

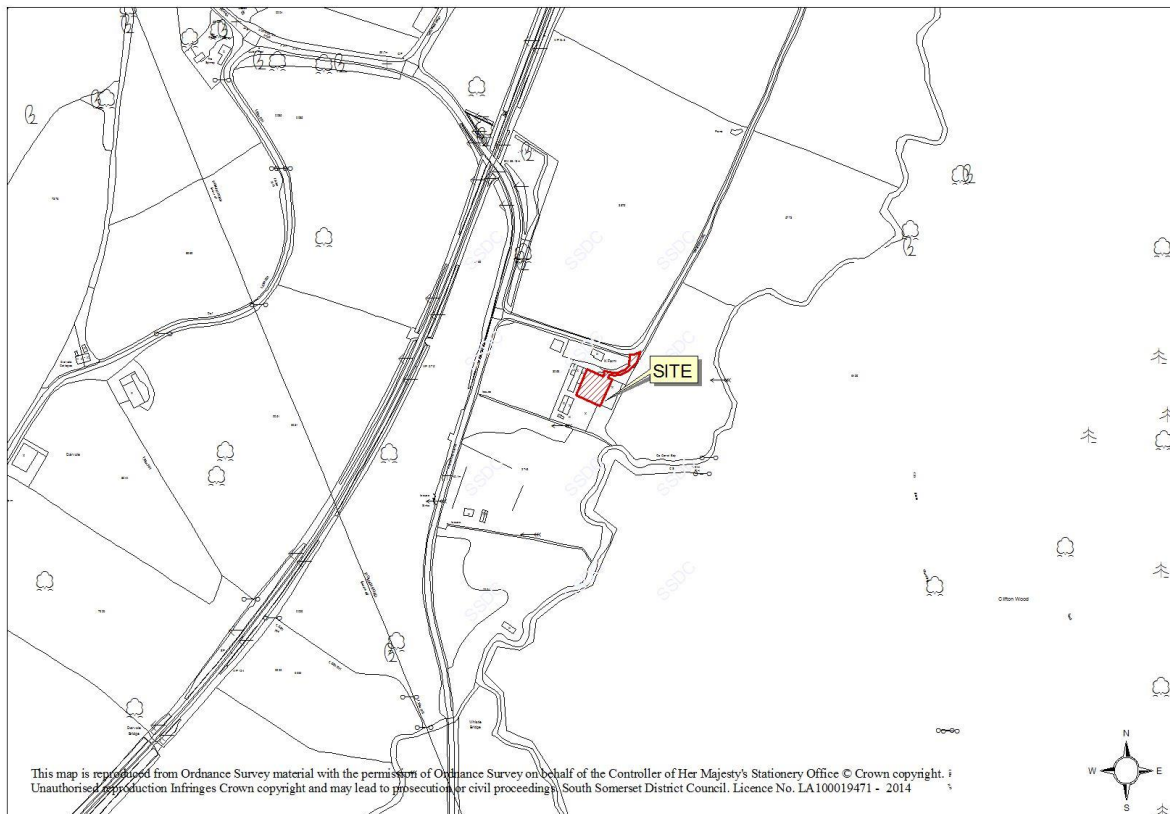
## Officer Report On Planning Application: 14/03761/OUT

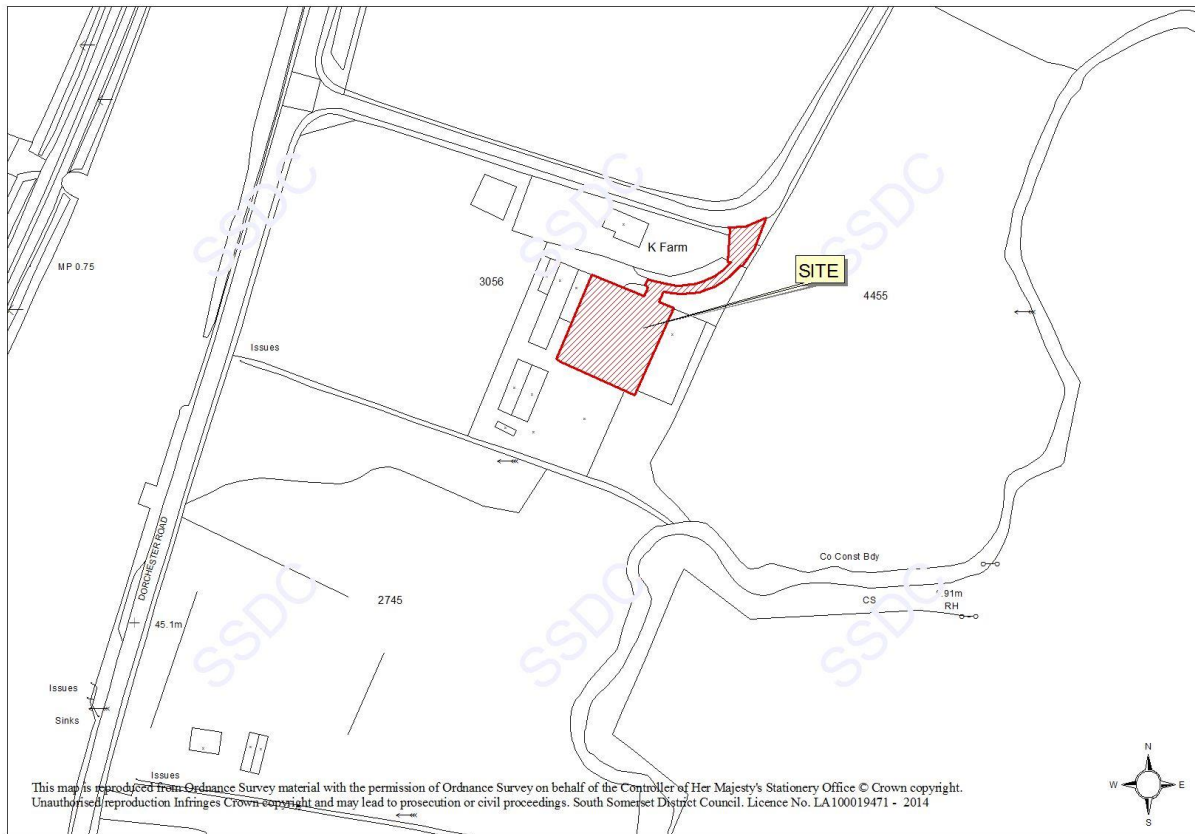
<b>Proposal :</b>	Outline application for the erection of an occupational dwelling in relation to kennel business (GR 356349/112589)
<b>Site Address:</b>	Land At K Farm Hoopers Lane Stoford
<b>Parish:</b>	Barwick
<b>COKER Ward (SSDC Member)</b>	Cllr G Seaton Cllr Cathy Bakewell
<b>Recommending Case Officer:</b>	Andrew Collins Tel: 01935 462276 Email: andrew.collins@southsomerset.gov.uk
<b>Target date :</b>	4th November 2014
<b>Applicant :</b>	Ms L Beddison
<b>Agent: (no agent if blank)</b>	Acorus Addlepool Business Centre Woodbury Road Clyst St George Exeter Devon EX3 0NR
<b>Application Type :</b>	Minor Dwellings 1-9 site less than 1ha

### 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 comments of the letters of support to be fully debated.

### Site Description and Proposal





The site is located some distance to the south of Stoford village at the junction of Hoopers Lane and the A37. A railway line runs close by to the west on the opposite side of the A37, and the River Yeo is close to the eastern edge of the site. The River Yeo also forms the boundary between Somerset and Dorset. A public footpath also runs along the eastern side of the site along the banks of the River Yeo. The site is currently being used as a dog kennels.

There is currently a dwelling on the site known as K Farm. This has an occupancy condition that includes agriculture, forestry or dog kennels.

This application seeks outline permission with all matters reserved for an additional dwelling for serve the dog kennel business.

To support the application an appraisal has been submitted by Acorus to justify this additional dwelling.

## HISTORY

07/03486/FUL - Replace existing barn with single storey purpose built kennel block containing 20 kennels - Application permitted with conditions - 30/01/2008

07/03409/S73 - Application to vary condition 4 of appeal decision 872306 dated 13th July 1988 (variation of agricultural occupancy to include occupational use in connection with dog kennelling business. - Application permitted with conditions - 19/10/2007

This had the following conditions imposed;

"01. The occupation of the dwelling hereby permitted shall be limited to a person solely or

*mainly employed, or last employed, in the locality in agriculture as defined in section 290 of the Town and Country Planning Act 1971, in forestry or dog kennelling, or a dependant of such a person residing with him or her, or a widow or widower of such a person."*

07/01823/FUL - Replace existing barn with single storey purpose built kennel block containing 20 kennels - Application Withdrawn - 11/06/2007

910749 - Change of use of barn to dog boarding kennels - Conditionally approved - 22/05/91

883026 - Reserved Matters (872306) Agricultural workers dwelling - Conditionally approved - 9/12/88

872306 - The erection of an agricultural worker's bungalow - Outline application refused - 11/12/87 - Allowed on appeal 13/7/88

## **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.

Saved policies of the South Somerset Local Plan (Adopted April 2006):

Policy ST5 - General Principles of Development

Policy ST6 - The Quality of Development

Policy HG15 - Agricultural and Forestry Dwellings

Policy EC3 - Landscape Character

National Guidance

National Planning Policy Framework

Achieving Sustainable Development - 3 Key Roles - Economic, Social and Environmental

Chapter 1 - Building a Strong Competitive Economy

Chapter 3 - Supporting a Prosperous Rural Economy

Chapter 4 - Promoting Sustainable Transport

Chapter 6 - Delivering a Wide Choice of High Quality Homes

*"55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as: -the essential need for a rural worker to live permanently at or near their place of work in the countryside;"*

Chapter 7 - Requiring Good Design

Other Relevant Considerations

Somerset Parking Strategy

Somerset Standing Advice

## CONSULTATIONS

BARWICK AND STOFORD PARISH COUNCIL - No comments received.

COUNTY HIGHWAY AUTHORITY - Standing advice applies.

COUNTY RIGHTS OF WAY - *"The proposed development will obstruct the right of way and a diversion will be necessary. The right of way will need to remain open and available until the (stopping up/diversion) Order has come into effect. Failure to comply with this request may result in the developer being prosecuted if the path is built on or otherwise interfered with. We would request to be consulted on the surface of any diverted public right of way."*

Reference is also made to the health and safety of walkers during construction and any improvements needed to the right of way.

DISTRICT RIGHTS OF WAY - *"Public footpath Y2/1 runs through the vehicular access to the site and then through old farm buildings and fences east of the proposed development site. The obstruction of the recorded definitive footpath was noted by my predecessor in March 1991 (following a complaint from the public), and again in May 1991 when the Planning app for the kennels was being considered.*

*In the late 1990's the permissive route to the east alongside the hedge was gated and signed through the Parish path partnership (P3) scheme with Barwick Parish Council.*

*I do not have any recorded complaints since then.*

*The footpath should be legally diverted to the current permissive route as advised in 1991."*

ENVIRONMENTAL PROTECTION OFFICER - *"This site lies on land which has been identified as potentially contaminated due to past use as a landfill site (CL4073). Therefore should the application be approved I recommend that conditions regarding contaminated land and ground gas."*

ECOLOGIST - No comments to make.

LICENSING - Verbally confirmed that the existing dwelling on site meets the requirements of the licence. She also confirmed that no other kennels within the District had more than 1 dwelling.

No comments have been received from West Dorset District Council.

## REPRESENTATIONS

6 letters from existing customers have been received giving the following areas of support:-

- o Proposals would be an asset to the business
- o The applicant and her parents run a very professional business
- o Support should be given for the family to stay together
- o Parking is a problem at times and should be extended
- o Would be beneficial to the local community
- o Unlikely to be sold off as next to kennel business
- o The proposal would be an enhancement to the eyesore of the old barns next to the footpath

## CONSIDERATIONS

### Principle

The key aim running through the NPPF is the presumption in favour of development that meets the requirements of sustainable development. Therefore the starting point must be to consider the proposal in line with the 3 roles.

It has been detailed that the additional dwelling on the site would meet an economic role in safeguarding the business. However this is debated as there is an existing dwelling on the site that has a condition that restricts its occupation to agriculture, forestry or the dog kennel business. Therefore the economic argument is not accepted. This aspect will be debated in greater detail below.

The social role is also debated. The business does have a social role as indicated in the letters of support for this proposal. However this does not override other concerns regarding the need for the dwelling.

An environmental role requires that development protects and enhances the natural, built and historic environment. It is noted that the site proposed is an old barn and building on the site could be argued to improve the natural environment. Living on site could be argued to minimise pollution, but this needs to be assessed in relation to the existing dwelling that serves the business.

As detailed in Section 38(6) of the Planning and Compulsory Purchase Act 2004 there is a requirements that decisions must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

There are no specific policies in the South Somerset Local Plan for dwellings associated with kennels. However Policy HG15 relates to agricultural or forestry worker dwellings and this proposal is a similar type of application therefore the requirements of this policy should be applied to this case.

Policy HG15 states;

*"Proposals for agricultural or forestry worker dwellings will only be permitted in the countryside where:*

- 1. The dwelling is essential for the proper functioning of the enterprise so that one or more workers would be readily available at most times. In cases where a functional test alone is not conclusive, it may be appropriate also to apply a financial test;*
- 2. The need is for accommodation for a full-time worker, or one primarily employed in agriculture;*
- 3. No other housing accommodation is available for occupation locally by the worker concerned that would fulfil the functional need;*
- 4. The necessary accommodation cannot be provided by the conversion of an existing building or structure on the holding.*

*Dwellings that are unusually large in relation to the agricultural needs of the unit or are unusually expensive to construct in relation to the income of the unit in the longer term will not be permitted.*

*Where there is inconclusive evidence supporting the need, temporary planning permission may be granted for temporary accommodation on a new farm unit, to allow three years to test the viability of the proposal.*

*The renewal of a temporary planning permission for temporary accommodation will not be granted if the case for permanent accommodation has not been made by the end of the temporary period.*

*A condition will be attached to any planning permission granted to ensure that the dwelling is kept available to meet the justified need. A planning obligation will be sought where a planning condition would not keep the dwelling available to meet the justified need."*

A detailed assessment has been supplied that is detailed below. But this fails to pick up on some of the aspects of the policy.

With reference to criteria 1 it states 'that where the functional test alone is not conclusive, it may be appropriate to apply a financial test'. In this case it has not been demonstrated the need for an additional dwelling on the site is necessary and therefore regardless of any financial test, this would not materially change the conclusion.

With regard to criteria 4, there are a range of timber barns (that are to be demolished to form the dwelling) and a large pole barn on the site. Neither of these buildings are considered to be appropriate for conversion to a dwelling.

Indicative plans have been provided showing a three bedroom bungalow on the site. This does not appear to be overly large, but as this is an outline application with all matters reserved this is only indicative as to what could be provided on site.

The submitted appraisal gives an assessment of the business on the basis of the criteria of PPS7 Annex A. This is a useful assessment following the more general requirement of Paragraph 55 of the NPPF requiring assessing the 'essential need' to live permanently at or near their place of work in the countryside. Of particular relevance to this application is the essential need to live permanently on site.

The submitted Appraisal will however be assessed following the titles used.

#### The Business / Labour

It has been detailed that a licence has recently been granted by the District Council regarding the use of 35 kennels at the property. The average occupancy of the kennels has increased by 25% over the last 2 years and that there is increased demand and a requirement to provide 24 hour supervision. This is stated at 4.5 of the submitted appraisal that this justifies an additional dwelling on the holding. However it has not been detailed why the current dwelling on site that has the restricted occupancy attached does not meet this requirement.

At 4.6 the daily routine is outlined with a timetable of between 07:00 and 21:00. However further in the assessment at 6.2 indicates that in addition to the 3 business partners (the applicant and her parents) a further 3 part time staff are employed with the business. In order to comply with the licensing requirements it is detailed that one person has to remain on site at all times. As previously detailed there is already an existing dwelling on the site and other part time staff could be present to meet the licensing requirements.

### Reason for the Application

At 8.2 of the submitted appraisal reference is made in relation to the licence needing to comply with the Animal Boarding Establishment Act 1963. In particular 'there shall be a responsible person residing on site at all times'. This requirement is not debated. But this is already met by the existing dwelling on the site. It is stated that the labour provided by the occupants of the dwelling (Mr and Ms Shutlar, the applicant's parents) is not sufficient as the business has expanded. Therefore this is not sufficient outside of normal working hours. In order to meet this requirement this could be utilised by additional staff or by the applicant. But this is not considered to demonstrate an essential need for an additional dwelling on the site.

At 8.4 of the submitted appraisal reference is made for the attendance at vet facilities and the delivery and collection of pets outside of normal working hours. This requires 2 members of staff to attend away from the holding. It is stated that this occurs on a regular basis but it does not give a break down between attendance at vets and providing an improved service for their customers. It is envisaged that visits to the vet are on an infrequent basis and that in providing a premium service for customers is likely to attract a premium fee. Therefore a member of staff could retain on site to cover these situations. With 3 full time members of staff and 3 part time this does not demonstrate an essential need for an additional dwelling on site.

### Established Functional Need

The functional need for a dwelling to meet the needs of the licence is not questioned. However, there is an existing dwelling on site that meets this need and it is the additional dwelling on the site has not been demonstrated.

It is still possible to meet the licence condition by the occupation of the existing dwelling. It is possible for the applicant to live nearby and for her to come to site if needed during an emergency.

It has not been detailed why the provision of only one dwelling on the site is unsuitable for the type and scale of the activity.

Reference has been made to visiting the vets when there is a particular problem. If more than one dog is affected, in exceptional circumstances a vet could visit the site to avoid the issues raised.

Monitoring of temperature control, lighting and ventilation could be undertaken by mechanical means with alarms ringing in the dwelling on site. Continuous monitoring of the animals on site can be undertaken by staff employed via shift works and the people residing on site.

### Financial Assessment

It has been detailed that there has been an increase of 25% in the past year and the business has been profitable for at least the last 3 years. It also has every prospect of remaining profitable in the future. It is detailed that the business is more than sufficient to support the development. No detailed figures have been provided but the following comments are acknowledged. However, in assessing that the business could support the development, additional staff could be employed to provide additional cover as detailed in the assessment.

### Alternative Accommodation

It is stated at 9.6 of the submitted appraisal it is stated that there is no other existing accommodation suitable and available for occupation. It is stated that a dwelling should be within sight and sound of the kennels. However under planning considerations this has been debated on the past. In addition on carrying out a Rightmove search with ½ a mile of the site 11 properties are for sale. Of these, 3 properties are available for less than £150,000. Also a property is available for offers over £150,000. In addition, within 3 miles of the site this would encompass most of Yeovil and there are plenty of properties from £60,000 for sale. It is not considered that a worker at the kennel business has to also live on the site due to there being an existing dwelling. If any emergency arose the applicant could be contacted and she could visit the site in addition to Mr and Ms Shutlar, her parents living on site.

In addition, it has not been demonstrated where the applicant currently lives and why an additional dwelling is required now.

It has not been demonstrated that the applicant cannot live nearby, like any worker and commute to work. In addition with modern technology in the form of mobile phones, the applicant could easily be contacted and shift patterns for staff provided to cover all eventualities.

### Conclusion to Appraisal

In the conclusion to the appraisal, the agent has provided 6 paragraphs to conclude the need for the dwelling. It is stated that animal boarding facilities provide a public need and that the highest welfare standards are maintained. This is not doubted. However this need can be met by the existing dwelling on the site.

It is stated that the functional need results from welfare requirements and the overall security of the site and failure to provide necessary supervision and attendance in emergencies affects the functioning of the business and in turn financial viability. This fails to take into account that there is a current dwelling on site linked to the business. In addition the applicant could live elsewhere and still work a full time shift. If an emergency arose the applicant could attend once notified by Mr / Ms Shutlar on site.

To meet the growing needs of the business it is stated that it is not unreasonable for Mr and Ms Shutlar and their daughter, the applicant to enjoy separate accommodation as all are separate partners and have a full role in the functioning of the business. This is accepted. But this does not result in an essential need for an additional dwelling on the site. As noted above there are properties available within a mile radius of the site and within 3 miles of the site the majority of Yeovil is an option. At this distance the applicant could be on site in a matter of minutes and is not considered to adversely affect the effective running of the business.

In assessing all the above, it is not considered that the requirements set out in Paragraph 55, and the previous criteria of PPS7, Annex A have been met and that there is not an essential need for an additional dwelling on the site.

### Landscape

There are no direct landscape implications relating to this application as the site is a previously developed farm site that is surrounded on all sides by mature planting.

The line of the current footpath is open to the West - facing the site. However the siting is not



considered to result in a detrimental impact on the landscape in accordance with Policy EC3 of the Local Plan.

### Residential Amenity

Dog kennels potentially have an impact on the occupiers of surrounding properties because of the noise generated by the dogs and disturbance from traffic. In this location, there are no nearby residential properties for these issues to be a problem. Furthermore, the area is already fairly noisy from the noise generated by the nearby trunk road and railway.

If the principle was agreed a condition tying the dwelling to the business would be necessary.

### Highways

Whilst the subject land is outside the development area of Stoford, it is located close to a junction on the main A37 road and is therefore easily accessible by car which would normally be the expected mode of transport for people taking their dogs to the kennels. As far as previous applications for the new dog kennels is concerned, the Highway Officer did not raise an objection and it was considered that the other relevant matters above concerning the location of the business outweighed transport policies seeking to reduce reliance on the private car.

The indicative plans show, via the redline that this proposal is seeking to utilise the existing access into the site. The access is located on the outside of a bend and in this regard visibility can be seen in both directions ensuring that there is safe access into the site.

An indicative dwelling has been shown on a block plan with an area of 990m<sup>2</sup> enclosed within the redline. In assessing this area it is considered that there is sufficient space on site for parking and turning for the dwelling.

### **CONCLUSION**

It is acknowledged that the business is successful and provides a valuable community facility. However it has not been demonstrated in the application that there is a need for an additional dwelling on the site. The current dwelling on site meets the requirements of the licence and the applicant could easily live nearby and go to site in the case of an emergency.

In assessing the merits of the application, these are not considered to override the harm caused by the proposal.

### **RECOMMENDATION**

Refuse permission for the following reason

### **SUBJECT TO THE FOLLOWING:**

01. The site is in open countryside where national and local planning policy requires new residential development to be resisted unless it is demonstrated that the proposal serves a genuine agricultural or other appropriate need. The proposal fails to demonstrate an essential need for an additional dwelling at this dog kennel site as detailed in Paragraph 55 of the NPPF and echoed in Policy HG15 of the South Somerset Local Plan, for a new dwelling in the countryside.

**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 did not take the opportunity to enter into pre-application discussions. In this case there were no minor or obvious solutions to overcome the significant concerns caused by the proposals.

02. It is noted that footpath Y2/1 should be legally diverted to the current permissive route as formed on the ground along the Eastern boundary. A formal diversion would need to be applied to the District Council. In this regard you are advised to contact David Shears (01935 462115).
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