

Officer Report On Planning Application: 17/01157/S73A

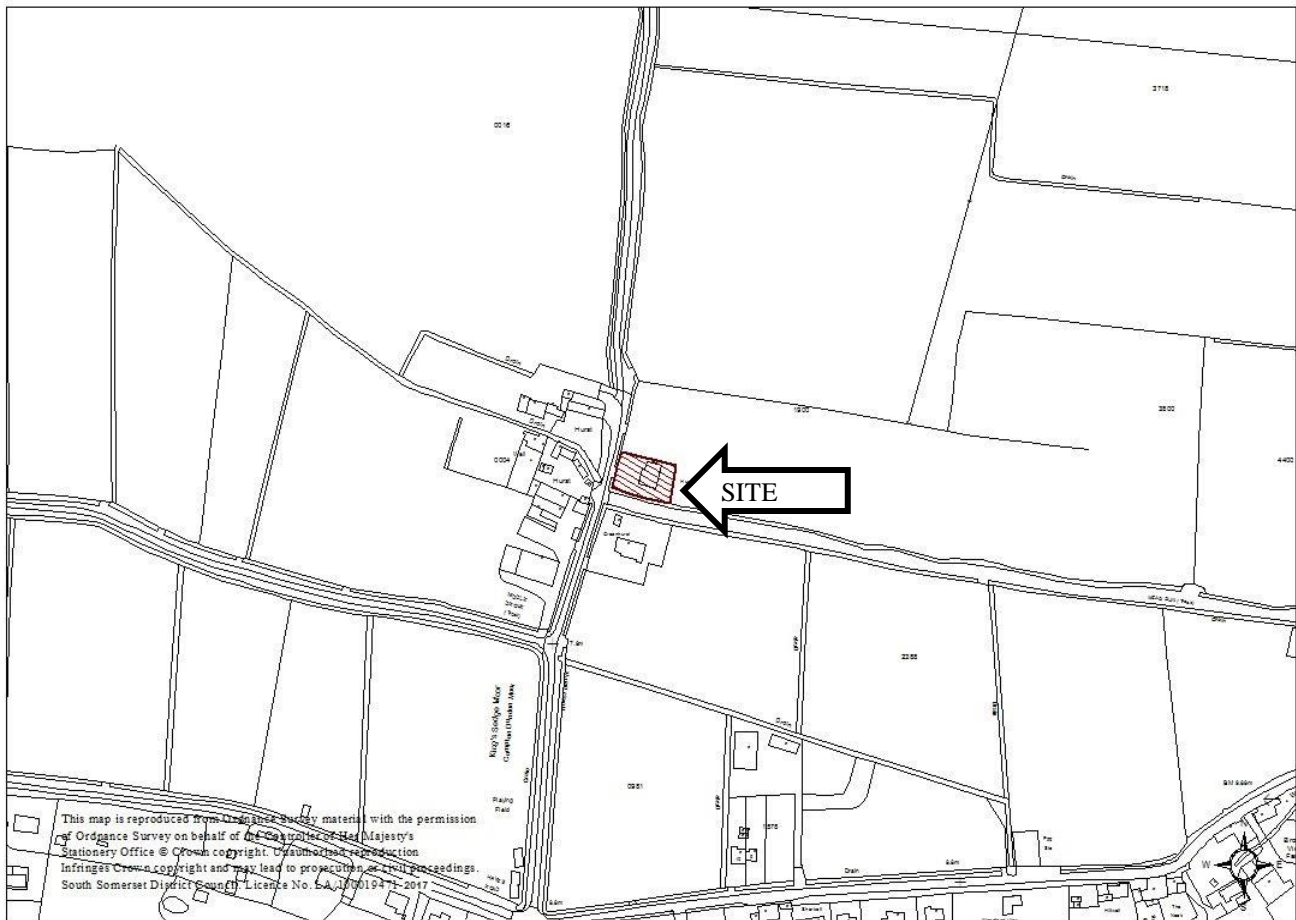
Proposal :	Section S73A application to remove condition 7 (agricultural occupancy) of planning approval application 820342
Site Address:	Hurst Lea, Hurst Drove, Compton Dundon.
Parish:	Compton Dundon
WESSEX Ward (SSDC Members)	Cllr Stephen Page Cllr Dean Ruddle
Recommending Case Officer:	Nicholas Head Tel: (01935) 462167 Email: nick.head@southsomerset.gov.uk
Target date :	8th May 2017
Applicant :	Mr & Mrs Bowles
Agent: (no agent if blank)	Mr Clive Miller, Sanderley Studio, Kennel Lane, Langport TA10 9SB
Application Type :	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL TO COMMITTEE

The report is referred to Committee at the request of a Ward Member, for a full discussion of the implications of a tie on the existing (listed) farmhouse and other relevant issues.

SITE DESCRIPTION AND PROPOSAL





The site is located on the east side of Hurst Drive. On the opposite side of the Drive is the farmyard of Hurst Farm, including its farmhouse which is a Grade 2 listed building. To the south of the site is a detached dwellinghouse. The property is a single storey dwelling, originally erected as a farm worker's dwelling for use by Hurst Farm.

Application is made for removal of condition 7 of the original planning permission (i.e. for the lifting of the agricultural tie). As compensation for this, the application proposes to 'transfer' the tie to the existing farmhouse, a Grade 2 listed building.

HISTORY

820342 - The erection of a bungalow - permitted with conditions, including an agricultural occupancy condition (number 7):

The occupation of the dwelling shall be limited to persons employed or last employed full-time locally in agriculture, as defined in Section 290 of the Town and Country Planning Act 1971, or in forestry, and to the dependants of such persons.

POLICY

The South Somerset Local Plan (2006 - 2028) was adopted on the 5th March 2015. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and Section 70(2) of the Town and Country Planning Act 1990 (as amended), the adopted local plan now forms part of the

development plan. As such, decisions on the award of planning permission should be made in accordance with this development plan, unless material considerations indicate otherwise. Legislation and national policy are clear that the starting point for decision-making is the development plan, where development that accords with an up-to-date local plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

Policies of the South Somerset Local Plan (2006 - 2028)

SD1 Sustainable Development
HG10 Removal of Agricultural and Other Occupancy Conditions
EQ2 General Development
EQ3 Historic Environment

National Planning Policy Framework (March 2012):

National Planning Practice Guidance - Department of Communities and Local Government, 2014.

Policy-related Material Considerations

Somerset County Council Parking Strategy, March 2012 and September 2013.
Somerset County Council Highways Standing Advice, June 2013.

CONSULTATIONS

Parish Council: No objection.

Highways Authority: Standing advice applies.

SSDC Environmental Protection: *In this instance due to the very close proximity of the property to the farm complex I would have to recommend refusal. The reason being due to odours, flies, etc., affecting the amenity of the property concerned from general farming practices*

REPRESENTATIONS

One letter of support has been received, expressing the view that there is no reason not to approve this change.

CONSIDERATIONS

Background

Hurst Lea is a bungalow that was approved on the basis of a need for an agricultural worker to be present on the site, as assessed in 1982. The owners have now decided that they do not need the bungalow for this purpose, and wish to sell it on the open market. It is proposed to remove the tie, and place a new tie on the farmhouse (located centrally within the farmyard) which is a listed building.

Policy HG10 of the Local Plan

There is no provision within planning law to 'transfer' a tie. Under S73 of the Act, the applicant has applied to remove the relevant condition, and the intention is to replace this restriction on the farmhouse by way of a legal agreement.

Policy HG10 of the Local Plan sets out the necessary requirements for removal of an occupancy condition:

Planning permission for the removal of a restrictive occupancy condition for an agricultural, forestry or other similar worker on a dwelling will only be given where it can be evidentially shown:

- *That there is no longer a continued need for the property on the holding or for the business;*
- *There is no long term need for a dwelling with restricted occupancy to serve local need in the locality;*
- *The property has been marketed locally for an appropriate period (minimum 18 months) at an appropriate price and evidence of marketing is demonstrated.*

The applicant has not supplied a farm appraisal, and has not demonstrated that the functional need for an agricultural worker no longer exists; and it has also not been demonstrated that there is no local need for such a dwelling. The property has not been marketed. Consequently, the proposal does not comply with this policy.

Net Effect of Removing Tie

The applicant seeks to 'transfer' the tie to the farmhouse. The justification suggests that there would remain a single agricultural worker's dwelling available in the area - i.e. no change in the present level of supply.

However, this argument is flawed in various respects. First, the farmhouse is effectively only useful for that purpose, given its proximity to livestock and the farmyard, as well as its essential function within the business. The resulting standard of amenity would limit the general attractiveness of the house as an open-market dwelling. Most importantly, the farmhouse is integral to the operation of the farming business, and is unlikely to be put to any other use while the business is in operation.

Secondly, because there is no immediate question about the likely future use of the farmhouse, the removal of the tie from the bungalow does, effectively, remove one dwelling from the supply of agricultural worker's dwellings. This loss affects not only the potential of the farming business to grow and change in the future, but also reduces the availability of the accommodation to other possible workers in the area. This net loss is contrary to the aims of the Local Plan as set out in Policy HG10, which seeks to ensure that such dwellings remain available unless it can be demonstrated that they are not needed.

Listed Building

The Farmhouse is listed, Grade 2. It is a modest stone building under a thatched roof. An agricultural worker's dwelling is required to be commensurate with both the demonstrable needs of the holding and the affordability of such accommodation to an average agricultural worker. Although the submitted valuations are noted, it is common cause that a listed building is costly in the long-term to maintain, including specialist works (especially the thatching which is likely to have a lifespan of around 25 years) and higher insurance costs.

A further consideration relates to the ongoing ability of the holding to afford maintenance of the listed building, and secure its retention in good order as a heritage asset. Should the holding at any stage find itself unable to afford the maintenance, the tie would limit options, and restrict the pool of potential purchasers.

These concerns point to potential harm to the listed building in the long term, resulting from the possibility of inadequate maintenance. This in turn could create pressure to lift the tie. It is not considered appropriate to place an agricultural tie on a listed building for these reasons.

Impact on Residential Amenity

The bungalow is in relatively close proximity to a working farmyard. It is not therefore ideal as a dwellinghouse unrelated to farming activity. Perception of nuisance from flies, odour and noise could lead future owners to seek measures to restrict farming activity, as raised by the Council's Environmental Protection Officer.

Conclusion

The proposal would result in the loss of a unit of agricultural workers' accommodation in the area, as well as a loss to the farming unit. The building to which the tie is proposed to be 'transferred' is a farmhouse, closely associated with the working farmyard and a listed building. The proposal does not comply with the requirements of Policy HG10 of the Local Plan in that:

- the appropriate level of accommodation for the holding over time has not been adequately demonstrated;
- no marketing or other attempt has been made to assess the likely need for an agricultural worker's dwelling in the area.

The applicant's proposal to 'transfer' the tie is not considered to meet the requirements of the policy in this instance, as the building to which the tie is to be added is already, by its nature and location, an agricultural dwelling. Furthermore, it is a listed building, which brings various constraints inappropriate for a dwelling suitable for a farmworker on relatively low wages. Placing such a tie onto a listed building raises the further concern about the wellbeing of the heritage asset into the future, given the significantly higher maintenance costs associated with keeping such an asset in good order (e.g. re-roofing a thatched roof to acceptable standards). Furthermore, the standard of amenity for occupants not related to the farming enterprise could be poor, given the proximity to the farmyard.

The proposal is recommended for refusal.

S.106 AGREEMENT

The proposal is based on the signing of a supplemental legal agreement to amend the existing legal agreement (S52 Agreement) (dealt with separately under application 17/01288/DPO). In the event of an approval of this application, such a fresh agreement would have to be entered into between the applicant and the Council, to place a new tie on the farmhouse.

RECOMMENDATION

Refuse.

FOR THE FOLLOWING REASONS:

01. The proposal would result in the unacceptable loss of a unit of residential accommodation serving the needs of an agricultural worker. The transfer of the tie to a building already in use for this purpose, and only suitable for that purpose by reason of its proximity to the farmyard, is not considered to compensate for that loss. The proposal is contrary to the requirements of Policy HG10 of the South Somerset Local Plan for the following reasons:

- the appropriate level of accommodation for the holding has not been adequately demonstrated by way of supporting evidence of the future plans for the farming business;
- no marketing or other attempt has been made to assess the likely need for an agricultural

worker's dwelling in the area.

02. The proposal seeks to place a tie on a listed building, restricting its future use to occupation by a farm worker. This is considered an unacceptable arrangement that would:
- fail to meet the requirements and level of affordability of a farm worker, given the special long-term maintenance requirements and costs of such maintenance; and
 - potentially prejudice the standard of maintenance and long-term protection of the listed building.

In these respects, the proposal is considered to be contrary to the aims of the NPPF and Policies HG9, HG10 and EQ3 of the South Somerset Local Plan.

03. The proposal would result in the creation of a unit of open market accommodation unsuitable for occupation by anyone other than an agricultural worker owing to the proximity to a working farmyard housing livestock. Such proximity to noise, odours and flies is prejudicial to the establishment of a good standard of residential amenity, contrary to the aims of the aims of the NPPF and Policy EQ2 of the South Somerset Local Plan.