

Officer Report On Planning Application: 17/04176/FUL

Proposal:	Siting of 1 No. mobile home for agricultural worker (temporary dwelling) and alterations to access (Part Retrospective).
Site Address:	Lavender Keepers Great Pit Lane Sandford Orcas
Parish:	Rimpton
CAMELOT Ward (SSDC Member)	Cllr Mike Lewis
Recommending Case Officer:	Dominic Heath-Coleman Tel: 01935 462643 Email: dominic.heath-coleman@southsomerset.gov.uk
Target date:	3rd January 2018
Applicant:	Mr J Hull
Agent: (no agent if blank)	Mrs Janet Montgomery Brimble Lea & Partners Wessex House High Street Gillingham SP8 4AG
Application Type:	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL TO COMMITTEE

The application is before the committee, at the request of the ward member and with the agreement of the area chair, in order to allow the finely balanced arguments and the parish council support to be publicly debated.

SITE DESCRIPTION AND PROPOSAL





This application seeks permission for the erection of a temporary agricultural worker's dwelling in the form of a mobile home. The site consists of an area of agricultural land, forming an L-shaped field. The field contains a large agricultural building. The building is served by a hardcore track leading from an existing vehicular access from the public highway. The access has been significantly widened without the necessary permission, and a large area of hardstanding established around the agricultural building. An approval of the current scheme would effectively regularise these operations. The site is steeply sloping in places and predominantly laid to grass. The site is located outside of the development area as defined by the local plan. The site is surrounded by open countryside.

Plans show the provision of a mobile home immediately to the east of the existing agricultural building.

The application represents the resubmission of a similar scheme refused and dismissed at appeal in 2016. The current application represents a change to the proposed agricultural enterprise from a maximum of 12 breeding sows to a maximum of 30 breeding sows.

HISTORY

15/05159/FUL - Erection of temporary dwelling - Application refused 19/01/2016 - Appeal dismissed 13/10/2016

15/04685/FUL - Erection of temporary dwelling - Application withdrawn 27/10/2015

15/02666/AGN - Notification of intent to erect a steel framed agricultural building for housing equipment and feed and laying of hardcore track - Permission not required 22/06/2015.

15/02042/AGN - Notification of intent to erect a steel framed agricultural building for housing equipment and feed and laying of hardcore track - Prior approval required 11/06/2015

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the NPPF state 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)

Policy SD1 - Sustainable Development
Policy SS1 - Settlement Strategy
Policy SS5 - Delivering New Housing Growth
Policy EQ2 - General Development
Policy TA5 - Transport Impact of New Development
Policy TA6 - Parking Standards
Policy HG9 - Housing for Agricultural and Related Workers

National Planning Policy Framework

Chapter 6 - Delivering a Wide Choice of High Quality Homes
Chapter 7 - Requiring Good Design

CONSULTATIONS

Parish Council - Recommends approval

County Highway Authority - Refers to standing advice

SSDC Highways Consultant - States that the impact of the development on the local highway network would be low. He notes that the access has been improved and that the previous details of the access have been approved and accepted previously.

SSDC Landscape Architect - Notes the importance of landscape character impacts in national and local planning policy. He goes on to state:

"The site lays within the parish of Rimpton, which is characterised by a concentrated village core, beyond which is a dispersed pattern of settlement that is primarily agricultural, with built form laying alongside the road network. This site is located at the periphery of the parish, distant from the village core, and laying toward the head of the escarpment that overlooks the village and its vale context to the north. It is also removed from Sandford Orcas village to the east, which similarly occupies a valley location. As such, the site is not typical of domestic occupation, nor rural residential character, which is primarily village-based; occupying a valley context; and located adjacent the local highway network. In being in a location that is at variance with this local character, and introducing a residential use to a distinctly rural area, I consider the siting to fail to comply with local plan policy EQ2 in that it fails to conserve and enhance the character of the district."

External Agricultural Consultant - Provides full assessment of the functional and financial case for an agricultural worker's dwelling on site. The report provides the following conclusions:

"From the information supplied there is a clear will and intention to create a viable agricultural

business at Lavender Keepers, however essential need and justification for a dwelling has to be judged based on the nature and extent of the business concerned. The functional issues relating to outdoor pigs compared to pigs housed all year round in buildings are somewhat different and in this instance, given the lack of convincing evidence, I am minded to say that the functional test is not satisfied. Furthermore, this opinion is further enhanced by the scale of the activity which does not amount to a full time labour unit.

The financial information appears to show the potential for a viable business however without any price sensitivity given the reliance on a premium product and market the figures appear a little optimistic. However, given the level of potential profit, I am satisfied at this stage that the financial test is met.

Taking the above into consideration it will be the decision of the Council whether they would deem it appropriate to give temporary permission in this instance to allow the applicant to show he can develop the business as hoped and planned. However, given the nature and scale of the proposal is such that the functional argument is questioned, it is my opinion that that the presented case for a dwelling based on essential need is not justified and therefore I cannot support the application."

On the receipt of additional information, she provided further comments as follows:

"Mr Williams states that 30 sows is probably the smallest which warrants an one site presence; my conclusions regarding functional need is that it is a marginal case at best. Whilst Mr Williams has had success in other cases, my professional opinion does not match his in this instance. With an average of approximately one sow farrowing per week, this is a limited number of housed livestock on site at any one time.

I raised legitimate concerns regarding the land area available to the business, and I remain concerned that the essential need is marginal at best, and this stance is not unreasonable in my professional opinion. As my report concluded, it is for the Council to decide if they are willing to allow a temporary dwelling in this instance."

And

"In relation to labour, I note Mr Williams comments that 0.86 standard man days is indicative of someone primarily employed in agriculture. I do not dispute this, as it is not unreasonable to suggest that someone who spends more than half their employment time doing a certain activity could be deemed to primarily employed in that activity, however this does not automatically correlate to the essential need for someone to be on site at all times.

The Inspector noted in the 2016 appeal a University of Nottingham study, and Mr Williams and the applicant have again referred to this study in their recent comments. I am not in a position to dispute the overall reliability of the underlying data provided in the study, however I note that it is now approximately 10 years out of date, and was an analysis of information collated between 2004 and 2008. It may well be the most recent publication of this nature, however it is historic and represents average labour data during the survey period.

I note that Mr Williams is questioning the use of John Nix Farm Management Pocketbook (Nix), however he was content himself to use the information contained in it when he wrote his original appraisal supporting this application. I would suggest that Nix is the most regularly referred to publication, along side the ABC costing book when making an analysis of labour requirements. These publications are updated regularly (Nix one a year ABC twice a year) and are well know, accepted, used and respected publications. Whilst there may be other sources of information in the public domain, they all have some degree of sensitivity attached to them, whether this be the age of the data, or sample sizes etc.

This is a very finely balanced case. It is accepted that a dwelling would benefit the applicant and his operation of the business. I however remain concerned that 30 sows is a low threshold for justification for someone to be on site at all times. Essentially there is one sow housed at any one point in time, and only 60 farrowing events per year. I understand that the previous Inspector considered that 3 days care was required, with 7 days care required per farrowing in a worst case scenario. Taking the proposed 30 sows, this would result in a requirement over 180 days and in a worst case scenario 420 days of care. Even in the worst case situation it is likely that there would only be 2 sows housed at any one time, and I query whether this is a sufficient level of stock to justify an essential need and therefore a dwelling.

As previously stated the appeal cases mentioned are not directly comparable, and whilst some may have resulted in permission, it is clear that in some instances similar concerns have been raised by other professionals."

And

"I have had a call from the applicant this morning in relation to the below. He feels I have not understood two aspects in relation to the case:

- 1) That the land he rents from two neighbours is all adjoining and therefore the stock will be on site*
- 2) That there is evidence from the authors of Nix suggesting that the farm business data is more accurate to his case.*

Point one has been addressed in previous comments, and I do not believe that there is anything further to add presently.

In relation to the second point, I note the email correspondence the applicant received from both Paul Wilson and Graham Redman. Both authors infer that the Farm Business data may be more appropriate, however neither comment on the fact that the data in the 2009 Study (referred to by the applicant) is now relatively out of date. The information contained in the ABC November 2017 edition, using up to date Farm Business data, suggests an implied herd size (sows) 68 to occupy one full time worker, and is said to include an allowance for overhead activities. The proposed stock numbers are below this level.

As the ABC commentary suggests, arriving at exact labour figures is not an exact science. Whilst there may be need for a full time worker in the business I feel that 30 sows is a low figure to justify full time accommodation on site."

SSDC Environmental Protection Unit - Recommends that an informative regarding landfill gas is added to any permission issued.

REPRESENTATIONS

One letter of support received from the occupier of a property in Rimpleton. Support is raised on the grounds that this is the type of agricultural business that the area needs and that there is a need for somebody to live on site in the interests of animal welfare and security. They argue that the applicant has a good record of doing things properly and the site is always kept clean and tidy.

CONSIDERATIONS

History and Principle of Development

The current built form on site, consisting of an agricultural building and a track, was achieved through the agricultural notification procedure in 2015. A similar application to the current scheme was

submitted and withdrawn in 2015, and then submitted and refused in 2016, before being dismissed at appeal. The new application proposes a change to the business plan to increase from 12 breeding sows to 30 breeding sows.

The site is outside of any development areas, in open countryside and remote from any services, facilities, or employment opportunities. As such, there is a presumption against residential development. However, paragraph 55 of the NPPF makes it clear that the essential need for a rural worker to live permanently at or near their place of work in the countryside would be an exceptional circumstance that could justify the provision of such a dwelling. Policy HG9 of the local plan states:

"A development proposal in the countryside to meet the accommodation needs of a full-time worker in agriculture, horticulture, forestry, equestrian activities or other business where a rural location is essential should demonstrate that:

- *There is a clearly established existing functional need;*
- *The enterprise is economically viable;*
- *Provision on-site (or in the immediate vicinity) is necessary for the operation of the business;*
- *No suitable accommodation exists (or could be made available) in established buildings on the site or in the immediate vicinity;*
- *It does not involve replacing a dwelling disposed of recently as general market housing;*
- *The dwelling is no larger than that required to meet the operational needs of the business;*
- *The siting and landscaping of the new dwelling minimises the impact upon the local landscape character and visual amenity of the countryside and ensures no adverse impact upon the integrity of nationally and internationally designated sites, such as AONB.*

Where a new dwelling is permitted, this will be the subject of a condition ensuring the occupation will be limited to a person solely or mainly working, or last working in the locality in agriculture, horticulture, forestry, equestrian activities or other rural business (or a surviving partner of such a person, and any resident dependents)."

The specific requirements of this policy are addressed in turn below.

- *There is a clearly established existing functional need;*

One of the reasons for refusal on the previous application was:

It has not been suitably justified that there is an essential need for a rural worker to live permanently at the site, where the introduction of residential use in this rural location would be at odds with local landscape character and distinctiveness. As such the case for the construction of a temporary dwelling is not sufficient to outweigh the aims of local and national planning policies that seek to restrict development in the countryside. The proposal is therefore contrary to policies SD1, SS1, SS2, HG9 and EQ2 of the South Somerset Local Plan (2006-2028) and to the aims and objectives of the National Planning Policy Framework.

At appeal, the inspector considered this element in great detail. He stated that *"Although previous appeal decisions have indicated a need for a fulltime worker on enterprises with around 30 sows, on the evidence before me I am satisfied that the need for a fulltime worker is demonstrated"*. However, whilst he was content that enterprise generates a need for a fulltime worker, he was not content that a functional need for this worker to live on site had been demonstrated. He accepted that it is essential for a worker to be present during farrowing events, but concluded that, with 12 sows, the number of days requiring round the clock attention would not lead to an essential need to live on-site at all times. He did not accept that any of the other activities put forwards by the applicant justified a round the clock presence on site.

As part of the current application, the applicant has argued that with an increase of breeding sows from 12 to 30, there will be a commensurate increase in the number of farrowing events, and therefore a more frequent need for a round the clock presence on site. The applicant's agricultural consultant and the Council's consultant have had much discussion about whether the proposed enterprise generates a requirement for a fulltime worker. However, taking the inspector's comments into account, it must be accepted by the Council that such a requirement exists. However, the Council's advisor considers that even with 30 breeding sows, whether the number of farrowings justifies a full time worker to live on site is marginal at best, and concludes that it is not sufficient. Even allowing for three days needed on site per farrowing, the proposed stock level generates a need for 180 days on site. Given that this is the only functional need to be on site, it is not accepted that this is sufficient to generate the need for a dwelling to be permanently sited. The applicant's consultant has referred to several appeal decisions in this regard. However, none appear to be directly comparable, as all include other elements to the agricultural business.

A further concern has been raised by the Council's consultant regarding the need for rented land to serve the holding, and whether such land would be readily available in the long term. The applicant's consultant has set out that 5.3ha (the amount of land in the applicant's ownership) will accommodate between 64 and 132 pigs. He has stated that 10.3ha (the amount of contiguous land currently available to the applicant included rented land) will accommodate between 123 and 257 pigs. The applicant's business plan means that there would be a maximum of 246 pigs on the holding at any one time. The rented land is therefore essential to the operation of the business set out by the applicant. The applicant has made it clear that there is no formal arrangement in place for the use of the neighbouring land, and that an informal arrangement exists between the applicant and the neighbouring farmer. The Council is not convinced that such an informal arrangement is sufficient to secure such a vital component of the business plan. Although the applicant's consultant has referred to various appeal decisions where the inspector has held that the use of rented land is acceptable, it is not clear that these cases are directly comparable. In this case, if the land was suddenly not available, it is not clear how the applicant would sustain 30 breeding sows, which is the basis of his argument for requiring accommodation on site. It is clear that the functional need for a dwelling on site is marginal at best and this issue of unsecured (but vital) land lends further weight to the council's concerns regarding the functional requirement for a worker's dwelling on site.

- *The enterprise is economically viable;*

The application is for a temporary permission, which, if allowed, would give the applicant the opportunity to attempt to demonstrate that the enterprise is economically viable. The external agricultural consultant has expressed some doubt as to the financial viability, but ultimately concluded that the business is potentially suitably profitable, and advised that this could be properly assessed with a temporary three year permission.

- *Provision on-site (or in the immediate vicinity) is necessary for the operation of the business;*

As discussed above, it is not considered that it has been demonstrated that accommodation on-site is necessary for the operation of the business.

- *No suitable accommodation exists (or could be made available) in established buildings on the site or in the immediate vicinity;*

The enterprise is very new and situated on a small holding of only 5.3 hectares. The only building on site is the single barn recently permitted under the agricultural notification procedure. As such, there is no suitable accommodation existing or that could be made available on site. As the holding is remote from the nearest villages there is no suitable accommodation in the immediate vicinity.

- *It does not involve replacing a dwelling disposed of recently as general market housing;*

The proposal does not involve replacing a dwelling disposed of recently as general market housing.

- *The dwelling is no larger than that required to meet the operational needs of the business;*

The proposed dwelling is a temporary mobile home of standard dimensions at this point. As such, it is no larger than that required to meet the operational needs of the business if a functional need for any sort of dwelling was established.

- *The siting and landscaping of the new dwelling minimises the impact upon the local landscape character and visual amenity of the countryside and ensures no adverse impact upon the integrity of nationally and internationally designated sites, such as AONB.*

The visual impacts of the scheme are discussed in more detail below. However, if the principle of a new dwelling to serve this holding could be established, then the proposal for a mobile home close to the existing built form on the site, does all that it could to minimise the impact upon the local landscape character and visual amenity of the countryside. There would be no adverse impact upon the integrity of any nationally and internationally designated sites.

It must therefore be concluded that a functional need for an agricultural worker's dwelling on site has not been established by the applicant, contrary to policy HG9 of the local plan, and, as such, there is no reason to depart from local and national policies seeking to prevent the building of new dwellings in unsustainable countryside locations such as this. The first reason for refusal on the previous permission has not been addressed.

Highways

The highway authority was consulted as to the impact of the scheme on the local highway network. They raised no objections to the scheme. The SSDC Highways consultant was also satisfied that the impacts of the proposal on the surrounding highways network would be less than severe.

Visual Amenity

The SSDC landscape architect was consulted as to the impact of the scheme on visual amenity. He noted that the parish of Rimpton is characterised by a concentrated village core, beyond which is a dispersed pattern of settlement that is primarily agricultural, with built form laying alongside the road network. He noted that the site is located at the periphery of the parish, distant from the village core, and laying toward the head of the escarpment that overlooks the village and its vale context to the north. He also noted that the site is removed from Sandford Orcas village to the east, which similarly occupies a valley location. As such, he concludes that the site is not typical of domestic occupation, nor rural residential character, which is primarily village-based; occupying a valley context; and located adjacent the local highway network. In being in a location that is at variance with this local character, and introducing a residential use to a distinctly rural area, he considers the siting to fail to comply with local plan policy EQ2 in that it fails to conserve and enhance the character of the district.

The above conclusions are on the basis that a new dwelling has not been justified in terms of the agricultural needs of the enterprise. If the need had been established it would be difficult to resist the application for landscape reasons in relation to the principle of residential occupation in this uncharacteristic location.

In regard to the previous application, the landscape architect also noted the proposals to widen the access, and create sight-lines and concluded that removal of lengths of this existing hedgerow would impact upon the local character, as would a wide, consolidated access, which would also be at variance with the objectives of LP policy EQ2. This concern formed the basis for the second reason for refusal, which was:

It is considered that the significant widening and consolidation of the original agricultural field access would be at odds with local character and distinctiveness, contrary to policy EQ2 of the South Somerset Local Plan and to the aims and objectives of the National Planning Policy Framework.

The inspector considered this aspect as part of the previous appeal and he concluded that *"this element of the proposal would accord with the design criteria of Policy EQ2 of the Local Plan to promote South Somerset's local distinctiveness and preserve the character and appearance of the district."* As such, it would be unreasonable to sustain this reason for refusal. The inspector reached this conclusion on the basis that control over specification of surface materials, gates and landscaping is retained through conditions on any permission issued. As such, it is considered reasonable to impose conditions to control these elements on any permission issued.

Residential Amenity

Due to the size and position of the proposed dwelling, and its remoteness from any neighbouring properties, it is not considered that there would be any significant adverse impact on residential amenity in compliance with policy EQ2 of the local plan.

Conclusion

The parish council and a neighbouring occupier have expressed support for the scheme. Whilst the parish's support of the applicant is noted, justification for new dwellings in countryside locations must be considered carefully. When such dwellings are justified on the basis that they are required to accommodate an agricultural worker, the local planning authority must be satisfied that the planned agricultural enterprise really does require a full time worker to live on site, and that the enterprise is based on a reasonable financial plan. Such care is necessary, not least to ensure the bar is not set too low, which could have implications across the district. In this case the proposed enterprise is based on the keeping of 30 breeding sows on a holding of 5.3 hectares. Based on all of the available data, and the advice of the Council's agricultural consultant, it is not considered that the functional requirement for a worker to live on site full-time has been established.

Therefore, notwithstanding the support of the parish council, the principle of a dwelling in this location is considered to be unacceptable and contrary to local plan policies SS1, SD1, and HG9, and the aims and objectives of the NPPF.

Furthermore, with no established agricultural need for a dwelling in this location, it is considered that introducing a residential use to the site would be uncharacteristic of this rural area and therefore contrary to policy EQ2 of the South Somerset Local Plan.

Accordingly the proposal is recommended for refusal.

RECOMMENDATION

Refuse for the following reason:

SUBJECT TO THE FOLLOWING:

01. It has not been suitably justified that there is an essential need for a rural worker to live permanently at the site, where the introduction of residential use in this rural location would be at odds with local landscape character and distinctiveness. As such the case for the construction of a temporary dwelling is not sufficient to outweigh the aims of local and national planning policies that seek to restrict development in the countryside. The proposal is therefore contrary to policies SD1, SS1, SS2, HG9 and EQ2 of the South Somerset Local Plan (2006-2028) and to the aims and objectives of the National Planning Policy Framework.

Informatives:

01. In accordance with paragraphs 186 and 187 of the NPPF the council, as local planning authority, takes a positive and proactive approach to development proposals focused on solutions. The council works with applicants/agents in a positive and proactive manner by;
- o offering a pre-application advice service, and
 - o as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions

In this case, the applicant/agent was advised that the proposal did not accord with the development plan and that there were no material planning considerations to outweigh these problems.
