

Area West Committee – 19<sup>th</sup> February 2014

**Officer Report on Planning Application: 13/04695/FUL**

<b>Proposal :</b>	Siting of temporary agricultural workers mobile home, composting toilet and chick brooding house (GR 342563/112538)
<b>Site Address:</b>	Land Adjoining Green Lane Merriott Road Hinton St George
<b>Parish:</b>	Hinton St George
<b>EGGWOOD Ward (SSDC Member)</b>	Cllr P Maxwell
<b>Recommending Case Officer:</b>	Louisa Brown Tel: (01935) 462344 Email: louisa.brown@southsomerset.gov.uk
<b>Target date:</b>	14th January 2014
<b>Applicant:</b>	Miss D Quince
<b>Agent: (no agent if blank)</b>	Mr D Glasson 47 Cooper Road Bristol BS9 3QZ
<b>Application Type:</b>	Minor Dwellings 1-9 site less than 1ha

**REASON FOR REFERRAL TO COMMITTEE**

The application has been referred to Area West Committee at the request of the local ward member and the ward member for Windwhistle, in agreement with the Area Chair in order to discuss the economic and sustainability issues and in light of local support for the proposal.

**SITE DESCRIPTION AND PROPOSAL**





This is an application seeking the erection of a temporary agricultural workers mobile home, composting toilet and chick brooding house on land adjoining Green Lane. The site is situated on the southern side of Merriott Road. Currently the site consists of a detached blockwork building used for storage, two polytunnels, 2 acres of orchard and 1 acre dedicated to crop growing.

The site is just on the outskirts of Hinton St George within the open countryside. In the field to the west of the site permission has been granted for a gypsy site, this is a personal permission and the site is currently occupied. There are no other immediate neighbours adjoining the site.

## HISTORY

12/01464/FUL: the erection of a temporary agricultural workers dwelling - refused 19/07/12

10/02865/FUL: the erection of two polytunnels - approved 27 September 2010

## 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:

National Planning Policy Framework:

Chapter 3: Supporting a Prosperous Rural Economy

Chapter 6: Delivering a Wide choice of High Quality Homes

Chapter 7: Requiring Good Design  
Chapter 11: Conserving and Enhancing the Natural Environment

South Somerset Local Plan (Adopted April 2006):  
Saved Policy ST3 - Development Area  
Saved Policy ST5 - General Principles of Development  
Saved Policy ST6 - The Quality of Development  
Saved Policy EC3 - Landscape Character  
Saved Policy HG15 - Agriculture and Forestry Dwellings

## **ENVIRONMENTAL IMPACT ASSESSMENT**

None required.

## **CONSULTATIONS**

Hinton St George Parish Council:

"Whilst being slightly sympathetic to this application the Parish Council of Hinton St George has serious reservations as to the viability of the business plan namely is the business viable with the figures that are included? Also current ruling suggests that an Agricultural worker needs to live at or near their place of work there are properties available within a very close proximity to this site."

### **Highways:**

Standing advice applies. Previous comments on the 2012 application were as follows:  
"The proposal relates to the erection of a temporary agricultural workers dwelling.

The proposed development site lies outside the Development Boundary Limits for Hinton St George and is therefore distant from adequate services and facilities. In addition, public transport services are infrequent. As a consequence, occupiers of the new development are likely to be dependant on private vehicles for most of their daily needs. Such fostering of growth in the need to travel would be contrary to government advice given in the National Planning Policy Framework (NPPF) adopted March 2012 and RPG10, and to the provisions of policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted April 2000), and Policy ST3 of the South Somerset Local Plan, and would normally receive a recommendation of refusal from the Highway Authority as a result.

However it is noted that the application is for a temporary agricultural workers dwelling and therefore it must be a matter for the Local Planning Authority to decide whether there is sufficient need or justification for such a development in this location, which outweighs the transport policies that seek to reduce reliance on the private car.

In terms of the detail the proposal would likely result in a decrease in vehicle movements as the applicant would no longer be required to drive to the site. The proposal will utilise the existing access onto Merriott Road, which provides adequate visibility in either direction. Regarding the internal arrangements, the submitted drawing shows a parking area, which would be sufficient to allow two vehicles to park. This parking area would need to be properly consolidated and surfaced.

In conclusion the proposal is located outside defined development limits and as such it is considered to be unsustainable in transport terms. However it must be a matter for the Local Planning Authority to decide whether the proposal outweighs the Highway Authority's concerns. In detail the proposal would see a reduction in vehicle movements and utilise the existing access.

Therefore taking into account the above information the Highway Authority raises no objection and if planning permission were to be granted I would require the following conditions to be attached.

- The area allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.
- The proposed parking area shall be properly consolidated and surfaced (not loose stone or gravel) details of which shall have been submitted to and approved in writing by the Local Planning Authority."

**Economic Development Officer:**

"I read the detail through over Christmas and failed to respond, my apologies. This application demonstrates an extremely fine business case, one that is only marginally profitable over the next three years, sufficient to justify the need for a temporary dwelling. It is my view that the applicant is enjoying running a business in the countryside, to the point that it would be considered pleasant to reside in the same place as her work. Building a business case which supports an application for a temporary dwelling is how I have interpreted this application. Whilst the business does demonstrate there to be sufficient profit over the next three years to justify this application, I would question the need to live on site to make jams and chutneys, together with liqueurs! More than a third of the income in the first year is generated through these goods. A similar percentage is shown in the second and subsequent years for the same commodities!

There is also confusion over the income generated from the sale of salad leaves, how does this differ from the sale of veg boxes? Whilst there is a reasonable turnover from the rearing and processing of chickens, there is little information on the marketing of these birds which is sustainable in the long-term.

In summary, I consider this business plan to be so heavily weighted on the production of goods which do not warrant a residence on site to support them that I am unable to support this application."

**SSDC Landscape Officer:**

"I recollect earlier applications relating to this site, which has lead to the present level of growth found on the plot.

Looking first at the chick breeding house, this is a low-profile structure that is planned to lay alongside, and at a lower elevation to, the existing poly-tunnels, which are centrally sited within the holding. Whilst not typical of the locality, these are consented structures, which have a low visual profile and are surrounded by fruit trees, with screening reinforced by additional hedgerow planting. Their presence will not adversely aggregate development form on the site, nor will they be conspicuous in the wider landscape, consequently there is no landscape issue with this element of the scheme.

Turning to the application for the mobile home, the proposal clearly lays outside the curtilage of the village of Hinton St George, and as such it is outside designated development areas, to only be permissible if the case for development is agreed. If there is found to be no justification, then clearly there is no case for development. However, if the business case for a temporary dwelling is supported, then I am only likely to raise a landscape objection if the impact of this temporary structure on the landscape is deemed to be significant: The proposed location for the mobile home lays in close relationship with two existing polytunnels, which are central within the holding. As noted

above, the site has a low visual profile, surrounded by fruit trees, with screening reinforced by additional hedgerow planting. The proposal site is also at similar location relative to the Merriott road to the north, as the traveller's site to the west, which has minimal visual presence as perceived from external vantage points. Hence the location of the proposed dwelling is in a sympathetic arrangement with recently permitted structures; has a minimal visual profile; is well related to development form, and is of modest scale. As such, the landscape impact of this proposal is not considered to be significant, and I raise no landscape objection providing the case for the dwelling is accepted."

**Environmental Protection unit:**

No observations.

**REPRESENTATIONS**

A site notice for general interest was displayed. Twenty-one letters of support have been received.

- It is a successful business that should be allowed to continue
- the applicant needs to stay on the site so that her business can succeed
- Needed to stay on site to react immediately to any attacks on the chickens
- Support the application but the dwelling should not be seen from the road and should be single storey
- Support the application though have reservations over the smell from the chick brooding house and the permission should be temporary
- Wish to keep locally grown produce

**CONSIDERATIONS**

An Agricultural Planning Appraisal by Bateman North was submitted with the application along with a business plan and cash flow projections for 2013-2016. The site is outside any defined development area. The main planning considerations in this case relate to:-

- 1) The need to properly justify a temporary dwelling in the open countryside
- 2) The landscape impact of the proposal
- 3) Highway safety issues.
- 4) Visual and residential amenity

A previous application was refused as it was considered that there was not a justified need to be on site, the report stated "With regard to the functional/essential need to be on the site it is not considered that this is met. The business plan is based on the salad crop, orchard (fruit sales, not including the cost to make the gin and chutneys) and future plan to have chickens. Whilst the plan is to introduce the rearing of free range table chickens this is not yet established and may not even happen, as such the application should be determined on the existing business uses on the site."

This application has been submitted with the same business plan with the addition of rearing free range table chickens. Pre-application advice was sought after the refusal in 2012 and advice was given that there was concern over the proposal, which could only be fully assessed through the submission of an application.

Justification for agricultural workers dwelling:

With the introduction of the National Planning Policy Framework (NPPF), the previous guidance in relation to the justification for agricultural workers dwellings set out in Annex A of PPS 7 has been removed. However, the NPPF advises:-

"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;"

It is therefore still considered to be fundamental that the 'essential need' for a farm worker's dwelling is proven in order to justify a new dwelling in the open countryside. The previous requirements of PPS7 are considered to provide very useful criteria to test such applications, these were:

- Clearly establish an existing functional need
- The need relates to a full-time worker
- The functional need could not be fulfilled by another existing dwelling on the unit or any other existing accommodation in the area, which is suitable and available for occupation by the workers concerned.
- Other planning requirements e.g. in relation to access, or impact on the countryside, are satisfied
- A financial test to establish that the farming enterprise is economically viable.

Saved policy HG15 of the South Somerset Local Plan (Adopted April 2006) still carries weight in the consideration of this application and contains the following criteria:

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.

Whilst not adopted some weight can be given to Policy HG9 of the emerging Local Plan, which is not to be re-examined by the Secretary of State, makes reference to their having to be a clear existing functional need, along with the other elements currently listed in the saved policy HG15.

#### Financial Test:

In terms of the financial test the applicant has provided a confidential business plan that shows predicted income for 2013-2016. The Economic Development Officer was consulted and his main concerns were:

"Whilst the business does demonstrate there to be sufficient profit over the next three years to justify this application, I would question the need to live on site to make jams and chutneys, together with liqueurs! More than a third of the income in the first year is generated through these goods. A similar percentage is shown in the second and subsequent years for the same commodities!"

My examination of the financial test show that currently in the year 2013 the applicant's main income was from her garden/landscaping business, which operates off site. Figures for 2014, 2015 and 2016 show that this use will cease and be replaced with chickens. The previous application that was refused made mention of the fact that the production and sales of jams, chutney and liqueurs could not be considered as part of the financial case or functional need to live on the site. As the Economic Development Officer has stated the figures show that more than a third of the income is for the non-agricultural products.

Consideration should also be given to the net profit for each year which in years 2014 and 2015 falls short of the national minimum wage that is to be applied since changes in 2013 for agricultural workers. The National minimum wage is set to possibly increase in 2014 to £7 per hour which would leave an even larger shortfall.

There are gaps within the predicted cash flow in regard to the chickens. The income shows the money from the sale of the chickens; however outgoings for the chickens are not accurate. Medication, bedding and feed are listed but no mention of the cost for the brooding house or equipment required or cost to run the gas fuelled heat lamps, and again the biggest proportion of outgoings is in relation to the liqueur making e.g. gin ingredients.

Whilst a temporary permission could be granted, subject to there being a functional need to allow the applicant time to prove the business is viable, it is considered that based on the cash flow projections there is no financial support to show the business is viable and to thus support the functional need to live on the site as the income from the chickens alone would not support an agricultural worker and it has already been established that the production of the salad leaves and fruit would not have a functional need to be on site and also alone would not support an agricultural workers wage, even put together it would fall short. It is the addition of the jams, chutney and liqueur that add to the income which are not agricultural, and even then the minimum wage is only just being met in 2016.

The planning appraisal states:

"The stated intention to continue in horticultural production appears to be genuine as demonstrated by the fact that the applicant has been involved with such enterprises for a number of years and has invested significantly over the past 5 years to purchase land to operate her business and build it up to a level it is now at.

With these levels of investment and expansion, it is not considered that this is an attempt to abuse the planning system and based on the business financial records, it can be seen that good profits have been achieved over the last 3 years for which accounts are available."

The cash flow projection only shows the previous accounts for 2013 and none before this which clearly shows that the profit made was predominantly from the landscaping business and sale of liqueurs, jam and chutney which is not an agricultural business and as such only further goes to prove that the profit made in 2013 and previously (as stated by the Planning Appraisal submitted) is not based on the agricultural business thus further weakening the need to live on site for a proposed agricultural business that does not appear to be viable.

#### **Functional Need:**

The submitted Planning Appraisal (Bateman North) makes reference to the need to be on site for the chickens as they will be reared from one day up to 90 days old and that they will require 24 hour attention until they are at least 6 weeks old as they will need to be kept warm by way of a heat lamp. It is intended for a new supply of chicks will be delivered every 2 week.

Previous discussions prior to this application raised questions in regard to the possible use of automated systems. The agent has stated within his supporting letter that "it is not possible to have an automated system for the heat lamps as they are powered by gas and the chicks require a person to view them, diagnose and react accordingly." There is no evidence to back this up in regard to the heat lamps or other avenues

explored such as heat lamps operated by solar generated electricity. Other farms operate without the need to be on site for chicks 24 hours a day due to the introduction of automated systems.

The applicant's current residential address is a 15 minute drive away. Properties for sale and to rent in the village have been looked into by this authority and at the time of writing this report there were numerous properties for sale and one for rent. The Parish Council have concerns with the application and have highlighted that "current ruling suggests that an Agricultural worker needs to live at or near their place of work there are properties available within a very close proximity to this site."

No evidence has been supplied to show that accommodation nearer to the site has been considered and instead the applicants have moved further away from the site since their last application. Previously they lived 1.6 miles away in Dinnington and now reside approximately 4 miles away in Lower Chillington.

The Planning Appraisal further makes reference to the salad crops and vegetable production in its argument to be on the site permanently, however it has already been established through a previous refusal that there is not a functional need to be on the site permanently for this side of the business. It is also considered that there is no functional need to be on the site for the chickens especially at this stage when there is no evidence of investment for the poultry business and with a predicted turnover of 10 chicks a week in the first year there could be scope to rear the small volume of chicks from their current residential property whilst they test the market and look to invest in the necessary automated equipment.

The numerous letters of support make reference to retaining the business as it provides local produce to the village and some surrounding businesses. It is clear that this business is beneficial to the local community and it should be noted that this application is not intended to damage the business. This application is to determine if there is a justified need for a temporary dwelling on the site along with a chick brooding house and compost toilet. Reference made to the NPPF and the need to support the rural economy and a competitive economy are not considered relevant to this application in determining if there is a functional need to live on the site. NPPF paragraph 55 states that: "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."

As explored within this consideration the need to be near or at their place of work is not considered to have been justified and alongside this there are properties near to the site that are available to buy or rent. The emerging local plan policy HG9 and criteria of the cancelled Annex A of PPS7 gives reference to their having to be a clearly established existing functional need and this application does not have the adequate evidence to show that this business, based on the chickens, will be either viable financially to support a full time agricultural worker or gives information of investment having been made or factored into the accounts for the introduction of the rearing of table chickens.

The inspector of appeal decision APP/R3325/A/13/2191744 made the following statement within his considerations "the Council cited a recent appeal decision (ref. APP/C1625/A/12/2171046). That case also considered an application for a temporary agricultural workers dwelling and my colleague concluded that Annex A represented 'a tried and tested methodology for assessing if there was an essential need for an agricultural worker's dwelling on a holding.' He argued that, as the need for a dwelling should be judged objectively, Annex A was a sensible starting point. I agree that this approach would be acceptable."



It is considered that the functional need to live on the site is not robust enough to allow a temporary dwelling on this site and that the financial predictions do not stack up to make the business of rearing and selling chickens viable on the scale proposed, even when factoring in the crops that are grown on site.

Security and loss of produce to animals is not considered to be an essential reason to be on the site permanently as appropriate fencing and alarm systems can be put into place.

It has been previously considered on the refused application 12/01464/FUL that there is not considered to be an essential need to live on the site to look after the salad and vegetable crops as there are systems that can be introduced to deal with frost and watering etc., along with the fact that the applicant lived near to the site. The Cash Flow submission for 2013 shows that the majority of income made is from the applicants landscaping/garden business which would see her away from the site throughout the day and as such further confirming that there is not a need to be permanently on the site at all times.

#### **Landscape impact of the proposal:**

The proposed temporary dwelling will be located to the east of the existing polytunnels. Due to this location it will not be visible from the entrance to the site. The Landscape Officer states that if there is no justification found for a temporary dwelling then clearly there is no case for development, however if the justification is there then he has no landscape objection to the proposed siting of the dwelling. He further states that given the location and low profile of the chick brooding house there is no landscape objection.

#### **Highway safety:**

The Highway Authority has stated that standing advice is applied. Their comments made on the 2012 application highlight that the proposal is unsustainable and would not be supported by them, however they state that it is for the Local Planning Authority to decide whether there is sufficient need or justification for such a development in this location, which outweighs the transport policies. As it is considered that there is not an essential need for the temporary dwelling on the site then the transport policies supporting a refusal apply.

#### **Visual and Residential Amenity:**

Part of the proposal is to site a temporary agricultural workers mobile home near to the west boundary of the site behind the existing polytunnels. To the south of the dwelling will be a composting toilet.

Due to the boundary treatments on the site and the location of the proposed dwelling it will not be easily visible from any public advantage point. There are no residential properties nearby. It is considered that the mobile home will not adversely affect visual or residential amenity.

The other part of the proposal is for a chick brooding house measuring 12.3 metres by 4.25 metres to be located to the south of the existing polytunnels. Due to the design of it and its location it is considered that it will not adversely affect the visual amenity. One letter has raised concern over the possible smell from the chickens, Environmental Protection Unit have no observations to make on the application and it is considered that given the location of the brood house and the number of chicks to be accommodated there will be no adverse impact on residential amenity by reason of smells and disturbance.

**CONCLUSION**

It is considered that there is no essential need for the temporary agricultural workers mobile home on the site based on the information provided and lack of evidence of investment for the chickens, alternative accommodation within the village and automated systems. It is also considered that there is a lack of sound financial projection for the business in relation to the agricultural activities that will take place on the site which indicate that the agricultural part of the business will not be viable to support a full time agricultural worker.

It is considered that the siting of the temporary mobile home and chicken brooding house are acceptable by reason of siting, scale and design.

**RECOMMENDATION**

Refuse.

**SUBJECT TO THE FOLLOWING:**

01. The essential need and existing functional need for the applicant to live permanently on this site has not been established and there is therefore no justification for the proposed temporary agricultural workers mobile home on the holding, in an unsustainable countryside location. The proposal is therefore contrary to the aims and objectives of saved policies ST3 and HG15 of the South Somerset Local Plan (adopted April 2006) and the NPPF Chapter 6: Delivering a Wide choice of High Quality Homes (paragraph 55).
  02. The Cash flow evidence does not show that the business will be viable to pay an agricultural workers wages based solely on the sale of table chickens and salad and vegetables and as such the proposed business plan fails to meet a financial test or show sound proof that there is the possibility of the business succeeding within the next three years to justify a temporary mobile home on the site and is therefore contrary to the aims and objectives of saved policy HG15 of the South Somerset Local Plan (adopted April 2006) and the NPPF Chapter 6: Delivering a Wide choice of High Quality Homes (paragraph 55).
-