

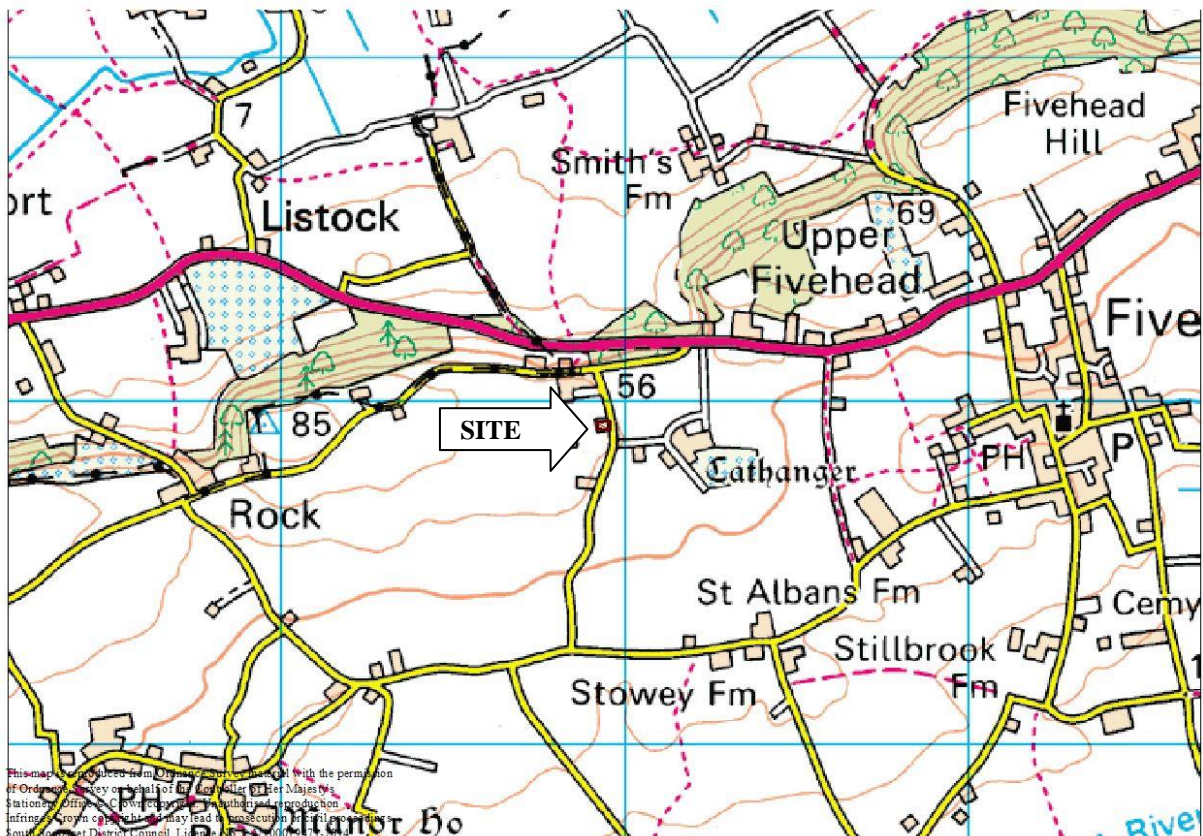
## Officer Report On Planning Application: 14/02962/S73A

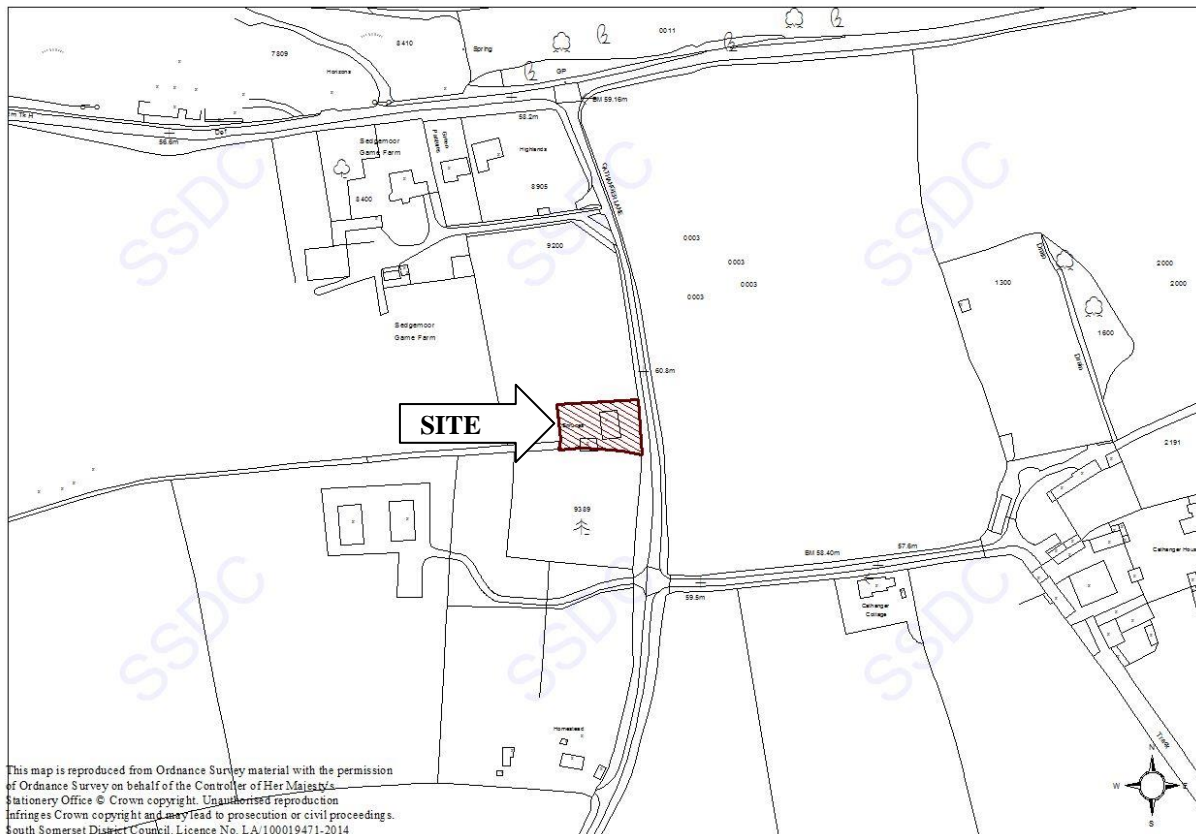
<b>Proposal :</b>	Section 73A application to remove condition 4 of planning approval 96540 dated 09/08/1973 (Agricultural occupancy condition) (GR:333944/122928)
<b>Site Address:</b>	Spruces, Cathanger Lane, Fivehead.
<b>Parish:</b>	Fivehead
<b>ISLEMOOR Ward (SSDC Member)</b>	Cllr Sue Steele
<b>Recommending Case Officer:</b>	John Millar Tel: (01935) 462465 Email: john.millar@southsomerset.gov.uk
<b>Target date :</b>	20th August 2014
<b>Applicant :</b>	Mr Shane Newis
<b>Agent: (no agent if blank)</b>	
<b>Application Type :</b>	Minor Dwellings 1-9 site less than 1ha

### REASON FOR REFERRAL TO COMMITTEE

This application is referred to committee at request of the Ward Member with the agreement of the Area Chairman to enable the merits of the proposal to be fully debated by Members.

### SITE DESCRIPTION AND PROPOSAL





The application property is a detached bungalow located on Cathanger Lane in a rural setting outside of any defined development areas. It was built in the 1970s, following the granting of planning permission on the basis that the property would be occupied by an agricultural worker. A restrictive planning condition is included on outline planning permission 96540, limiting the occupation to persons employed full-time locally in agriculture or in forestry. The property is sited within a generous plot and includes garden area to the front and rear and a parking area and detached garage on the eastern side of the dwelling, the latter set behind the property's rear elevation. The property is constructed of reconstructed stone under a concrete tiled roof with openings of white UPVC. A lean-to conservatory structure is attached to the property's eastern flank. The site is surrounded by open land with the nearest built form being livestock buildings located to the south west and, at some distance to the north, dwellings and Sedgemoor Game Farm. Planning permission was granted in 2012 for a modest single storey extension.

This application is made to remove condition 4 (agricultural occupancy condition) of planning permission 96540, approved in August 1973, to allow the continued occupation of the property without needing to comply with the existing occupancy restrictions.

## HISTORY

12/044230/FUL: Erection of a single storey bedroom extension - Permitted with conditions.

05/00620/COL: The continued use of land and dwelling without agricultural tying condition (96540) dated 9/8/73 - Refused.

04/02625/COL: The continued use of land and dwelling without compliance with agricultural tying condition (96540) dated 9/8/73 - Refused.

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

For the purposes of determining current applications the Local Planning Authority considers that the relevant policy framework is provided by the National Planning Policy Framework and the saved policies of the South Somerset Local Plan 2006.

### **Relevant Development Plan Documents**

South Somerset Local Plan 2006:

ST3 - Development Areas

ST5 - General Principles of Development

ST6 - The Quality of Development

EC3 - Landscape Character

HG15 - Agricultural and Forestry Dwellings

HG16 - Agricultural and Forestry Dwellings (Removal of Occupancy Conditions)

### **Policy-related Material Considerations**

National Planning Policy Framework (March 2012):

Chapter 3 - Supporting a Prosperous Rural Economy

Chapter 4 - Promoting Sustainable Transport

Chapter 6 - Delivering a Wide Choice of High Quality Homes

Chapter 7 - Requiring Good Design

Chapter 11 - Conserving and Enhancing the Natural Environment

## **CONSULTATIONS**

**Parish Council:** No objections to the removal of the occupancy condition. The Parish Council are of the opinion that the applicant has made every effort to remain in agricultural employment. It is also considered that there is no viable agricultural use for the house and that there is no longer a need for it to be tied to serve the needs of the local farming community.

**County Highway Authority:** No observations.

## **REPRESENTATIONS**

Five letters have been received from local residents in regard to this application. Four raise objections to the removal of the agricultural occupancy condition and one supports the proposal.

The main points raised by the objectors are as follows:

- The property was should remain only for occupation by an agricultural worker. Agricultural occupancy conditions should not be removed from this or any other property.
- Removal of the agricultural occupancy condition will deny other families or younger generations in the local farming area, who are disadvantaged by employment in

agriculture, the chance of owning their own home.

- Removal of the occupancy condition will potentially allow the applicant to profit from any sale of the property, having bought it at a preferential lower cost.

The following points have been raised by the supporter:

- 'Spruces' was built under the agricultural tie system in connection with 'Sedgemoor Game Farm', however it is not considered that a game farm is classed as agriculture so the property has never been linked to an agricultural use.
- One of the contributors has referred to a need for agricultural housing in Fivehead, however no survey has been carried out to demonstrate this need. There are only six farms based in Fivehead, of which only three are large enough to require extra full-time staff and these already have housing on site. Most seasonal work is carried by migrant workers using caravans on the farms.
- It is stated that agriculture is a large employer in Fivehead, however it is suggested that this is incorrect with very few people employed as workers on farms.
- The applicants are decent and hard-working people bringing up their two children and holding jobs to meet their needs. They should be supported by the people of the village and the District Council in order to resolve an out-dated planning restriction that serves no useful purpose.

## CONSIDERATIONS

### Principle of Development

The property was approved as an agricultural worker's dwelling following the grant of planning permission in the 1970s and is restricted as such by an agricultural occupancy condition (condition 4 of planning permission 96540). Condition 4 states: *"The occupation of the dwelling shall be limited to persons employed or last employed full-time locally in agriculture as defined by section 290 of the Town and Country Planning Act, 1971, or in forestry and the dependents of such persons"*. The application is made to remove condition 4, thereby allowing the property to be occupied without complying with the occupancy condition.

The property is located in an isolated location, remote from key local services and as such residential development in this location would be viewed as unsustainable and therefore contrary to the aims and objections of saved Local Plan policies and the provisions of the National Planning Policy Framework (NPPF), other than for the essential need identified, in the form of an agricultural worker's dwelling. While local and national planning policies have changed since the dwelling was granted planning permission, the fundamental need to appropriately justify dwellings in open countryside remains. In this case, the need to identify an essential need for a rural worker to live permanently at or near their places of work in the countryside is contained within Chapter 6 of the NPPF (paragraph 55) and saved policy HG15 of the South Somerset Local Plan.

In considering applications to remove agricultural (or other rural) occupancy conditions, it is necessary to provide appropriate justification and evidence to prove that there is no longer a need for the restriction to remain in place. This would usually require a realistic assessment of the continuing need for the dwelling for occupants solely, mainly or last working in agriculture in the area as a whole, and not just the needs of the particular holding. The applicant will have to demonstrate that there is no need for the agriculturally restricted dwelling in the area and as such no longer serves its original purpose in providing for an essential local need. Saved Local plan policy HG16 states:

*"Proposals for the removal of agricultural or forestry occupancy conditions will only be permitted where:*

- 1. The restricted occupancy dwelling is not needed to meet the needs of agricultural or forestry business in the area as a whole and not just the particular relevant holding.*
- 2. The property concerned has been appropriately marketed for a reasonable period of time, taking into account resale price, the condition of the dwelling and the likely price which an agricultural/forestry worker could pay for the actual value of the property.*

In this case, the applicant states that they were employed locally as a farm manager when the property was purchased nine years ago, however was made unemployed four years later. It is advised that efforts have been made to find other employment in agriculture, however this has been unsuccessful and other efforts to start a business have not been sufficiently profitable to be considered as a main source of income. As such, the applicant has been employed as a driver, not in agriculture, and is therefore in breach of the agricultural occupancy condition.

The applicant has indicated that that they are settled at the property and have children attending local schools. Furthermore, they have recently had the property extended and have no intention of moving or selling the house. Beyond this, no other justification or evidence has been provided in respect to whether there is a need for an agriculturally restricted dwelling in the area.

Four local residents have objected to the application on the basis that the property should remain available for agricultural workers, however the Parish Council and an adjoining rural business owner support the application on the basis that there is no local demand for an agricultural worker's dwelling. The supporting contributor has gone further and suggested that no survey has been carried out to demonstrate that there is a need. While it is possible that there may be no demand locally, the onus is on the applicant to demonstrate this, not the other way round. As the property has not been appropriately marketed and no supporting evidence provided in regard to whether there is indeed a local demand or not, Planning Officers have no choice but to recommend refusal. It is therefore considered that the proposed removal of condition 4 is unacceptable as it has not been appropriately demonstrated that there is no longer a need for such a dwelling, which would not have been granted planning permission but for the identified special need.

### **Other Issues**

There are considered to be no other detrimental issues as a result of the proposed development. Consideration has been given to impact on residential amenity, highway safety and local landscape character, however these are considered to be unaffected.

### **RECOMMENDATION**

Refuse.

### **FOR THE FOLLOWING REASON:**

01. The proposed removal of condition 4 of planning permission 96540 is deemed to be unacceptable as it has not been sufficiently demonstrated that the agriculturally restricted dwelling hereby referred to as 'Spruces', is no longer needed to meet the

needs of agriculture or forestry locally. In addition, no marketing has been carried out in order to determine the need for agricultural workers dwellings in the area. The proposal is therefore contrary to saved policies ST3 and HG16 of the South Somerset Local Plan 2006 and the provisions of chapter 6 and the core planning principles of the National Planning Policy Framework.

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