

**5. Application for partially underground eco-dwelling for agricultural occupancy. Woodentop Farm, West Coker Hill, West Coker, Yeovil**

**OFFICER:** Helen Ferdinand (01935) 462159  
**APPL.NO:** 06/00918/OUT \*\*  
**APPLICATION TYPE:** Outline Application  
**PARISH:** West Coker  
**WARD:** COKER  
**DESCRIPTION:** Application for partially underground eco-dwelling for agricultural occupancy (GR: 350962/113272)  
**LOCATION:** Woodentop Farm West Coker Hill West Coker Yeovil Somerset BA22 9DG  
**APPLICANT:** Mr P C Richards  
**AGENT:** Michael F Trevallion (Architect) 58 Broadway Frome Somerset BA11 3HE  
**DATE ACCEPTED:** 23 May 2006

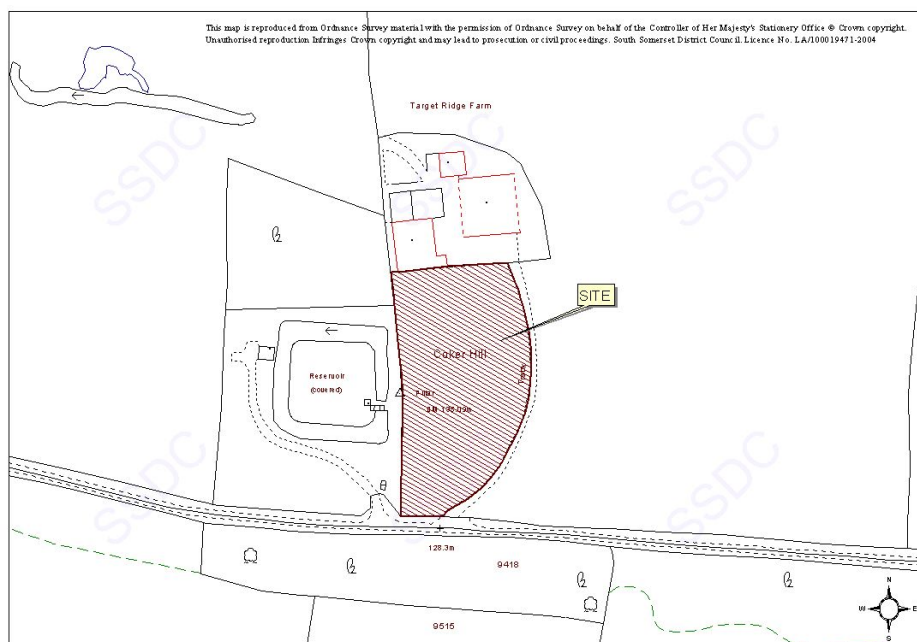
Reason for referral to the Regulation Committee:

At its meeting of 6th June 2007 the Area South Committee resolved to refer the application to the Regulation Committee with a recommendation that the application be approved.

This report includes the original report to the Area South Committee followed by the relevant minutes and resolution of Members of the Committee.

This application was originally considered by Area South Committee in February 2007 because of the particularly sensitive nature of the proposal coupled with its complex planning history. It was resolved to defer the decision to allow further negotiations to be undertaken and for a report to be brought back to the Area South Committee.

**Site Description And Proposal**



The site of the proposed dwelling is located on the northern side of Ridge Lane and the land holding, now known as Woodentop Farm, extends to some 45 acres of grassland, and a further 12 acres is rented. The original farmhouse which served this land and known as either Bridge Farm or Target Farm was sold off just four years ago in December 2002. The site is close to the top of the ridge between the villages of West Coker and Hardington Moor/Mandeville, and commands magnificent views across Somerset.

A log cabin, a temporary dwelling granted planning permission for three years in March 2003, is nearing completion having been under construction for 2 1/2 years. This temporary log cabin is significantly larger than the approved plans.

Turning to the proposal under consideration, the applicant is proposing a new permanent eco-dwelling (the meditation/meeting room originally included as part of this application has been withdrawn). The application is in outline with all matters reserved for subsequent approval. Although details are submitted regarding the design principles proposed for the "eco-dwelling", these have been considered to be indicative at this stage. Considerable additional information would be required to allow rigorous testing of the sustainability aspects. An alternative application was also made for temporary permission for a further 3 year period for the log cabin. This was refused in December 2006 and is now the subject of an appeal.

In support of this application, the applicants' agent has submitted a report (dated 19 March 2007) to justify the requirement for an agricultural workers dwelling. The report concludes that :

- 1) The functional need and financial viability requirements as set out in PPS7 appear to be fully met by the applicant's business and the proposed agricultural dwelling.
- 2) The dwelling does not appear to contradict any of the statements in PPS7. Indeed, it fulfils many of the requirements including: "To promote sustainable, diverse and adaptable agricultural sectors where farming achieves high environmental standards, minimising impact on natural resources, and manages valued landscapes and bio diversity; contributes both directly and indirectly to rural economic diversity; is itself competitive and profitable; and provides high quality products that the public wants".

## **History**

In October 2002 an outline application (02/02073/OUT) for a partially underground eco dwelling for agricultural occupation was refused. Subsequently, however, permission for a temporary agricultural dwelling (02/03450/FUL) was given in March 2003 for a three year period in order to allow the applicant time to establish the agricultural business which then consisted of a suckler herd and calf rearing.

An alternative application (06/00709/FUL) was submitted together with the application under consideration and sought the renewal of the temporary planning permission. This was refused under the delegated procedure in December 2006 on the basis that the applicant had failed to demonstrate an essential justification for the development; the proposal was unsustainable in respect to its location; and the approach roads were unsuitable.

## **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.

Planning Policy Statement 7: Sustainable Development in Rural Areas, Annex A  
Planning Policy Statement 3: Housing

Relevant Development Plan Documents :

Regional Spatial Strategy:

VIS1

VIS2

Policy SS19: Rural Areas

Policy SS20: Rural Land Uses

EN1: Landscape and Biodiversity

HO4: Housing in Rural Areas

TRAN1: Reducing the Need to Travel

Somerset and Exmoor National Park Joint Structure Plan

STR1: Sustainable Development

STR6: Development outside towns, rural centres and villages

Policy 5: Landscape Character

Policy 49: Transport Requirements of New Development

South Somerset Local Plan (Adopted April 2006)

ST3: Development Areas

ST5: General Principles of Development

EC3: Landscape Character

HG15: Agricultural Dwellings

## **Consultations**

West Coker Parish Council

No objections. Full support for this project.

Hardington Mandeville Parish Council

The Parish Council objects to this application for the following reasons.

The Parish Council is aware that during the Foot and Mouth epidemic the applicant was unable to feed his cattle and the RSPCA had to do so in order to stop them starving. The viability of this farm is, therefore, an important factor to take into account when considering this application. The applicant has not submitted any evidence to demonstrate the need for an agricultural dwelling on this site, or to show that the farm is a viable unit. We understand that he has submitted some information to the District Council, but that this is private information between the applicant and the District Council and is not in the public realm. The Parish Council is, therefore, unable to carry out its duty to take into account all relevant information and must object to this application.

The Council wishes to make it clear that it supports the provision, design and promotion of ecologically sound dwellings. However, the desirability of such buildings should not be allowed to override the requirement to prove agricultural need.

Finally, the Council is concerned that this is an application for outline planning permission and that, if this approval for a dwelling was granted in principal, then a full application for a more conventional dwelling may follow.

Agricultural Development Officer

I have received a further report from the Agent Mr Mike Houghton. This report dated the 19th March 2007 deals with the functional and financial test requirements of PPS7 Annex A.

I have now had the opportunity to consider this report in detail and would make the following comments.

The standard man day (SMD) requirement of the functional test has been achieved by two methods.

- A) Buying in of calves in the weeks preceding submission of the application
- B) Basing the SMD requirement of the Bison and Elk on four times the requirement for suckler cows.

The influx of calves up to submission of the report forms nearly 50% of the SMD calculation. As the calves form a fundamental component of the SMD calculation I would note that calf mortality would have a key impact on the applicant achieving the SMD threshold. It is understood that a significant number of calves brought in before the 19th March, to reach the SMD threshold have died and have been removed. Therefore, any contentious issue such as this would lower the SMD calculation below the required threshold to meet the functional test requirement.

The SMD calculation for the Bison and the Elk is based on a SMD requirement of four times the requirement for Suckler Cows. In the supporting letter attached to the report from 'The English Bison Company', they suggest that "at least twice as much time" is required. Again if the SMD calculation is reduced from x4 to x2, this will correspondingly reduce the SMD to below the threshold for one full time worker.

Finally there appears to be some confusion with regard to the acreage of the holding. Correspondence to date including the applicants Dangerous Animals Licence has stated a holding size of 45 acres. In this report the holding is given at 67 acres.

In summary, the report submitted on behalf of Mr Richards shows that the SMD requirement to meet the functional test requirement of PPS 7 Annex A has been achieved for one full time worker. The accounts provided show that a profit has been achieved in one of the three preceding years, and therefore the financial test requirements has been met.

In conclusion, the Functional Test of PPS7 Annex A notes that the planning authority can investigate the recent pattern of land use.

Aside from the fact that the original farmhouse has already been sold by the applicant, the SMD threshold of the functional test has only been achieved by buying in stock up to the date of submission of the Agents report.

I therefore have to emphasise that this analysis of the functional test is based solely on a snapshot of 19th March 2007. No inference should be made as to past trends or future projections with regard to a planning application for a permanent agricultural dwelling.

#### Landscape Officer

As a countryside site, can I assume that any consent would be an exception based upon a proven need? If the need is not proven, then clearly there are landscape character grounds for a landscape objection, as the site is in open countryside, neither is it related to West Coker village, nor the small nucleus of dwellings at the junction of Ridge Lane and Coker Hill Lane, some 400 metres to the west. Any development away from these settlement nuclei would erode the open character of this hilltop, and thus be contrary to adopted plan policies ST5 and EC3.

However, should the need for a dwelling be proven, and a site in close proximity to the existing farm buildings agreed to be a necessity, then I would not object to the form of development proposed. If the ground modelling were to be designed sensitively, and tree planting carried out that also related to the existing farm buildings and the reservoir site, then a degree of enhancement could be enabled to thus comply with policy ST3.

#### Highway Authority

The Planning Officer will be aware that the site lies outside of the recognized development limits for Yeovil area where it is remote from adequate services, facilities, education and employment opportunities and there are limited access and transport services. 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 PPG13 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).

However, it must be largely a planning matter as to whether or not this is a suitable location for an agricultural dwelling. If it is, and there is overriding agricultural support and/or the proposed dwelling is required to satisfy a genuine local need, then a highway objection to the proposal may be inappropriate should the Local Planning Authority decide that the need outweighs the sustainable transport objectives.

The approach road is substandard by reason of its restricted width and poor alignment and is therefore considered unsuitable to accommodate the increase in traffic likely to be generated.

#### MoD

No safeguarding objections.

#### Area Engineer

No Comment.

### **Representations**

A site notice was displayed on 23 June 2006. No comments have been received.

### **Considerations**

The site lies outside the defined 'development area' where development opportunities are extremely restricted, and Government advice in the form of Planning Policy Statement 7 (PPS 7) states that the countryside should be protected for its own sake, and new development away from established settlements should be strictly controlled. In addition, Policy Planning Statement 3 (PPS 3) promotes a sustainable form of development and states the focus for additional housing should be the existing towns and cities. In the light of this Government Guidance, Policy STR1 of the Somerset Structure Plan and Policy ST3 of the Local Plan restrict development to that which

benefits economic activity, maintains or enhances the environment, and does not foster the growth in the need to travel. A proposal for a permanent dwelling in this location meets none of these requirements and thus does not constitute a sustainable form of development.

However, provision is made for new dwellings in the countryside to serve agricultural enterprises. The proposal under consideration is being put forward on this basis, and indeed the planning consent for the temporary dwelling was granted in March 2003 for a period of 3 years on the grounds that it would allow the applicant to establish his agricultural business which at the time comprised a suckler herd and calf rearing. However, by July 2006 the calf rearing enterprise had ceased, and 9 bison (for which a dangerous animal license has been issued), 5 elk and 5 Highland cattle had been introduced for breeding.

PPS 7 states it is essential that all applications for planning permission for new agricultural dwellings in the countryside are scrutinised thoroughly to avoid attempts to abuse the planning system and the concession it makes for such dwellings. In order to do this all proposals for agricultural dwellings must meet both functional and financial tests as set out within Annex A of PPS 7. Consideration of this proposal is based on the latest report provided by the applicant and dated 19 March 2007. A full assessment of this has been undertaken by the Agricultural Development Officer and his comments set out above.

#### Functional Test

The Agricultural Development Officer remains unconvinced that the requirements of the functional test, which establishes whether it is essential for the proper functioning of the enterprise for at least one full-time worker to be readily available, have been met. This view is upheld by a number of factors:

- a) The original farmhouse was sold off in 2002.
- b) The log cabin granted temporary planning permission in March 2003 was still under construction in July 2006 and remained incomplete by March 2007.
- c) The basis of calculating whether the agricultural enterprise supports at least one full-time worker is considered to be flawed in that the "standard man days" (SMD) calculation has been over estimated by i) multiplying the SMD for bison and elk by 4 and ii) importing approximately 70 calves into the farm during the week preceding the agreed "snapshot date" on which the calculation was based.

#### Financial Test

PPS 7 states that a permanent dwelling can only be justified if "the unit and the agricultural activity concerned has been established for at least 3 years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so" (para. 3, Annex A PPS 7). The Agricultural Development Officer concludes that, on the basis of the accounts provided in the report dated 19 March 2007, the financial test has been met as there has been a profit for one of the preceding years. However, it should be emphasised that there has been a lack of consistency in the "agricultural activity" concerned since 2003. The business has changed from one dependant on calf rearing to one involving bison and elk, and then recently to being dependant on calf rearing again.

The South Somerset Local Plan also contains policies relevant to this proposal. For instance, Policy HG15, 'Agricultural Dwellings' has been drawn up fully in accordance with PPS 7 and recognises that agricultural dwellings are one of the few circumstances where new house building in the open countryside may be justified. However, the Policy sets out certain criteria (reflecting those of PPS 7) and again not all have been met, particularly the requirement for the enterprise to be able to support at least one full-time



worker. Furthermore Policy ST5 of the Local Plan identifies the general principles of development intended to ensure basic planning objectives are met and the overall quality of life and the environment of the District is maintained. A number of these principles are not met by this proposal including: the need to promote a pattern of land use and transport which reduces the need to travel; the need to make efficient use of land and give priority to the use of sites within the urban areas first; to respect the character of the locality (see Policy EC3 also); and to ensure the provision of a satisfactory means of access into the site. The proposal is therefore contrary to Policy ST5.

In summary, this proposal for a new dwelling is in the open countryside where such development is normally resisted. Only where there is an essential need for a full-time agricultural worker to live at their place of work can planning permission be considered. In this case, not only is it considered that the enterprise (the nature of which has been inconsistent) does not support a full-time worker, but the fact that the original farmhouse was sold off just four years ago and the temporary log cabin has only recently been made habitable supports the view that there is no essential functional need for someone to live at this site.

## HUMAN RIGHTS

Members' attention is drawn to the human rights of the applicant and others (e.g. neighbours, people living in the vicinity) who may be affected by the proposed development. Members are referred to the note on human rights to be found at the beginning of the Agenda. In this case both Article 8 (private and family life) rights and Article 1 of the First Protocol (possessions and property) rights are engaged and they need to be weighed in the balance as part of the decision-making process. However, the rights in question are subject to the Council being able to derogate from such rights for the legitimate purpose of environmental protection, which terms will include planning development control. Any decision to derogate must be a proportional response, that is, the degree of interference with human rights must be proportional to the harm (if any) caused by the proposed development.

## **\*\*RECOMMENDATION**

Refuse planning permission for the following reasons:

01. A sufficiently robust case to support the requirement for a new agricultural worker's dwelling has not been demonstrated. In particular it is considered that it has not been proved that the agricultural enterprise upon which the proposal is based establishes a need for a full-time worker to reside on the site and therefore the functional need has not been met. Therefore the development is contrary to Policy HG15 of the South Somerset Local Plan 2006, and Planning Policy Statement 7 (Annex A) 2004.
02. The application site lies outside the defined development area and does not benefit economic activity, does not maintain or enhance the environment, and fosters the need to travel. It is therefore considered to be contrary to countryside protection policies such as Policy STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review (2000), and Policy ST3 of the South Somerset Local Plan 2006, and Planning Policy Statement 7.
03. The proposed development would be located where it is remote from adequate services, facilities, education and employment opportunities and where there are limited access and transport services. As a consequence, occupiers of the new development are likely to be dependent 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 PPG13 and Policy TRAN1 of Regional Spatial

Strategy 2001, Policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review April 2000, and Policy ST5 of the South Somerset Local Plan 2006.

04. The proposed development is located in the open countryside unrelated to any existing settlement and would result in an erosion of the open character of this hilltop and thus be contrary to Policies EC3 and ST5 of the South Somerset Local Plan 2006.
05. The approach road is substandard by reason of its restricted width and poor alignment and is therefore considered unsuitable to accommodate the increase in traffic likely to be generated. As such the proposals are contrary to Policy 49 of the Somerset and Exmoor Joint Structure Plan Review April 2000 and Policy ST5 of the South Somerset Local Plan 2006.

Extract from Area South Committee Minutes - 6<sup>th</sup> June 2007

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The Planner outlined the history of the site and with the aid of slides presented photographs of the site and illustrative drawings of the proposal, some of which had been provided by the applicant. She drew attention to the permission for a temporary log cabin that had been granted to give the applicant an opportunity to establish the agricultural enterprise. That permission had lapsed in March 2006 and at that time the building remained unfinished.

Turning to the current application, the Planner explained that the applicant's recent report assessed the functional and financial need as required by Planning Policy Statement 7 (PPS7). The opinion of the Council's Agricultural Officer was that the criteria set out in PPS7 had been met but sufficient proof had not been provided to show that it was essential that the enterprise needed someone to live on site and could support one full-time worker.

The Planner presented a table provided by the applicant's agent, setting out the man days required for livestock numbers on the farm which she felt did not reflect a true picture of the situation as approximately 70 calves, which accounted for nearly half the man days, had been brought on to the farm a few days before the "snap-shot date". Also, the calculation for bison and elk had been exaggerated. She informed the Committee that the farmhouse had been sold before planning permission had been granted for the temporary dwelling and this supported the case that the functional test had not been proven and therefore there was no essential need to live on the site.

In response to members' questions, the Head of Development and Building Control explained that:

- The dangerous animals licence had been issued without reference to living on site, however this would be preferable but not essential. The licence would not be withdrawn if permission were to be refused.
- Planning legislation allowed a trial run of temporary mobile accommodation over a period of three years to establish the viability of a farm and the need for a permanent dwelling.



Colin Seaford spoke in support of the application as Secretary of the British Bison Association. He said the applicant was farming in a sustainable way and making a profit. A dangerous animals licence was a requirement for bison and it was accepted that someone should be with them for most of the time as they needed more time spent on them than cattle.

Michael Trevallion, architect, said that although he had provided further information, this had not been taken into account in the officer's recommendation. The Agricultural Officer had acknowledged the need for someone to be present on site and the functional need had been proven. Wildlife and environmental programmes were in place on the farm and Highways and the Landscape Officer had no objections if the functional need was proven. He was aware that exceptions for other buildings in open countryside had been granted.

Rodney Sawtell, a resident of Coker Hill, said the proposal would not affect the amenity of people living there. The farming enterprise had developed over a number of years and should not be stopped now.

Mike Houghton, clarified that the applicant had met the objectives of Government to establish small sustainable businesses. He considered the report to be misleading as the application under consideration was not for the temporary dwelling. The applicant had made a profit in two of the last three years and on the day of the Committee he had passed a cross-compliance inspection undertaken by the Rural Payments Agency. The animal numbers were flexible as the applicant collaborated with a calving unit to supply calves in the spring. He supported the figures in the table by explaining that bison required patient care over a high number of hours. He believed that the proposal met the requirements in PPS7 regarding sustainability and rural diversity.

The applicant, Paul Richards, referred to the length of time the application had been considered. He said he had complied with all requests for information and had discussions with planning officers. He said he was trying to get away from subsidies with his current enterprises and asked members for their support.

The Head of Development and Building Control clarified that there were no objections to the applicant's business and confirmed that the application under consideration was for a permanent dwelling in open countryside. The temporary building was of relevance to the determination of the current application. The granting of temporary consent had afforded the opportunity to see if the business was robust enough before granting permanent permission. He reminded the Committee that the application was for outline permission and therefore there were no details to negotiate.

Councillor Hannah Lefevre, ward member, drew attention to the reasons for refusal set out in the officer's report. She felt that someone living and working on site would not generate extra traffic and the applicant had demonstrated his commitment to farming and the environment. The proposal was within walking distance of the facilities of West Coker and as the building would be partially underground it would be hidden from the surrounding area.

The Assistant Solicitor reminded the Committee of the requirement to seek alternative accommodation and that access and sustainability should be given equal importance. Looking at material planning considerations, the planning history was relevant and members should bear in mind that the farmhouse had been sold off and the log cabin was unlawful.

Councillor Lesley Boucher, ward member, welcomed the original and innovative design and changes in farming practice. However, she felt the applicant had taken the wrong direction and she supported the recommendation.

During the ensuing discussion members raised the following points:

- The Government encouraged diversification and innovative ways to continue farm businesses.
- It had been stated that it would be better for someone to live on the site to care for the dangerous animals.
- The history of the log cabin was felt not to be relevant to the current application.
- If there was a need for a dwelling why had the farmhouse been sold?
- Whilst sympathetic to the applicant's business, the need for a permanent dwelling had not been proven as the temporary building had only just been completed.

The Head of Development and Building Control confirmed that in normal circumstances, past history was not a material consideration but he quoted from para 5 Annex A of PPS7 that the pattern of land use and recent use of buildings, including whether any dwellings had been sold separately from the farm, should be taken into account in this case.

The Chairman reminded the Committee that if members were minded to vote against the officer's recommendation to refuse, the application would be referred to the Regulation Committee as there were significant policy implications for the whole District.

The officer's recommendation to refuse permission was proposed and seconded and on being put to the vote was declared to be not carried by 4 votes in favour, 9 against and 3 abstentions. It was then proposed and seconded that the application be referred to the Regulation Committee with a recommendation that it be approved as the members felt the agricultural need had been demonstrated.

**RESOLVED:** that the application be referred to the Regulation Committee with a recommendation that it be approved for the following reason:

The agricultural need for the dwelling has been demonstrated.

*(12 in favour, 4 abstentions)*

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