

Officer Report On Planning Application: 16/02150/DPO

Proposal :	Application to discharge Section 106 agreement 02/00896/FUL (Agricultural tie) dated 18th December 2002.
Site Address:	Southlands Marsh Lane South Cheriton
Parish:	Horsington
BLACKMOOR VALE Ward (SSDC Member)	Cllr Tim Inglefield Cllr William Wallace
Recommending Case Officer:	Lee Walton Tel: (01935) 462324 Email: lee.walton@southsomerset.gov.uk
Target date :	29th June 2016
Applicant :	Mr S Hitchman
Agent: (no agent if blank)	Greenslade Taylor Hunt 1 High Street Chard Somerset TA20 1QF
Application Type :	Non PS1 and PS2 return applications

REASON FOR REFERRAL TO COMMITTEE

This application is referred to the committee at the request of the Ward Member(s) with the agreement of the Area Chairman to enable the local concerns to be fully debated.

SITE DESCRIPTION AND PROPOSAL





This application seeks the discharge of a Section 106 agreement dated 18 December 2002 that accompanies planning permission ref: 02/00896/FUL for the erection of an agricultural worker's dwelling. The obligation restricts any sale, lease or other disposal of the dwelling or the adjacent land (a large agricultural field sits between) on which are located various agricultural buildings and yard area.

The application was considered concurrently with application ref: 16/02160/DPO that has been approved and sought a similar release of land although this was undeveloped land tied to the same agricultural dwelling that is linked to the current application.

RELEVANT HISTORY

16/02160/DPO - Application to discharge section 106 agreement 950451 (Poultry buildings) dated 16 November 1995 (as modified on 28 June 2010) - Approved.

02/00896/FUL - The erection of an agricultural workers dwelling - approved.

Prior to 1997 various agricultural applications were submitted.

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the NPPF states that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

For the purposes of determining current applications the local planning authority considers that the adopted development plan comprises the policies of the South Somerset Local Plan 2006 2028 (adopted March 2015).

Policies of the South Somerset Local Plan (2006-2028):
SD1 - Sustainable Development
HG9 - Housing for Agricultural and Related Workers

National Planning Policy Framework:
Part 1 - Building a strong, competitive economy
Part 3 - Supporting a prosperous rural economy
Decision Taking (Planning Conditions and Obligations)

Planning Practice Guidance - Use of Obligations

CONSULTATIONS

Horsington Parish Council - rejects the proposal for the following reason:
The initial reason for the planning consent was to serve the business which is still in existence. There is no evidence provided to suggest that the requirement for an agricultural workers dwelling is no longer required. (OFFICER Note: the agricultural worker's occupancy condition remains in place.)

REPRESENTATIONS

A site notice was posted at the site. There have been no responses received.

CONSIDERATIONS

This application seeks the discharge of the non-fragmentation legal agreement which ties the farmhouse known as Southland Farm to the associated farm holding that includes agricultural structures and yard areas. An accompanying application for similar that links the farmhouse with open agricultural land more recently was permitted ref: 16/02160/DPO.

The Section 106 agreement was imposed as part of the original permission for the farmhouse with the aim of trying to secure the long-term viability of the holding and the relevancy of the new agricultural workers dwelling to the holding. At the time of the application (2002) it was common place to impose such non-fragmentation restrictions and this was supported by the relevant planning policy of that time. Policy has since changed however with the introduction of the NPPF and the Council's new local plan (adopted March 2015), neither of which support the use of planning obligations in this way on the basis that they are not usually considered to be necessary, fair or reasonable to make such developments acceptable.

Condition 3 of planning permission ref:02/00896/FUL restricts the occupation of the farmhouse to "a person solely or mainly working, or last working in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants", and so the agricultural tie attached to the property will remain in force through this condition should the legal agreement be discharged. There is no evidence to suggest that the removal of this non-fragmentation agreement will lead to the holding becoming less viable.

It is considered that there are no exceptional circumstances that over-ride current planning policy requirements relating to legal obligations and therefore there can be no justification to insist on the retention of this non-fragmentation legal agreement. Local concerns include that the land involves built form as distinct from non-developed agricultural land and inevitably one day having been separated there would be pressure for a new dwelling from which to manage the built form and that this is a distinctly different proposition to the separation of open land from the 'managing' dwelling. Notwithstanding, the issue must be whether the separation results in an amenity concern and in this case removed from the adjacent built form amenity is

not considered an issue. With regard to concerns that in the long term there would be pressures arising for a new dwelling to serve the agricultural built form in the event the site is sold off separately to the currently tied dwelling it can only be said that there is no automatic requirement for a house in this location for which an essential need would have to be proven at the time.

RECOMMENDATION

To allow the discharge of Section 106 Agreement dated 18 December 2002 made between South Somerset District Council and Mr and Mrs S Hitchman, Mrs I J B Black and Mr R N Macassey.

Informatives:

01. A copy of this decision will be sent to the Councils Land Charges Department and Legal Department so that they can remove the restriction from their records. A copy of this certificate should be retained and kept with the deeds of the property.