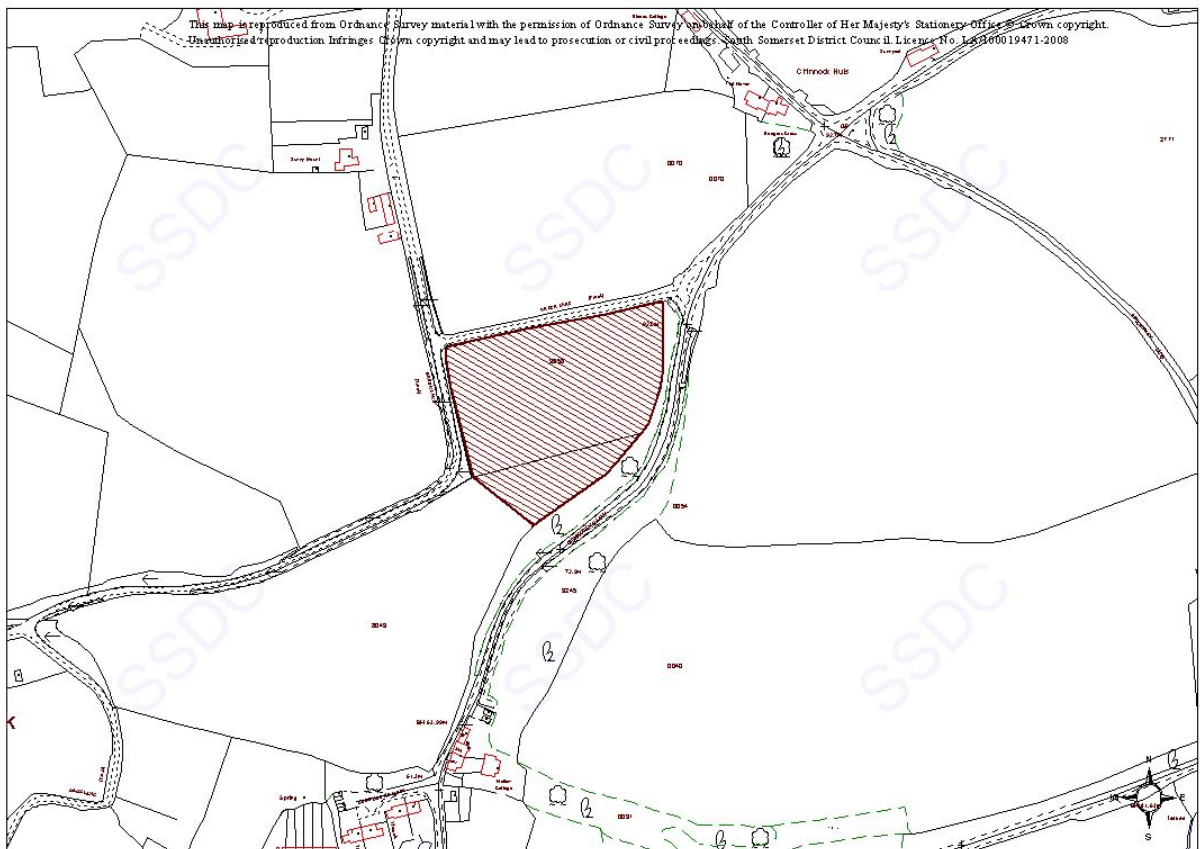


OFFICER: Kevin D Reid (01935) 462295 [Item 2]
APPL.NO: 07/03715/COU APPLICATION TYPE: Change of Use
PARISH: East Chinnock WARD: PARRETT
DESCRIPTION: Retrospective application for use of land to store materials and a vehicle in a bunded area also to compost green waste (GR 349921/113573)
LOCATION: Land OS 9258 Green Lane East Chinnock Yeovil Somerset
APPLICANT: Mr Andrew Harris
AGENT: Mr Roger Davis 557 Giffords Lane Haselbury Plucknett Crewkerne Somerset TA18 7RH
DATE ACCEPTED: 18 January 2008

REASON FOR REFERRAL TO COMMITTEE:

The Ward Member has asked that the visual, vehicular and sustainability issues within the application be discussed at Area West Committee.

SITE DESCRIPTION AND PROPOSAL:



The application is seeking planning permission for the use of the land to store materials and a vehicle in an enclosed/bunded area, a gravel hardstanding and the use of an area in the field for the deposition of green waste and composting. The application is retrospective. A previous scheme has been refused at the site. The site is a parcel of agricultural land located towards the north of the village of East Chinnock. The site is situated off Chinnock Hollow, which is a narrow steeply inclining classified highway with high embankments either side with limited capability for vehicles to pass at the southern end of the street where Chinnock Hollow adjoins High Street. The access into the site is by means of a gravel loose surface track known as Green Lane, which rises sharply off the road into the site. This track is a Public Path (RUPP) also known as a Restricted Byway, which is designated as a footway, cycleway or bridleway and should not be used by vehicular traffic unless vehicular rights can be proved to exist upon it. It is apparent that in order to access the site, vehicles will have to use the entrance and part of the Restricted Byway.

The application form states that the site will be used as a base for a gardening operation with all work undertaken off site. The enterprise currently employs 5 staff and proposes an additional 5 staff.

HISTORY:

07/00003/COU

Retrospective change of use for parking, storage of plant and equipment and composting and the formation of a new access and bunding.

Application Refused

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.

Relevant Development Plan Documents:

Regional Spatial Strategy: Vis 1 Vis 2 EN4

Somerset and Exmoor National Park Joint Structure Plan
STR1, STR6, Policy 5, Policy 49

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

CONSULTATIONS:

Parish Council:

No objection.

Highway Authority:

"I have the following observations on the highway aspects of this proposal:

In principle, the site is located remote from adequate services and facilities and with the non existence of footways leading to the site users of the proposed development site are likely to arrive by private vehicles. Accordingly I consider the development to be contrary to the advice contained within PPG10, PPG13 and Policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review and adopted policies 2000.

In detail, whilst adequate visibility can be achieved at the junction of the proposed access onto the classified road, the Highway Authority have concerns relating to its width and gradient. The access to the site is via a narrow access of singular width and has an excessively steep gradient sloping towards the public highway. Having reviewed the road records it appears that the site is wishing to gain access on to a Road Used as a Public Path (RUPP) also known as a Restricted Byway. A RUPP is a route designated as a footway, cycleway or bridleway and should not be used by vehicles unless vehicular rights can be proved to exist upon it. The proposal to create a vehicular access at this location is likely to lead to a significant increase in the level of traffic using the Restricted Byway and therefore the potential for conflict with other users.

Therefore, given the sites unsustainable location and substandard nature of the access the Highway Authority would recommend that this application be refused on highway grounds for the following reason:

The proposal is contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review since the proposed development would result in an increase in vehicular traffic along a designated Restricted Byway with consequent loss of amenity and risk of additional hazard and inconvenience to all users of the designated right of way."

Landscape Officer:

I recall an earlier application (07/00003) on this site, on which I commented 28/02/2007. My view remains as earlier expressed:-

I note the application site lays outside the curtilage of the village, and is elevated above it on the edge of Chiselborough / Coker Hill, thus there is no credible relationship with East Chinnock, and the site is clearly rural. Upon the hill (which is more correctly described as a desiccated plateau) the character is predominantly open other than for a small ratio of unmanaged hedgerows, and has little development presence other than the occasional farm-building group.

The hardstanding and bunding on site establishes a development footprint that includes for vehicle and other storage. There is no building group to which it relates. I would be wary of any consent that effectively establishes a business use in this location. Given the open character of the plateau, its relative sense of remoteness, and meagre presence of development form, I view this application to be at variance with local character and thus do not support it.

Rights of Way Officer:

I agree with the comments from SCC Highways (as I did with the previous application and the investigation by Planning Enforcement) and object to this application.

I wish to add that since RUPPs were changed to Restricted Byways following the Countryside and Rights Of Way Act 2000 (implemented in 2006) it is now a criminal offence to drive a mechanically propelled vehicle on the track known as Green Lane (Restricted Byway Y8/7). It is also an offence generally to remove hedgerows adjacent to public rights of way. It is an offence to change the surface of the lane without the agreement of the Highway Authority (SCC).

The Highway is in the control of SCC who have a duty to maintain the surface and powers to improve which are 'permitted development' under the GDO but this exemption does not extend to frontagers. As far as I can tell the applicant does not own any of Green Lane and would also be trespassing against the landowner in creating the ramp (and also by using it) and should have served notice on the landowner when the planning applications were made.

The areas edged red and blue do not include the bottom of the ramp or any works within Green Lane.

I would not object to a change of use within the field as it would not be seen (once the hedge is replanted and ramp removed) from the Restricted Byway as it is a sunken lane.

The land should be accessed via the previous private route (i.e. not using Green Lane) and the hedgerow and bank should be replanted.

Environment Agency:

No objection subject to conditions.

Area Engineer:

No comment.

REPRESENTATIONS:

Observations received from 2 neighbouring properties and can be summarised as follows: -

- Increase in traffic and impact on highway safety
- Noise as a result of development
- Road unsuitable for large vehicles
- Visual impact on landscape
- Vehicles parked on site
- Public footpath diverted
- Bonfires on site
- Noisy machinery on site

CONSIDERATIONS:

The main issues for members to consider in the determination of this application are as follows: -

Landscape Impact:

The proposed development does not respect the rural and remote character of the area. The Landscape Officer has objected to the scheme and has raised concern over establishment of a business use at the site. The bund, the storage of equipment and vehicles and the gravel hardstanding is considered to be an alien feature in the rural countryside and causes a significant impact on the quality and character of the visual and rural amenity.

Location:

The location of the proposed enterprise is considered by the Highway Authority to be remote from adequate services and facilities. It is considered that the enterprise is not situated in a sustainable location or a location, which is designated as suitably used as employment land. It is considered that the proposed enterprise is such that is not normally found in the open countryside. The development at the site has no built form to relate to and is clearly dislocated from the village of East Chinnock itself.

Highway Implications:

The access to the site has been formed off a Restricted Byway and the Highway Authority has raised objection to this. There is no evidence of Vehicular Rights in existence that allows for the use of vehicles over the Restricted Byway, which does not appear to be under the control or ownership of the applicants. The Highway Authority considered the development to constitute a risk of additional hazard and inconvenience to all users of the designated Right of Way.

The Highway Authority has raised concerns over the width and gradient of the access onto the classified road. Whilst adequate visibility can be achieved there remains the issues over the existing access arrangements.

Overall and in conclusion the application is considered to be contrary to the aims and objectives of Local Plan Policies where the site is located in the rural countryside outside of any Development Area as defined in the South Somerset Local Plan and will have a detrimental impact on the quality and character of the rural landscape. The Highway Authority has objected to the proposed development as a result of the inadequate access and consequential loss of amenity and risk of additional hazard to all users of the designated right of way. Should permission be granted at the site the intensity of the storage use at the site

would be difficult to monitor and control. Conditions can be applied, however they will be difficult to monitor and enforce once a use at the site has been established.

The application is thereby considered to be contrary to Policies ST3, ST5, ST6 and EC3 of the South Somerset Local Plan (Adopted 2006) and STR1, STR6, Policy 5 and Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan 1991 - 2011.

Section 106 Planning Obligation

N/A.

RECOMMENDATION:

Application Refused

1. Having regard to the bunding and hardstanding the development is contrary to the established landscape character of the area and detracts from the open character of the plateau. As such the proposal is contrary to Policy 5 of the Somerset and Exmoor National Park Joint Structure Plan Review 1991 - 2011 and Policy EC3 of the adopted South Somerset Local Plan (2006).
 2. The development would result in an increase in vehicular traffic along a designated Restricted Byway with consequent loss of amenity and risk of additional hazard and inconvenience of all users of the designated right of way. As such the proposal is contrary to Policy 49 of the Somerset and Exmoor Joint Structure Plan Review 1991-2011.
-