

35/14/0022

MR & MRS S OWEN

**CHANGE OF USE OF LAND FOR SITING OF MOBILE HOME AND ERECTION OF STORAGE/UTILITY BUILDING AT APPELY ORCHARD FARM, STAWLEY (RETENTION OF WORKS ALREADY UNDERTAKEN)**

Location: APPELY ORCHARD FARM, BISHOPS HILL, STAWLEY,  
WELLINGTON, TA21 0HH

Grid Reference: 307400.121121 Retention of Building/Works etc.

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

**RECOMMENDED CONDITION(S) (if applicable)**

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1. The mobile home hereby permitted on the site shall be entirely removed and the land restored to its former condition on or before the 31<sup>st</sup> January 2018.

Reason: The mobile home is sited in a location where the local planning authority would not normally grant consent for a residential unit and so the applicant is hereby given a limited time to establish and develop a viable unit which could justify a further planning application for a more permanent residential structure. The Local Planning Authority needs to ensure in the meanwhile that the use of the site as hereby approved does not become permanent as this would be in conflict with policies CP4, SP1 and DM2 of the adopted Taunton Deane Core Strategy, and would not safeguard the appearance of the area in accordance with policy CP8 of the adopted Taunton Deane Core Strategy.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A1) DrNo 200-01 Location and Site Plans  
(A1) DrNo 200-02 Survey Plan  
(A1) DrNo 200-03 Floor Plan and Elevations  
(A1) DrNo 200-04 Floor Plan and Elevations

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The occupation of the temporary mobile home shall be limited to a person solely or mainly working within the surrounding agricultural unit known as

Apply Orchard Farm, and to any resident dependants. Should the business operations at the site cease then the occupation of the mobile home shall cease and the said unit shall be removed from the site.

Reason: The site lies in area where new development is generally restricted to that for which there is a proven need and it has been shown that there is a need for the development to serve this particular enterprise in accordance with Guidance in the former Planning Policy Statement 7.

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 does not harm the character and appearance of the area in accordance with Policy DM1 of the Taunton Deane Core Strategy.

5. Unless within 12 months from the date of this decision at least one of the planning permissions for a poultry unit approved on ..... under either LPA reference 35/14/0023, 35/14/0024 or 35/14/0025 has been implemented and become operational, the use of the site for a mobile home and its ancillary storage/utility building shall cease and all structures referred to in this permission shall be permanently removed from the site.

Reason: Residential accommodation is only authorised at this site on the basis that it is required for the functional need of the poultry enterprise. This is in accordance with the National Planning Policy Framework and policy DM2 of the adopted Taunton Deane Core Strategy. The mobile home and ancillary storage/utility building is granted for a temporary period to allow the need to be established. It is therefore essential that the poultry unit is established at the earliest possible opportunity because the Local Planning Authority does not intend to extend the life of this permission.

#### Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy

Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.

2. It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the developer should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation.

## **PROPOSAL**

This application seeks a temporary dwelling to serve the existing farm business and the proposed expansion into poultry farming. It will provide accommodation for the applicants who will be responsible for the day to day running of the farm business. The applicant maintains that their presence on site is necessary for them to undertake and provide the necessary 24 hour supervision of housed livestock in particular. It is claimed that a full time and all year round role cannot be provided from off the site. The application seeks planning permission for a temporary period of 3 years whilst the applicant proves the functional need for more permanent accommodation. This is standard procedure at Taunton Deane for such matters.

The applicants currently reside on the farm holding in a static caravan which has been placed at the site in advance of obtaining the necessary planning authorisation. The existing accommodation includes a small separate timber storage/utility room. There is ongoing enforcement action regarding the unauthorised occupation of the mobile home.

## **SITE DESCRIPTION AND HISTORY**

The mobile home, for which a temporary permission of 3 years is sought is located in the western corner of the agricultural holding at Appley Orchard Farm. The farm is situated on fields lying to the east of the Hamlet of Appley. The land is served by one vehicular access off the public highway where a large splayed entrance has been laid. This was granted permission in February 2010. The entrance is laid to compacted hard core with the access track being of compacted stone. The track turns sharply west at the bottom of the hill and leads onto a stone yard area where the mobile home is proposed.

The applicant has owned and farmed the surrounding 20 acre holding since 2009, being primarily used for the grazing of sheep and the cutting of hay. During this time, the applicants have placed a mobile home on the site in order for them to live on the holding. This has not been authorised in planning law and is currently the subject of enforcement investigation.

The applicants are currently in the process of developing a free range broiler (poultry meat) enterprise which is the subject of further applications for permission on this current agenda. The case is being made for an 'on-site' presence, but it is clear that the required farm workers dwelling would lie in open rural countryside where there is

a presumption in local planning policy terms against such developments. On this basis, and in accordance with the standard procedures of the Borough Council in such matters, the applicant has made an application for a temporary home which, if granted, would allow him time to prove the viability of the poultry business and the need for a new dwelling pending a further application for a permanent residence.

The mobile home the subject of this application is already on site and includes an adjacent ancillary timber building used as a utility room and domestic storage area. It is currently occupied by the applicant and his family. It is a standard mobile home that would have been brought on to the site in two halves and pieced together to form a home under the Caravan Sites and Control of Development Act 1960 (as amended). This meets the definition of temporary. It is located at the end of the approved driveway on flat land, but below the level of the public highway from which the access is situated. It is located in the west of the site, close to the existing authorised barn and the west of the field where it is proposed to establish the poultry business. The mobile home is screened by a new bund immediately adjacent on its southern side, which will provide some privacy for the occupants and some assimilation into the landscape. That said, the mobile home is only really visible from the bottom of the driveway anyway.

Temporary accommodation provided whilst a new venture is established and financial viability proven, is usually granted by Taunton Deane Borough Council LPA (if acceptable) for a period of 3 years maximum.

With regard to planning history, the following applications are relevant –

35/09/0008AGN - Prior approval granted for the erection of the storage building and formation of the track (Feb 2010).

35/14/0015 - Change of use of land for the storage of felled timber at Appley Orchard Farm (retention of works already undertaken), first presented to members last year and deferred for further investigation on noise issues. Now an application also on this committee.

35/14/0021 - Extension to agricultural building, concurrent application also on this agenda.

35/14/0023 - formation of poultry building with associated infrastructure (unit 1), concurrent application also on this agenda.

35/14/0024 - formation of poultry building with associated infrastructure (unit 2), concurrent application also on this agenda.

35/14/0025 - formation of poultry building with associated infrastructure (unit 3), concurrent application also on this agenda.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*STAWLEY PARISH COUNCIL* – Comment as follows:

This application to retain works already undertaken on site (which are the subject of current enforcement action) is directly related to plans for an extension to an existing agricultural building and three new poultry buildings which are the subject of separate planning applications: 35/14/0021; 35/14/0023; 35/14/0024; and 35/14/0025. In view of the number, size and inter-relationship of these applications, and because no pre-application community consultation has been undertaken by the applicant, Stawley Parish Council has convened an Extraordinary Meeting of the Parish Council on Monday 19th January 2015 to consider all these related planning applications.

The Parish Council will respond formally to the applications once it has had a chance to hear the views of the local community and consider the proposals as a whole at this Extraordinary Meeting. We intend to submit our comments by Friday 23<sup>rd</sup> January at the latest before the close of public consultation on the three poultry shed applications.

As the site is located in open countryside the creation of a new dwelling is clearly contrary to Taunton Deane Borough Council's adopted Core Strategy (policy DM2) and therefore application 35/14/0022 could only be approved on a temporary basis if permission is granted for the poultry farm. "We therefore suggest that the Borough Council should consider all these five applications, and preferably also 35/14/0015, together.

*SCC - TRANSPORT DEVELOPMENT GROUP* – Comment as follows:

The site lies on Bishops Hill a classified un-numbered highway that links Ashbrittle with Greenham where the national speed limit applies. Speeds are likely to be approaching this level since the road is relatively straight and forward visibility is good. The site has a well formed access and there is sufficient visibility for emerging traffic. If the applicant is farming the land, travelling to the site each day might mean more trips associated with the site than if they are living on the land. It is unlikely that any highway safety issues will arise as a result of this activity. Parking is unlikely to be an issue and the applicant is probably able to set aside sufficient space for parking. It should also be possible to set aside room for turning so that vehicles can enter and leave the site in forward gear.

In light of the above, the Highway Authority raises no objection to this application.

*LANDSCAPE* - The mobile home and storage shed are well set back from the road and so cannot be easily viewed. Some planting on the existing bund adjacent to the mobile home and tree planting on the southern hedge boundary would help to assimilate the structures into the landscape further.

*BIODIVERSITY* - No observations to make on this application.

## **Representations**

The consultation period for this application has expired now, and only 1 public representation has been received. It is neither an objection nor a support but simply makes the point that the application is of no merit on its own and should not be considered without first considering the other applications and the enforcement notice at the site.

## **PLANNING POLICIES**

NPPF - National Planning Policy Framework,  
SP1 - TD CORE STRATEGY SUSTAINABLE DEVELOPMENT LOCATIONS,  
SP4 - TD CORE STRATEGY REALISING THE VISION FOR THE RURAL AREAS,  
DM2 - TD CORE STRATEGY - DEV,  
CP8 - CP 8 ENVIRONMENT,  
DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,

## **LOCAL FINANCE CONSIDERATIONS**

A contribution under the C.I.L. Regulations will be payable on any subsequently approved (and built) permanent agricultural workers dwelling. Temporary dwellings are not liable for CIL.

The same principle would apply to the New Homes Bonus.

## **DETERMINING ISSUES AND CONSIDERATIONS**

### Policy considerations

Paragraph 55 of the National Planning Policy Framework (NPPF) makes clear that housing in rural areas should be located where it would enhance or maintain the vitality of rural communities. This is seen as being the most sustainable form of rural development. The NPPF clarifies that LPA's should avoid new isolated homes in the countryside unless there are special circumstances, which are defined as:-

1. The essential need for a rural worker to live at or near their place of work in the countryside;
2. Where the development is enabling or securing the future of a valuable heritage asset;
3. Where the development would re-use redundant or disused buildings and lead to an enhancement in the immediate setting; or
4. Where there is an exceptional quality or innovative nature to the design of the dwelling

Points 2, 3 and 4 above do not apply in this instance. This just leaves special circumstance no. 1. The applicant has argued the case for living at their place of work, and has made it clear why the chosen position is the most favourable and suitable location.

The Taunton Deane Core Strategy (adopted September 2012) has a number of relevant policies which need to be taken into account. Firstly, the vision for the rural areas (Vision 4) states that growth must support and enhance existing sustainable

rural centres and it must protect and enhance the local character and distinctiveness of the built and natural environment. This is supported by Core Policy CP8 (Environment) which seeks the conservation and enhancement of the natural and historic environment. It makes clear that unallocated land outside of settlement boundaries will be protected with development strictly controlled in order to conserve the environmental assets and open character of the area.

Policy DM2 of the Core Strategy covers development in the countryside and conversion of existing buildings and replacement dwellings. However, since Annex A to PPS7 contained a set of criteria to assess need, viability and other related matters for new dwellings, a specific policy in respect of new dwellings was not included in the Core Strategy. In March 2012 the Coalition Government replaced the existing suite of Planning Policy Statements and Guidance with a single document, the National Planning Policy Framework (NPPF). This theoretically created a policy vacuum making the Core Strategy silent on new rural worker dwellings. The Plan does not provide criteria for new rural worker dwellings and the NPPF states that where a Plan is silent permission should be granted unless “*specific policies in this framework indicate development should be restricted*”. Assessment can and should only be judged on an objective basis and in all instances, need and viability would remain a requirement. The methodology in PPS7 Annex A is well established, is understood and has formed the basis for case law. Although no longer part of government policy it would be logical to continue to base decisions on the criteria contained in Annex A at least until/if Government provides clarification on this matter. The LDF Steering Group of the Borough Council agreed in July 2012 that the Council would continue to follow the criteria specified in PPS 7 Annex A when considering proposals for ‘rural worker dwellings’ in the countryside. Taunton Deane Borough Council has now officially agreed the former Annex A of PPS7 as technical guidance.

Paragraph 3 of the former Annex A sets out the criteria that applications for a new permanent dwelling should be assessed against. New dwellings should only be allowed to support existing agricultural activities on well-established units, and so long as:

- (i) there is a clearly established *existing* functional need;
- (ii) the need relates to a *full-time* worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;
- (iii) the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so;
- (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- (v) other planning requirements, e.g. in relation to access, or impact on the countryside, are satisfied.

The applicant has argued that there is a need to have ‘on-site’ accommodation for the farm worker in order to ensure a presence and speed of response in terms of animal husbandry. The LPA should be supporting this proposal if it is in association with a genuine provision of an existing *bona fide* rural business.

When considering the requirements of Annex A, part (iii), it is clear that the poultry

enterprise and the agricultural activity concerned have not been established at this location for at least three years (having been profitable for at least one of them), as the need arises from a venture into a new area of farming. The proposed use cannot therefore be said to have been established for the requisite 3 years. This is usually overcome by the LPA allowing temporary residential accommodation for three years whilst the new venture became established and can be demonstrated to be financially viable. This is exactly the purpose of this application. The fact that the mobile home is already in place is somewhat irrelevant because mobile home is either acceptable whilst they prove their case for the need for more permanent accommodation in accordance with the Council's policy, or it is not.

Annex A makes clear that if a new dwelling is essential to support a new farming activity, whether on a newly-created agricultural unit or an established one, it should normally, for the first three years, be provided by a caravan, a wooden structure which can be easily dismantled, or other temporary accommodation. It should satisfy the following criteria:

- (i)** clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);
- (ii)** functional need (see paragraph 4 of this Annex);
- (iii)** clear evidence that the proposed enterprise has been planned on a sound financial basis;
- (iv)** the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- (v)** other normal planning requirements, eg on siting and access, are satisfied.

If the above evidence is not submitted for approval within or very shortly after the three year period, or if the information submitted does not prove the case to the satisfaction of the LPA, then the LPA may decide not to authorise any subsequent application for a more permanent dwelling and may take action to get any temporary structures removed. Conditions have been drafted to ensure that this is made clear to the applicant and that the LPA can take the requisite action if it proves necessary.

### Landscape considerations

The area is identified in the 'Taunton Deane Landscape Character assessment' document of 2011 as being within landscape character type 15a (Brendon Fringes). The need to protect the high quality of Taunton Deane's natural environment is stated in the adopted Core Strategy by policy CP8 (Environment) – which states that the Council will conserve and enhance the natural environment and will not permit development proposals that would harm these interests. This is supported by policy DM1 (d) which states that development will be required to demonstrate that, taking account of any mitigation measures proposed, the appearance and character of the landscape would not be unacceptably harmed. It is the view of the Landscape Officer that the proposal is acceptable if it includes some additional planting. The Agent has confirmed that he is happy to make this change to the scheme.

### Visual appearance and the temporary nature of the unit proposed

The mobile home has been in situ for some time now and so it is easy to assess the visual impact it has. It is not in fact visible from any public vantage point or from any

nearby property, because it is located down in a dip, is well screened from view by boundary hedging and trees, and is not unduly tall. In addition, it is entirely screened by the approved barn from the direction of the residential properties in Appley, around the Globe Inn. There are no Public Rights of Way or footpaths in the vicinity from which the new extension could be seen. Therefore, no one or any interest will suffer any form of visual detriment as a result of this proposed extension.

The Landscape Officer has suggested some additional planting that would further bolster its screening. Thus, there are no issues with detriment to visual amenity and the proposal is acceptable on this ground.

### Highways, access and parking

The Highway Authority has no objection to this proposal. The Highways Officer makes the point that the site has a well formed access and there is sufficient visibility for emerging traffic. He also points out that if the applicant is farming the land, travelling to the site each day might mean more trips associated with the site than if they were living on the land. He also makes clear that it is unlikely that any highway safety issues will arise as a result of this activity. Parking is thought unlikely to be an issue as the applicant is able to set aside sufficient space for parking. It is also possible to set aside room for turning so that vehicles can enter and leave the site in forward gear. There are therefore no grounds for objecting to this proposal on the basis of highways or transportation issues.

### Conclusions

Officers are clear that the LPA should be supporting any substantiated case for the establishment or diversification of a genuine rural business. The case officer is of the opinion that the applicant has demonstrated that the new enterprise would benefit from, indeed 'need', a new dwelling to accompany it. In accordance with the Council's standard procedures and national guidance, the LPA will only give temporary permission for the dwelling, until the viability of the new venture had been proven. Every effort has been made to ensure that the proposed mobile home is temporary, and it is certainly classed as such in law. It is acknowledged that there is a workload associated with the business as proposed and it that it would be appropriate for the proper functioning of that business for a worker to live in the immediate vicinity. Although the site proposed, indeed the new agricultural venture, is in open countryside, the impact can be mitigated through careful use of landscaping. The structure proposed by this application is in any event only temporary, and more robust consideration can be given to any permanent dwelling if it transpires to be necessary. It is therefore felt to be appropriate to recommend approval, but for a temporary period of 3 years only.

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

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