conditions relating to the maintenance of the integrity of the SSSI should also be set. The Trust's sole concern is the avoidance of direct and indirect impacts to the county's rich biodiversity and special wildlife places.

NATURE CONSERVATION OFFICER - A baseline ecological assessment report by Ecologic, dated July 2011, has now been submitted in support of the application. However, I do not consider it provides adequate data.

The report contains no protected species surveys but rather the surveyor's assessment of the impact of the development on local biodiversity based on his site visit in December 2010 (not an ideal time of year for wildlife surveying).

I expected the report to contain bat activity surveys, but the surveyor explains why these were not carried out. I agree his justification to a certain extent, as the development has been in place for some time and so it is difficult to determine a baseline ecological state for the site. I consider however that bat surveys would have informed the application more fully. We do not know how significantly bats have already been impacted on by the development.

The proposal does not appear to offer any biodiversity gain in accordance with PPS9.

To conclude the report is lacking in survey data.

On balance I consider, however that this small scale development is unlikely to have a significant impact on the adjoining reserve if the restrictions (on outside lighting, ownership of pets and the use of the vehicular track) in the ecological report are strictly adhered to.

DRAINAGE OFFICER - Details of the compost lavatory should be agreed with TDBC Environmental Health Division.

Representations

19 letters of OBJECTION have been received. Summary of objections:

- Repeat application – previously refused;
- It makes no difference whether they are farm workers or travellers;
- Applicants are not travellers – they have just decided they would like to live there (for past three years);
- in respect of educational requirements the applicant's child is not resident;
- Site is located outside any development area; - reliance on the use of the motorcar;
- Proximity and impact on SSSI (flora and fauna) from vehicles, noise, pets, light pollution;
- No proper access, water supply or drainage;
- As they help the local farm it is logical that they should be located closer to the farmhouse; (or an established traveller site e.g. Altona Park at Hillfarrance).
- Application is intended to further delay removal from the site;
- Out of character and adverse impact on the natural beauty of the area – cars parked in field, unattractive and untidy caravans, home made toilet, outdoor bathtub etc;
- Work on the farm has been undertaken by somebody else;
- Impact on the access track – already boggy;
- Emotive representations need to be balanced against the impacts of development;
- Discrepancies in the application form – i.e. trees and hedgerows surround the site;
- Precedent of further greenfield sites been used for travellers sites;
- Impact on the residential amenity of nearby dwellings;
- No refuse collection is undertaken by the local authority.
- Local highway network is unsuitable;
- Ecological Report carried out at wrong time of year and includes inaccuracies;
- No supporting evidence for 'potential bat flight routes'.

3 letters of SUPPORT have been received, including a character reference from the Herb Trading Co, which endorses the applicant's sustainable, low impact lifestyle. The other two letters make the following points:

- If the Authority moves the applicants on will they find them an alternative plot to stay on permanently? Or offer them a Council house close to their work and Poleshill Farm;
- Applicant's are unable to move into the farm house as it is still the farmers home;
- If they relocate to another part of the farm will they be left in peace?;
- Applicants are not parking on a SSSI; it is dog walkers;
- Applicants use very low power solar lighting to reduce impact on bats. They omit less light than neighbours property, which also joins the SSSI;
- Applicants' are being penalised because of their way of life; does this contravene their human rights to live their own life the way they please or should we be telling people how to live their lives?;
- Does anybody understand what a travellers' life is all about? It is living as environmentally as possible and being self-sufficient. Not always travelling the country;
- Work on the farm is 24/7 when you have cows in calf;

- Tidy site;
- Applicants are respectful of the land and wildlife;
- Self sufficient – use solar energy for power;
- Site is not easily visible from the road or nearby paths;

One letter of comment has been submitted, which whilst acknowledging the tidiness of the site puts forward the request for the site to be limited for a certain time period and personal to the occupants. It also questions that it would be more logical to re-site closer to the farm complex as this would be less intrusive for nearby occupants and the SSSI.

PLANNING POLICIES

PPS1 - Delivering Sustainable Development,
 PPS7 - Sustainable Development in Rural Areas,
 PPS9 - Biodiversity and Geological Conservation,
 PPG13 - Transport,
 STR1 - Sustainable Development,
 STR6 - Development Outside Towns, Rural Centres and Villages,
 S&ENPP1 - S&ENP - Nature Conservation,
 S&ENPP5 - S&ENP - Landscape Character,
 S&ENPP36 - S&ENP - Sites for Gypsies and Travelling People,
 S&ENPP39 - S&ENP - Transport and Development,
 S&ENPP42 - S&ENP - Walking,
 S&ENPP44 - S&ENP - Cycling,
 S&ENPP48 - S&ENP - Access and Parking,
 S&ENPP49 - S&ENP - Transport Requirements of New Development,
 S1 - TDBCLP - General Requirements,
 S2 - TDBCLP - Design,
 S7 - TDBCLP - Outside Settlement,
 H14 - TDBCLP - Gypsy and Traveller Sites,
 EN2 - TDBCLP - Sites of Special Scientific Interest,
 EN6 - TDBCLP -Protection of Trees, Woodlands, Orchards & Hedgerows,
 EN12 - TDBCLP - Landscape Character Areas,
 M4 - TDBCLP - Residential Parking Provision,
 M5 - TDBCLP - Cycling,

DETERMINING ISSUES AND CONSIDERATIONS

It is considered that the main planning considerations are:

- (i) Assessment of the impact of the development on wildlife and the adjacent SSSI designation;
- (ii) Sustainability;
- (iii) Policy & Traveller Status

Ecology

The site is located adjacent to Langford Heathfield Site of Special Interest (SSSI). Natural England has formally objected to the development on the grounds of insufficient information in order to assess the impact of the development on the ecology of the SSSI, including bats which are a European Protected Species. The

Council's Nature Conservation Officer and Somerset Wildlife Trust concur with Natural England. The Planning Authority has a statutory requirement to have regard to the impact on protected species and their habitat when determining planning applications.

The applicant has now submitted a baseline ecological assessment. The report concludes that the development as proposed and as observed is not expected to have significant impacts on the biodiversity of the site or neighbouring areas. The report recommends that given the setting of the site, next to a SSSI, restrictions on the activities permitted on the site may be appropriate. This could include restrictions on the level and extent of lighting and the number of vehicles using the site.

The ecological report has now been subject to consultation and Members will be informed on the responses through the update sheet.

Sustainability

This site is located outside of any defined settlement limit as defined by the Taunton Deane Local Plan. The site is distant from local services, employment and amenities, and is poorly served by public transport. The occupiers of the site would be dependant on the private motorcar and foster growth in the need to travel. The access roads leading to the site are narrow, with very few passing places. There are no pedestrian footways or street lighting in the vicinity of the site, or for the journey from the site along Carriers Lane to Langford Budville.

Policy

Local Plan Policy H14, as an exception to the general countryside protection policies, sets out the criteria for gypsy and travellers sites outside of settlements, in appropriate locations. However, the site is considered to be unsustainable in terms of its remote location. In addition, there is concern to the impact on wildlife and the adjacent SSSI. The landscape officer has also raised an objection on the impact of the development on the visual amenities of the area.

Notwithstanding the above, it is considered that the case for 'traveller status' has not been demonstrated.

Circular 01/2006 (Planning for Gypsy and Traveller Caravan Sites), defines 'gypsy and travellers' for the purposes of planning as:

'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such.'

To fulfil this definition, it follows that the applicant/family must have lived a nomadic way of life (for economic or employment purposes), either currently or in the past, and have only stopped due to health/education needs. This should be demonstrated through the planning application – providing travel for work patterns over a reasonable length of time i.e. the last ten years. No evidence has been submitted. The case for traveller status has not therefore been clearly demonstrated.

Alternative siting

Information has been submitted that one of the applicants is now running the farm (with some assistance) whilst the farmer recovers from illness. It would be for the applicant to submit an application for a 'temporary' permission - if it was demonstrated that there was a 'functional' requirement for an agricultural worker to reside on the farm holding and that the farm was a viable concern.

However, this would only be considered on a 'temporary' basis and the accommodation would need to be re-sited to be in close proximity to the main farm complex e.g within 'sight and sound'.

Enforcement

The proposal is considered to be unacceptable. It is therefore recommended that enforcement action be taken to cease the use of land for residential purposes, removal of the caravans, and restoring the land to its previous condition immediately before occupation. A previous enforcement notice has been served on the applicants' who previously sought permission for an agricultural worker. The notice was varied by the Inspector, at appeal, to allow a six month period for compliance. This compliance period expired on July 17 2011. Should Members agree with the Committee recommendation, a 3 month time period for compliance with the extant enforcement notice is considered reasonable.

Conclusion

The site is located outside of the defined settlement limits, poorly served by public transport, and remote from services, employment and amenities. It is not considered that the submission has demonstrated that the occupiers would accord with the definition of a 'traveller' as defined in the Circular. Therefore, the use should be considered against the general countryside protection policies.

It is concluded that the development is an inappropriate form of development for the reasons set out in this report and enforcement action be taken.

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

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