

Area North Committee – 24 October 2012

## Officer Report on Planning Application: 12/02575/FUL

<b>Proposal :</b>	Retention of a mobile home to provide residential accommodation ( GR 343747/126498 )
<b>Site Address:</b>	Mobile Home, Old Nursery Farm, Windmill Lane, Pibsbury
<b>Parish:</b>	Huish Episcopi
<b>LANGPORT AND HUISH Ward (SSDC Member)</b>	Cllr Roy Mills
<b>Recommending Case Officer:</b>	Lee Walton Tel: (01935) 462324 Email: lee.walton@southsomerset.gov.uk
<b>Target date :</b>	23rd August 2012
<b>Applicant :</b>	Ms Elaine House
<b>Agent: (no agent if blank)</b>	Clive Miller And Associates LTD Sanderley Studio, Kennel Lane, Langport TA10 9SB
<b>Application Type :</b>	Minor Dwellings 1-9 site less than 1ha

### REASON FOR REFERRAL TO COMMITTEE

This application is referred to committee at the request of Ward Member with the agreement of the Chair to enable the highways issues and agricultural justification to be debated

### SITE DESCRIPTION AND PROPOSAL



The site forms a group of farm buildings with the mobile home located within the yard area. There are neighbouring residential properties to the north and west and on the other side of the fields to the south. The mobile home had temporary planning permission until October 2007 but has remained on site since then in breach of the planning condition.

The holding comprises 10.61 acres at Pibsbury, in two parts – at the site and a field to the south of the A372. The applicant also rents a further 15.72 acres elsewhere. Following a change in personal circumstances in 2005 a new enterprise bases on the rearing of goats for meat has started. Currently it is stated that there are 65 breeding goats with an intention to expand to 150 breeding goats by the end of 2013.

Although the proposal seeks retention of the mobile home to provide residential accommodation to support the new agricultural enterprise a permanent, personal permission is sought in light of the planning history.

## HISTORY

04/01938/COU	Use of land for siting of mobile home for farm worker (renewal of 98/01359/COU). OFFICER NOTE: This temporary permission followed the original temporary permission in 1998 that had been based on the applicant's intention to develop a farm holding and to purchase additional land. The 2004 permission allowed a further temporary permission expiring 31 October 2007.
03/03211/FUL	Permission refused for erection of three bedroom farm workers dwelling, removal of temporary dwelling and erection of portal frame barn.
03/01911/FUL	Erection of three bedroom farm workers dwelling removal of temporary dwelling and erection of portal frame barn. WITHDRAWN
98/02254/FUL	Planning permission granted for use of existing buildings on site for the housing of life stock and the
98/01359/COU	Planning permission granted for use of land for siting mobile home for farm worker

## 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 accords significant weight to the saved policies of the Somerset and Exmoor National Park Joint Structure Plan Review, and the saved policies of the South Somerset Local Plan.

The policies of most relevance to the proposal are:

**Save policies of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011:**

Policy STR1 - Sustainable Development

Policy STR6 Development Outside Towns, Villages and Rural Centres.

**Save policies of the South Somerset Local Plan:**

Policy HG15 Agricultural and Forestry Dwellings

Policy ST5 - General Principles of Development

Policy ST6 - The Quality of Development

**National Planning Policy Framework (March 2012):**

Chapter 1 Building a strong competitive economy

Chapter 3 Supporting a Prosperous Rural Economy

Chapter 6 Delivering a wide choice of high quality homes

Chapter 7 Requiring good design.

**South Somerset Sustainable Community Strategy**

Goals 5: and 7.

**Human Rights Act – Protocol No 1, Article 1**

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law.

**Other Material Considerations**

Since the approval of the last temporary permission a further 3 residential sites have been established along Windmill Lane, namely:-

- Windmill Acres, a certificate of lawfulness issued for building as dwelling (11/01089/COL )
- Longacre - certificate of lawfulness issued for use of building as a dwelling (11/04510/COL)
- Land at Longacre - certificate of lawfulness issued for use of land as showman's site

There are also two current applications for further residential sites:-

- Land at Windmill Lane - use as traveller's site (11/01967/FUL)
- Longacre - retention of chalet for occupation by travelling show people (12/03239/FUL)

The highways authority have recommended refusal of both of these applications on the grounds of highways safety due to the nature of Windmill Land and the junctions onto the main road at either end.

**CONSULTATIONS**

**Huish Episcopi Parish Council – No objection.**

**County Highway Authority** – notes that the development derives access from/onto Windmill Lane which is an unclassified highway that is predominantly single width, poorly aligned with limited passing places. Windmill Lane forms a loop that has to points of entry/exit directly on to/from the A372 which is defined as a County Route in the Somerset and Exmoor National Park Joint Structure Plan Review.

The A372 is a well utilised local route where the speed limit varies from 40mph to the national speed limit of 60mph, depending which part of the Windmill Lane is used. It is noted that this particular site is closest to the junction located to the northwest of the A372, although either junction could be utilised by the Occupier/Applicant of the development. Both junctions of Windmill Lane and the A372 are considered to be substandard for any increase in use for new development proposals, and for the following reasons:

The junction of A372/Ducks Hill to the south west, with Windmill Lane, is located on the outside of a bend, whereby forward visibility is restricted for vehicles turning right into Windmill Lane.

The junction of the A372 located to the south east, has substandard visibility for vehicles emerging to see approaching traffic travelling along the A372.

The National Planning Policy Framework seeks, as a general aim, to achieve sustainable development, however it does state that a 'safe and suitable access' (Para 32) be provided for all people and that new developments should be designed to create 'safe and secure layouts which minimises conflicts between traffic and cyclists or pedestrians' (Para 35) whilst 'giving priority to pedestrian and cycle movements, and have access to high quality public transport facilities'.

It is noted that there have recently been several planning applications made for new development deriving access onto/from Windmill Lane. The Highway Authority have concerns regarding the increase in any additional traffic along Windmill Lane due to its restricted width, lack of passing places and substandard junctions, and if granted it could set a precedent for further development, which will incrementally increase the risk to the safety of road users in this location using Windmill Lane and the nearby junctions.

**Area Engineer** – no comment

**Economic Development Officer** (Initial response) – As the applicant has acknowledged in her submission, this business is not producing sufficient income to warrant a full-time worker on the site. It is my opinion that there is not a need to be located on site to regularly feed the stock, particularly in summer months. However, it would appear that the applicant has acknowledged that she and her young family are living in premises which has not been approved by the authority and are trying to make amends by presenting a business plan and building the business up again. I have to determine if this is a 'hobby farm' or is the making of a significant business, sufficient to justify a residential presence on site.

Additional response

I am in receipt of the accounts to spring 2011. These also show a small profit, insufficient though to claim that a full time workers role can be afforded. There is an argument that the applicant has had many years to develop this business and so far has been unable to generate sufficient income to create an employment. I noticed quite a large sum which was attributed to the accounts without an explanation as to its source. OFFICER Note: The applicant confirms that the sum of money referred to is the farm subsidy received from the Rural Payment Agency.

## REPRESENTATIONS

Two letters of support have been received that there are no good reason to uproot the family and cause unnecessary stress. One letter of objection is received to the effect that the temporary dwelling is not essential to the proper functioning of the holding.

### APPLICANT'S CASE (summarised from supporting information)

The current application is a break with the past. Following separation in 2005 Mrs House has almost had to start from scratch and change the nature of the holding to suit her own circumstances.

The new enterprise provides for some 25 sheep and a start to rear goats for meat and has built up a herd of about 65 boer cross breeding goats. These produce high quality natural meat, housed alongside the young goats. Her commitment to this form of livestock farming is clearly shown by her adaptation (at some cost) of the existing cattle buildings to ones suitable for the housing of goats. This is because goats have no weather proofing in their coats so they need to be properly sheltered in times of bad weather.

Goats need close supervision especially when young. Young goats need feeding 3 or 4 times a day.

The business is slowly growing with the intention to expand the goat herd to 150 breeding ewes by the end of 2013, a small herd of beef cattle, a flock of 50 breeding ewes and also reared calves.

It is acknowledged that the current business is not enough to support one full time person. Mrs House owns 10.61 acres and also rents a further 15.72 acres. The business is at present clearly not viable and as such in purist policy terms the further retention of the mobile home would not normally be justified. However, this case is somewhat unique in the context of the number of years the mobile home has been in situ and the fact that a genuine attempt is being made to rebuild the agricultural business. Also relevant is the fact that if permission is refused, a family which includes two teenagers (both in fulltime education) will be without a home.

## CONSIDERATIONS

The main considerations concern: whether an essential need is made that justifies the development; personal circumstances, character and appearance, highway safety, and neighbour amenity.

### Justification

Applications for agricultural workers dwellings are considered against policy HG15. The only reference to agricultural workers' dwellings in the National Planning Policy Framework is in paragraph 55, which simply states that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as an essential need for a rural worker to live permanently at or near their place of work.

Policy HG15 requires: 'Where there is inconclusive evidence supporting the need, temporary planning permission may be granted for temporary accommodation on a new farm unit, to allow time to test the viability of the proposal', which in essence repeats the well-established and well understood approach more fully explained in Annex A to PPS7

that no longer forms part of ministerial policy, although pending revised guidance as to functional and essential need for a dwelling should continue to be applied, even though PPS7 can no longer be called in aid as the authority for doing so.

The approach taken considers whether a dwelling is essential for the proper functioning of the enterprise for one or more workers to be 'on the spot'. The applicant's submission includes details for the raising of goats for meat, with 65 Boer Cross breeding goats and 25 sheep. The submission states the current business is not enough to support one full time person, although in the future if the business continues to expand it will reach viability. Also applicable is whether there is an essential need given the scale of the operation and an ability to plan routine access to the goats in terms of feeding and welfare that in this case appears to be an insufficient reason in support of a temporary dwelling. The Economic Development Officer has commented that there is no case made in support of the application that there is an essential need.

The application's own submission states that the business is at present clearly not viable and as such in policy terms the further retention of the mobile home would not be justified. It is considered that a case is not made that supports temporary planning permission.

### **Personal Circumstances**

The primary reason for making the application is to retain occupancy of the mobile home. Although the application claims unique circumstances given the number of years the mobile home has been on site, the site's planning history indicates following the 1998 permission one further temporary period was permitted expiring October 2007 at which time no further application was made. The mobile home was not removed leading to the enforcement investigation that results in the current application. While the mobile home has been on site for some time, much of this time was the result of planning policy and national guidance, with the additional time forming a breach of condition that remains capable of enforcement. It is the applicant's decision to have remained on site and not sought to have regularised this at an earlier time.

### **Character and Appearance**

The mobile home is seen in context with the agricultural yard and farm buildings that surround. With the support of a proven agricultural need there would not be any character and appearance concerns raised.

### **Highway Safety**

The Highways' officer has objected to the unsustainable location, if there is no overriding agricultural support to satisfy a genuine agricultural need. Concern is also raised about the impact of new development on Windmill Lane and its junctions with the main roads. Whilst such concerns have not been previously raised in 1998 and 2004, those permissions have long since lapsed. Furthermore in the intervening years 3 further sites have established residential use and it is therefore appropriate to reassess the impact of this fresh application on Windmill Lane in light of current circumstances.

The highways authority is consistently recommending refusal on the grounds that Windmill Lane and its junctions are unsuited to accommodate additional traffic stemming from new development. Given the passage of time since this issue was last considered in the context of an application (8 years) and the increase in use of Windmill Lane it is considered reasonable to reassess the situation. There is considered to be no justification to over-ride the highways officer in this instance, or in the case of either other of the other applications (for a traveller' site and showman's home) elsewhere on Windmill Lane.

**Neighbour Amenity**

This is a countryside location wherein agricultural holdings are found. It is considered that were an established agricultural need identified this might not give rise to any significant effect for neighbours.

**Conclusion**

The applicant's case centres on the length of time they have lived on site without challenge however this is made up of two temporary periods, approved to enable them to establish a viable agricultural enterprise, and a further period of time when the applicant was in breach of condition. Unfortunately their ambitions have not come to fruition and the applicant has now shifted to a business raising goats and it is on this basis that a personal permission is sought.

It is not considered that an essential need has been proven to justify the permanent occupation of this site. Without such justification the proposal constitutes unsustainable rural development contrary to the saved policies of the local plan and the policies contained within the NPPF. Furthermore the development would result in the retention of higher levels of traffic than are suited to Windmill Lane and its junctions with the main roads.

**RECOMMENDATION**

That planning permission be REFUSED.

**Reasons for Refusal**

1. Windmill Lane by reason of its restricted width, poor alignment and substandard junctions with the A372 is considered unsuitable to serve as a means of access to the proposed development. The proposal is therefore contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review and ST5 of the South Somerset Local Plan.
2. The Local Planning Authority is not satisfied from the information available that an agricultural need has been established for the provision of a dwelling that is essential to the proper management of the land in question and constitutes the undesirable consolidation of residential development in an unsustainable location remote from adequate services, employment, education, public transport, etc, and will therefore increase the need for journeys to be made by private vehicles which is non-sustainable and in conflict with government advice and policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan and policies HG15, ST3 and ST5 of the South Somerset Local Plan and the National Planning Policy Framework (March 2012).