

Area North Committee – 23 November 2011

Officer Report On Planning Application: 09/04320/FUL

Proposal:	Continued use of existing agricultural building and premises to light industrial use, extension to parking/turning area, mixers and associated works (Retrospective)(GR 340390/128995)
Site Address:	Land Adj Belmont House, High Street, Aller
Parish:	Aller
TURN HILL Ward (SSDC Member)	Mr S Pledger (Cllr)
Recommending Case Officer:	Claire Alers-Hankey Tel: 01935 462295 Email: claire.alers-hankey@southsomerset.gov.uk
Target date:	14th January 2010
Applicant:	Mr Nathan Robertson
Agent: (no agent if blank)	
Application Type:	Minor Other less than 1,000 sq.m or 1ha

REASON FOR REFERRAL TO COMMITTEE

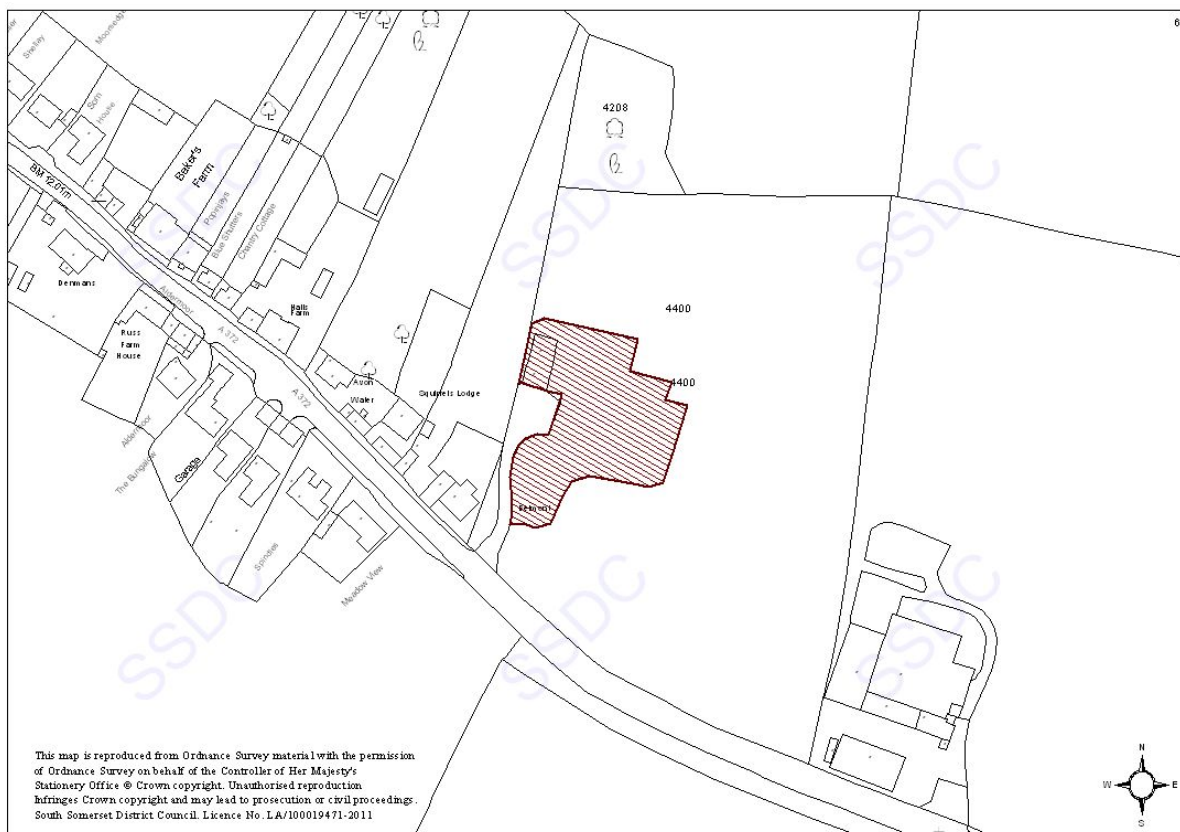
This planning application was originally brought to the Area North Committee for determination in March 2010 where the majority of Members expressed their support for the application. The resolution was to approve the application subject to the section 106 agreement to tie the ownership of Belmont House to the business use of the land (in the interests of residential amenity) and safeguarding conditions.

The applicant was then unable to find a mortgage company willing to accept the terms of the s106 agreement, and the application was brought back to the Area North Committee in August 2011. At this time the Environmental Protection Officer maintained his objection to the proposal on the grounds that the proposed B2 use would result in a loss of residential amenity particularly to future occupiers of Belmont House. Accordingly the case officer recommendation was one of refusal, solely on the grounds of an adverse impact on the neighbouring properties from noise created at the site. Members then resolved to defer the application so that further information regarding potential noise mitigation strategies could be sought.

Since the August Area North meeting, the applicant and Environmental Protection Officer have discussed a number of noise mitigation measures and conditions to control the site, and improve the relationship between the site and nearby properties, and thereby reduce the potential for harm.

The outcome of these discussions is considered below in an updated report.

SITE DESCRIPTION AND PROPOSAL



The site is located alongside Aller Road directly adjacent to the village of Aller, which is a settlement that does not have a defined development area. The site was previously an agricultural field with an agricultural shed on the western boundary, and a vehicular access in the southwest corner of the field.

This application seeks retrospective planning permission for the change of use of the land and building from agricultural to light industrial use, the siting of three storage containers, the siting of two mixers, and an extension to a turning and storage area. There is currently a business running from the site; the business produces and distributes a rubber based safety surface used on surfaces such as children's play areas. The business employs six full-time employees and two part time employees. Of these employees, four of the full-time workers live at Belmont House, Aller.

An acoustic report has been submitted by the applicant following the initial recommendation made by the Environmental Protection Health Officer.

HISTORY

04/01067/FUL: Site for a security caravan. Application withdrawn on 30/06/2004.

94/00008/FUL: The erection of an agricultural building for the storage of hay and agricultural equipment. Granted conditional approval on 19/08/1994.

94/00007/AGN: Notification of intent to erect a building for the storage of animal feed and

agricultural equipment. Planning permission required on 08/04/1994.

930671: The closure of existing access and the construction of a new vehicular access. Granted conditional approval on 10/09/1993.

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.

Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011:

Policy STR1 - Sustainable Development

Policy STR6 - Development Outside Towns, Rural Centre and Villages

Policy 5 - Landscape Character

Policy 18 - Location of Land for Industrial, Warehousing and Business Development

Policy 19 - Employment and Community Provision in Rural Areas

Policy 49 - Transport Requirements of New Development

South Somerset Local Plan (Adopted April 2006):

Policy ST3 - Development Areas

Policy ST5 - General Principles of Development

Policy ST6 - The Quality of Development

Policy EC3 - Landscape Character

Policy EP2 - Pollution and Noise

Policy EP9 - Control of Other Potentially Polluting Uses

Policy TP6 - Non-Residential Parking Provision

Policy ME7 - Retention of Land and Premises in Rural Areas

CONSULTATIONS

AREA ENGINEER - No comment

COUNTY ARCHAEOLOGIST - No objection

PARISH COUNCIL - Unfortunately there was a split vote and the Parish Council could not make a recommendation on whether to grant or refuse permission for this planning application. Among the concerns expressed were:

- This application is outside the scope of the previous structure plan development boundary for Aller (therefore this development is going against the structure plan and is within open land.
- Pollution both noise and odour, in this rural location
- The quantity of tyre crumb stored at this location within reasonable proximity of a residential area (one member seemed to think this contravened Home Office advice)
- If approved, the premises would have a permanent B2 class use which may cause concerns over future alternative businesses operating from the site
- Among the positives were:
 - This site provides employment opportunities for the applicant and staff
 - The applicant has taken steps to improve the situation, reduce visual impact and noise generated from the site.

If Development Control planners are mindful to approve this application, Aller Parish Council requests that consideration be applied to a condition restricting the hours of operation. The Parish Council would also want to see more detailed information regarding the planting plan and would like a condition that the planting would include mature specimens (with any specimens that fail to take being replaced within a reasonable timeframe).

LANDSCAPE ARCHITECT - Notes that site was previously characterised by a single agricultural building, with site access and hardstanding to its south. This application has extended that hardstanding 2 x over the existing area, and adds mixers and containers to the east of the building, thus obtruding east into the adjoining field. This obtrusion is heightened by the construction of the 1.8m high close-board fence along the north boundaries. I am uncomfortable with the resultant footprint, which gives the development a much higher public profile, in a location that is not well related to the characteristic settlement form, which is tighter grained: closer to, and directly addressing the road. The extent to which the proposal obtrudes into the adjoining field - even with the well-intentioned planting scheme submitted - is also at variance with the landscape pattern, and thus exacerbates the adverse landscape character impact. In that respect, this application has no landscape support, as I view it to be contrary to local character, and at variance with the objectives of Policy EC3. However, should there be an over-riding case for approval then I would advise that appropriate mitigation would be a revision and supplementation of the landscape proposal, to ensure that planting lays on the external side of any timber fencing, and that the planting edge `squares off` along its outer edge, to provide an authentic tie with the local hedgerow pattern - such would include further planting to the NE of the containers, and an enlarged area of planting to the SE of the bunding, to give a wooded effect.

ECONOMIC DEVELOPMENT MANAGER - Historically the village of Aller has always enjoyed and supported a small number of light industries and small businesses. These offered local employment opportunities that were lost over the years as employment sites gained change of use and local businesses were closed. This application does offer an opportunity to support a business in the locality and to secure a number of local jobs in otherwise challenging economic conditions. That said, my observations are made from an economic perspective and I do recognise that there are a number of policy issues relating to the application that may draw comments from planning colleagues.

COUNTY HIGHWAY AUTHORITY - It appears from the SSDC Local Plan that the settlement of Aller does not have any development boundaries and as a consequence under normal circumstances development is not permitted in this location. From a highway point of view, whilst it is noted that bus services (Nos 16, 903 and 905) pass the site these services are infrequent. As a consequence, staff/visitors of the new development are likely to be dependent on private vehicles in order to access the site. Such fostering of growth in the need to travel would be contrary to government advice given in PPG13 and RPG10, and to the provisions of policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review. In detail, the proposal is seeking to utilise the existing access directly off the A372, which is designated as a County Route. According to the Somerset and Exmoor National Park Joint Structure Plan Review, unless the special need for and benefit of a particular development would warrant an exception, developments should not derive access directly from a County Route. The access itself emerges on to the A372 at a point where the speed of passing traffic is restricted to 30mph. The Highway Authority would wish to see visibility splays based on the minimum coordinates of 2.4m x 90.0m to the nearside carriageway edge in both directions. This required level cannot be achieved to the southeast due to the presence of vegetation that fronts the highway. However, it is noted that the applicant has ownership of the adjoining land and as such the necessary improvements could be

made although it should be noted that this is likely to result in a significant section of vegetation being altered. The Highway Authority has concerns regarding the level of visibility achieved to the northwest. At present given the presence of the porch of the adjoining property known as Belmont House, part of the nearside carriageway is concealed from view and as such approaching vehicles, especially motorbikes, are temporarily hidden from view of the driver of vehicles emerging from the site. Given the limitations of the access the Highway Authority would not wish to see a proposal that is likely to result in an increase in its use. Whilst it is acknowledged that the site was formerly used for agricultural purposes and as such would have generated a level of traffic movement, this proposal (given the number of proposed employees and deliveries associated with the use) is likely to result in an increase in traffic movements at this point. As a result of the above I would recommend that the application be refused on highway grounds (refusal reasons included).

FURTHER COMMENTS are as follows:

Express concerns regarding the standard of the existing access and in particular the level of visibility achieved by emerging vehicles on to the A372. It appears that this existing access had previously been approved by the Highway Authority in a previous application (93/00007/FUL). Having dug up the history and the Highway Authority's comments relating to this application it appears that this access was permitted on the basis that on balance this new arrangement was considered to have resulted in an improvement when compared to the previous access located further to the southeast. The second point raised by the applicant was that previously, in 2008, no objection was raised for an application seeking permission for a Vehicle Operating License at this site. As a consequence permission was granted enabling two vehicles and two trailers to operate from the site and therefore making use of the existing access. The Highway Authority acknowledges that as a result of this license being permitted a level of movement can take place at this point including those by larger, slower moving vehicles. However, the proposal submitted by the applicant indicates that 6 full time and 2 part time members of staff will be required as part of this development, and that occasional deliveries will also take place. Whilst the applicant has stressed that this development will be small scale the Highway Authority still have concerns that once established the business could expand and that it will be difficult for the Highway Authority to restrict the level of movement at this point. As a result, the Highway Authority are still of the opinion that the proposal if permitted is likely to result in an increase in the level of traffic making use of the access and as such the application should be refused.

ENVIRONMENTAL PROTECTION OFFICER - The noise report that has been submitted has indicated that noise from the site may cause problems to neighbouring properties, but does not provide any recommendations as how to reduce the noise levels. Having visited a neighbouring property whilst the tumblers were in operation, confirms that noise from operations is audible in neighbouring gardens.

Previously did not have sufficient evidence to conclude that the harm would be tolerable. Since August Committee has liaised with applicant and following discussions based on the recommendations of the acoustic report now suggests that the proposal could be adequately mitigated by safeguarding conditions and the submission of further details.

ENVIRONMENT AGENCY - No objection

REPRESENTATIONS

NINE LETTERS OF OBJECTION - Have been received, raising concerns over the following:

- Inappropriate and unjustified type of development for Aller
- The site has been operating for a lot longer than what is stated on the application form
- Potential for expansion of the business which will create a larger industrial site
- Noise impact on neighbours from machinery for several hours at a time
- Landscaping scheme will not reduce the impact on the landscape as it will take several years for planting to mature
- Smell of rubber spreads across village
- The application asks for additional car parking spaces which means the business is not for local employees
- Soakaways will not be able to cope with the amount of surface water runoff
- Application form states the operations take place within the workshops, but the majority of work occurs outside
- Concern over chemicals stored on site
- Works have been carried out on site without planning permission
- Fosters growth in the need to travel
- Harmful to rural quality of landscape
- Impact on residential amenity due to close proximity to residential properties
- Harmful to highway safety due to location of access close to bend
- No assessment of need has been carried out
- The proposal makes no provision for the removal of waste, and the proposal has not been subject to an Environmental Impact Assessment
- Proposal is contrary to various planning policies
- It contravenes Home Office and HSE advice on the location of sites processing tyre crumb
- Not sustainable
- Site is outside the defined development area
- Fire risk

THIRTEEN LETTERS OF SUPPORT - Have been received, raising the following points:

- Rural parishes desperately need the employment small businesses such as this provide
- The applicant has worked tirelessly to reduce the level of inconvenience to neighbours by erecting a solid timber fence to soften any noise generated, reduced working hours so as not to disturb neighbours, soundproofed the barn, proposed landscaping bunds to reduce the noise travel and visual impact of the machinery
- The application should be permitted with conditions to ensure neighbours and residents remain unaffected by this business
- A commercial use has existed on the site for in excess of 15 years

CONSIDERATIONS

Principle

Broadly speaking planning policy is very supportive of small-scale businesses in rural areas, because they can create local employment opportunities and benefit the local economy. Proposals that do not foster growth in the need to travel are also supported by various planning policies. The Parish Council and Economic Development Officer in their consultation responses have both recognised the benefits that the proposed business would provide to the local economy and local employment opportunities. The applicant has confirmed that the business employs four people who live in the property immediately adjacent to the site, which demonstrates that the proposal does not foster

growth in the need to travel for over 50% of the employees.

However this proposal cannot be assessed purely on the economic and employment benefits offered. Other planning considerations such as highway safety, visual amenity and residential amenity need to be assessed against the relevant policies.

Highways

The County Highway Authority has raised a strong objection to the proposal on the basis that the existing access arrangement has restricted visibility splays. The Highways Authority consider the potential increase of traffic movements using the access, in addition to the restricted visibility, would be prejudicial to highway safety.

The applicant has submitted additional information, which shows evidence that a Vehicle Operating License has been permitted at the site. This license allows two vehicles and two trailers to use the site access. The Highway Authority acknowledge that as a result of this license being permitted a level of movement can take place at the point of access, including those by larger slower moving vehicles. However, the Highway Authority feels that once the business is established it could expand and then it would be difficult for the Highway Authority to restrict the level of movement at this point, from staff and deliveries.

Nevertheless Area North Members have previously resolved, at the March 2010 committee meeting, that the proposal would not be prejudicial to highway safety. Accordingly it is not considered reasonable to maintain this objection.

Landscape

The Landscape Architect has raised an objection to the proposal. This objection focuses on the increased footprint of development within what was previously an agricultural field, and the resulting impact on the landscape character of the area. The footprint has been significantly increased by increased hardstanding to provide turning and storage areas, and the siting of two mixers and three storage containers to the east of the existing building, meaning the development protrudes much further into the field. The obtusion in this location has been heightened by the construction of the 1.8m high close-board fence along the north boundaries. The resultant footprint makes the development much more visible from public vantage points, and the development does not relate well to the character of the adjacent settlement or the surrounding countryside.

The County Highway Authority have also indicated that the visibility to the southeast would need to be improved, which would result in a large proportion of the hedge on the road boundary being removed. This again would have a detrimental impact on the visual amenity of the area, as the hedge currently partially screens the site from the road.

Again, Area North Members have previously found this aspect of the proposal to be acceptable and therefore it is not considered reasonable to maintain this objection.

Amenity

Turning to residential amenity, the Environmental Protection Officer previously recommended refusal of the application on the basis that the noise from the site causes an annoyance to nearby residents. However since the last time this application came to committee the applicant has been in negotiations with the Environmental Protection Officer. They have agreed appropriate measures to mitigate the noise impact and impact on local residential amenity, as well as measures to restrict growth of the site. Suitable conditions to agree mitigation measures including:-

- A 1.8m high sound barrier at the rear of the site
- All doors to be shut when machinery is in use within the building

- Gate between the site and Belmont house to be closed when any machinery is in use
- The existing noise attenuation measures to be maintained.

Further conditions are recommended to control hours of use and deliveries and to restrict the use within the B2 use class.

Accordingly subject to appropriate safeguarding conditions it is not considered that any undue impact on residential amenities would be experienced as a result of the continued use proposed. As such the proposal complies with policies ST6 and EP2.

Other objections raised

Five letters of objection have been received, and several valid points have been raised which have been discussed above. However there are other objections that have been made that are not valid planning considerations. For example, the fact that works were started prior to planning permission was applied for does not warrant a refusal reason in itself.

The Area Engineer has not raised an objection to the proposal and therefore it is considered the proposed soakaways can adequately cope with the amount of surface water run-off.

The application form does not state that chemicals are being stored on site, and therefore concerns over this are unfounded.

The fact that the proposal is seeking additional car parking spaces does not imply the employees are not local.

The proposal does not fall under Schedule 1 or Schedule 2 development under the Town and Country Planning (Environmental Impact Assessment) Regulations 1999, and therefore an Environmental Impact Assessment is not required.

Potential fire risk is also not considered to be a material planning consideration in this circumstance.

Conclusion

The principle of a small-scale business in a rural area is viewed as being favourable. The impact on highway safety and visual amenity have been found to be at an acceptable level by the Area North committee, and the Environmental Protection Officer is now satisfied that appropriate measures can be taken to restrict the impact of the development upon the residential amenity of the area. On this basis it is considered that the submitted application is acceptable.

RECOMMENDATION

Permission be granted for the following reason:

The principle of a small-scale business in a rural area is viewed as being favourable and the proposal will not harm visual or residential amenity, or be prejudicial to highway safety. Accordingly the proposal is considered to accord with Policies 18, 19 and 49 of the Somerset and Exmoor National Park Joint Structure Plan Review and Policies ST5, ST6, EC3 and EP2 of the South Somerset Local Plan.

SUBJECT TO THE FOLLOWING:

01. Notwithstanding the time limits given to implement planning permission as prescribed by Sections 91 and 92 of the Town and Country Planning Act 1990 (as amended), this permission (being granted under section 73A of the Act in respect of development already carried out) shall have effect from 19th November 2009.

Reason: To comply with Section 73A of the Act.

02. Within three months of the date of this permission, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority. For a period of five years after the completion of the landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with South Somerset Local Plan Policies EC3 and ST6.

03. There shall be no burning of any produce or material whatsoever on the site.

Reason: In the interest of local amenities in accordance with Policies ST6 and EP2 of the South Somerset Local Plan.

04. Adequate provision shall be made for the storage of waste. Such a scheme shall be agreed in writing with the Local Planning Authority and shall be implemented within three months of the date of this permission.

Reason: In the interest of local amenities in accordance with Policies ST6, EC3 and EP9 of the South Somerset Local Plan.

05. All external lighting at the site shall be submitted to and approved in writing by the Local Planning Authority within three months of the date of this permission. No additional lighting shall be used at the site unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of residential amenity in accordance with Policy ST6 of the South Somerset Local Plan.

06. Within three months of the date of this permission, foul and surface water drainage details to serve the development shall be submitted to and approved in writing by the Local Planning Authority, and such approved drainage details shall be completed and become fully operational within three months after the details are approved. Following its installation such approved scheme shall be permanently retained and maintained thereafter.

Reason: In the interests of local amenity and highway safety in accordance with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review and Policies ST5 and ST6 of the South Somerset Local Plan.

07. At the access there shall be no obstruction to visibility greater than 900mm above adjoining road level in advance of a line drawn 2.4m back from the carriageway edge on the centre line of the access and extending to a point on the nearside carriageway edge 60.0m to the south east of the access. Such visibility shall be fully provided within three months of the date of this permission and shall thereafter be maintained at all times.

Reason: In the interests of highway safety, in accordance with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.

08. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 ('the 1995 Order') (or any order revoking and re-enacting the 1995 Order with or without modification), no extensions or alterations shall be carried out unless agreed with the Local Planning Authority in writing.

Reason: In the interests of local amenity and highway safety in accordance with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review and Policies ST5 and ST6 of the South Somerset Local Plan.

09. No machinery shall be operated at the premises outside the hours of 8.00hrs to 18.00hrs Monday to Friday and 8.00hrs to 13.00hrs Saturday or any time of Sundays, Bank or Public Holidays.

Reason: In the interests of residential amenity in accordance with Policies ST6 of the South Somerset Local Plan.

10. No deliveries shall be taken or despatched from the site outside the hours of 8.00hrs to 18.00hrs Monday to Friday or any time on Saturdays, Sundays, Bank or Public Holidays.

Reason: In the interests of residential amenity in accordance with Policies ST6 of the South Somerset Local Plan.

11. Full details of the internal and external noise attenuation measures a) that have already been implemented, as referred to the JSP Consultants further environmental noise assessment dated 27th June 2001, and b) that are yet to be implemented, shall be submitted to the Local Planning Authority within three months of the date of this permission, with additional agreed measures being implemented within a timescale to be agreed with the Local Planning Authority. All of the agreed measures shall be maintained thereafter from the date they are implemented. Such measures shall include:

- 1) the erection of a 1.8m high sound barrier from the rear of the warehouse to the tumbler
- 2) the warehouse doors to be kept closed at all times when plant and machinery inside the building is in operation
- 3) the gates between Belmont House and the application site to remain closed at all times when any operations on the application site are undertaken.

Reason: In the interest of local amenities in accordance with Policies ST6 and EP2 of the South Somerset Local Plan.

12. The use hereby permitted shall be strictly limited to the use of the site for the manufacture of rubber based surfacing material by Star Rubber Environmental (or any successor company) and not for any other purpose or use within Class B of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification. Such use as hereby approved shall cease immediately on Star Rubber Environmental vacating or otherwise disposing of its legal interest in the said land and the use of the site shall revert to agricultural.

Reason: To prevent changes to unacceptable uses, in the interests of residential amenity and highway safety, in accordance with Policy ST6 of the South Somerset Local Plan and Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.

13. The development hereby permitted shall be carried out in accordance with the following approved plans: star/P01, star/P02, star/P03, star/P04, star/P05, star/P06.

Reason: For the avoidance of doubt and in the interests of proper planning.
