

South Somerset District Council

Minutes of a meeting of the **Regulation Committee** held on **Tuesday, 17th July 2007** in the Council Chamber, Council Offices, Brympton Way, Yeovil.

(10.00am – 1 pm)

Present:

Peter Gubbins (Chairman)

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| Jill Beale | Pat Martin |
| Tony Fife | Patrick Palmer |
| Julian Freke | Sylvia Seal |
| Henry Hobhouse | Kim Turner |
| Mike Lewis | Linda Vijeh (until 12 noon) |

Also Present:

Lesley Boucher

Officers:

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| Andy Cato | Deputy Planning Team Leader |
| Simon Gale | Head of Development and Building Control |
| Andrew Gunn | Deputy Planning Team Leader |
| Angela Watson | Assistant Solicitor |
| Philip Wainwright | Environmental Health Officer |
| Angela Oxenbury | Committee Administrator |

1. **Appointment of Vice Chairman (Agenda Item 2)**

Resolved that Councillor Julian Freke be appointed as Vice Chairman of the Regulation Committee.

2. **Minutes (Agenda Item 2)**

The minutes of the meeting of the Regulation Committee held on Tuesday, 20th March 2007, copies of which had been previously circulated, were approved as a correct record and signed by the Chairman.

3. **Apologies for Absence (Agenda Item 3)**

Apologies for absence were received from Councillors Tim Carroll and William Wallace.

4. **Declarations of Interest (Agenda Item 4)**

Councillors Tony Fife, Julian Freke and Pat Martin declared that they had considered planning application 06/00918/OUT (agenda item 5) at Area South Committee but had not voted on that item.

Councillor Peter Gubbins said he reserved the right to both speak and vote on the planning applications on the agenda.

Councillor Patrick Palmer declared a personal and prejudicial interest in agenda item 6 – Proposed new industrial development at Ringwell Hill, Martock - as he was the owner of the site.

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

The Deputy Planning Team Leader referred to a letter from the applicant's agent that had been previously circulated to members of the Committee. He also reported that the Council's Licensing Officer had confirmed that a dangerous animals licence was required for bison but there was no requirement for someone to live on site.

With the aid of slides the Deputy Planning Team Leader presented photographs of the application site together with illustrative drawings of the proposed dwelling that had been provided by the applicant. He said the size of the holding had been measured electronically at 39 acres. He confirmed that a temporary dwelling had been approved in 2003 to allow the applicant to build up his business but it had taken some time to complete the building that was now larger than had been approved.

The Deputy Planning Team Leader reported that the applicant had provided livestock levels in support of his application which had been multiplied by four to show the man hours required. The Agricultural Development Officer had challenged those figures that he felt should be multiplied by two. The applicant had introduced bison, elk and calf rearing enterprises but these had not yet operated for three years. Planning Policy Statement 7 (PPS7) required that an essential need for a farm dwelling should be established and he said there was serious doubt whether the business could be sustained over time. He said it was thought that the best option for the applicant would be to build up the business in order to justify the need for a dwelling.

Councillor Lesley Boucher, ward member, felt that the term "eco" home was a distraction and asked if permission were to be granted would it be possible for the applicant to build a conventional house on the site.

The Deputy Planning Team Leader responded that, as it was an outline application, any permission would be for the principle of a farm dwelling and all matters would be reserved, unless conditioned.

In response to members' questions, the Deputy Planning Team Leader confirmed:

- The former farmhouse previously sold was not a tied dwelling.
- Renewal of permission for the temporary dwelling had been refused and was the subject of an appeal.
- There had been no justification at the time to renew temporary permission but since then bison, elk and calf rearing had been introduced onto the farm.

- The applicant could resubmit an application for a temporary dwelling but would be required to justify its need based on the current farming enterprises.
- The site was approximately one and a half miles from the village and the former farmhouse had bordered the site.
- PPS7 was clear that the history of the holding and buildings recently sold should be taken into consideration.

Mr Michael Trevallion, the applicant's agent, informed the Committee that the applicant had diversified and rebuilt his farm business in recent years. He explained that £100,000 had been invested in the farm for professional advice and feasibility work. In his opinion, the farm required 1½ workers and the volume of work undertaken by the applicant meant that there had been no time for him to complete the log cabin. He felt the applicant had proved the functional need for a dwelling and this had been agreed by the Council's agricultural development officer in 2003. Mr Trevallion indicated that he was disappointed with the planning officer's handling of the application and he felt the supporting information supplied by the applicant had been ignored.

The Head of Development and Building Control sympathised with the agent's disappointment with the report's conclusions. He said there had been considerable correspondence between the planners and the applicant's agent and he was satisfied that the application had been treated properly and that local and national policy had been applied correctly.

Mr Mike Houghton spoke in support of the application. He said the functional and financial need had been established by the applicant's sustainable business that had received no direct support. He said the guaranteed market for bison would provide a long-term sustainable enterprise. He said there were sufficient livestock on the farm to justify the man hours indicated and it was common sense for someone to be present at all times to care for the dangerous animals. Substantial investment had been made in fencing for the bison, with support from the English Bison Association and a grant from the Rural Development Agency. The applicant had demonstrated the functional need and he was sure that the business could survive in the future.

Mr Paul Richards, the applicant, said his family had farmed for more than 90 years and he now organised many activities to encourage children to become involved with the environment. He explained that he had sold the former farmhouse when permission for a temporary dwelling had been granted. It had become impossible to farm the holding without accommodation at the top of the steep site and he had lived there for five years. He said he had taken the advice of the police that someone should live on site where dangerous animals posed a threat of attack by animal rights campaigners. Mr Richards drew attention to the predominance of agriculture in South Somerset and he quoted the Council's motto by saying that he was trying to make a difference to the environment in the area.

In response to questions from members, the applicant confirmed:

- He had held an annual tenancy for 12 acres of land for 7 years.
- Intensive calf rearing took place in the farmyard but there was extensive grazing elsewhere on the farm for cows, bison, elk and highland cattle.
- He was the owner of property in West Coker.
- The eco dwelling would include compost toilets, wind and solar energy.

The Deputy Planning Team Leader confirmed that the business now being established could allow a temporary dwelling and the Assistant Solicitor advised that further

temporary permission might be appropriate in this case if members felt that the evidence in relation to functional need was inconclusive.

The Assistant Solicitor further advised that the guidance set out in PPS7 referred to a number of criteria that needed to be met before permission should be granted for this type of application, of which a functional and financial justification were just two. The PPS also referred to whether the functional need could be met by another existing dwelling, either on the unit or in the area, and also to the fact that other planning requirements needed to be satisfied. She drew members' attention to the planning officer's other concerns about the application, aside from the issues of the functional and financial tests, and indicated that members needed to consider all the relevant factors. In relation to the fact that the applicant owned a flat in West Coker, she advised members that, if accepted, the functional test had proved the need for one full-time worker, and it was possible that the accommodation in West Coker would be sufficient to meet that need. She drew members' attention to the guidance in PPS7 which indicated that it is the requirements of the enterprise, not those of the owner, which are relevant to determining the size of dwelling required.

In response to a member's question, the Head of Development and Building Control explained that any dwelling should be commensurate with the functional need and the term "eco" should be disregarded at the outline application stage. The merits of design would be considered when a full application was considered.

In their consideration of the application, the members of the Committee made the following points:

- The Committee were being asked to grant permission for a permanent dwelling for a business that had not been established over a long enough period.
- All the animals in question were breeds where profitability could be limited.
- The temporary log cabin had not been built according to specification nor in the three year timescale.
- There was a market for alternative types of meat and a need for more suppliers such as the applicant.
- The case for a permanent dwelling had not been justified but on the evidence presented an application for further temporary permission might be looked at sympathetically.
- It was difficult to see that exotic animals in an extensive scheme could become profitable.

The Head of Development and Building Control clarified that PPS7 allowed temporary permission for a dwelling whilst a business was being established.

Whilst expressing sympathy for the applicant's plans, the Committee agreed that he had not proved the need for a permanent dwelling. The officer's recommendation to refuse permission was proposed and seconded and on being put to the vote was carried by 9 votes in favour to 1 against.

RESOLVED: that planning permission be refused for the following reasons:

1. 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.

2. 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.
3. 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.
4. 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.
5. 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.

(Voting: 9 in favour, 1 against)

6. Proposed new industrial development and works to highway (Outline) (as amended) (GR345626/117743) Land OS6375 & 5576 Ringwell Hill, Martock, Somerset, TA12 6LG

Having declared a personal and prejudicial interest in this item, Councillor Patrick Palmer left the room during its discussion.

The Deputy Planning Team Leader informed the Committee that the site had been allocated for employment use in the South Somerset Local Plan. He reminded the members that the new industrial development had been granted permission by the Regulation Committee in February 2006, subject to 32 conditions. Subsequent to that decision, the presence of great crested newts had been reported on the site and legal advice was that an environmental impact assessment (EIA) should be made with a full report to the Regulation Committee. Before undertaking the EIA the applicant had requested amendments to conditions 28 and 29 regarding hours of working and

deliveries. The applicant had indicated that the EIA would be expensive to carry out and the conditions in question would make the site less viable.

The Deputy Planning Team Leader advised the Committee that, following advice from the Environmental Health Officer, the recommendation was that the hours for working and deliveries agreed in February 2006 should be retained.

The Environmental Health Officer informed the Committee that he had concerns regarding uncontrolled noise from within the units that could travel outside through open windows and doors. He said it was a mixed use site needing a wide range of hours and it would not be easy to control the noise from each unit.

With the aid of slides the Deputy Planning Team Leader presented plans of the site indicating the pond containing the newts. He highlighted the buffer zone where the usage near to dwellings would be B1 office and light industrial. He summarised a letter from the solicitors representing objectors to the scheme that suggested there had been a lack of consultation with neighbours on the proposals.

Mr David Reynolds, representing Martock Parish Council, commented that the amendments to the conditions would effectively remove time limits on the B8 units and he felt the buffer zone would not reduce the noise. The parish council had recommended no change to the working and delivery hours.

Kathryn Tebbey, representing objectors to the scheme, asked whether it was appropriate to consider changes to the conditions before the results of the environmental impact assessment were known. She felt the costs of the EIA were not relevant and that the Committee's concern should be the impact on the neighbours of extending the hours. She said it was a predominantly residential area and the effect of increasing the hours would be to have a 24 hour warehouse site with vehicles coming and going at all times.

Mr Shaun Travers, the applicant's agent, reminded the Committee that the site had been allocated in the Local Plan and extending the hours of use would afford the best chance of it being attractive to businesses. He accepted that this should be balanced against the residential amenity and demonstrated that it would be protected by indicating the size of the buffer zone on the plan. He said the applicant was trying to produce a scheme of affordable units for which there was a demand in the area. With regard to the concerns raised about late night operation, he felt that hours of working from 7am to 9pm might be acceptable to his client.

During the ensuing discussion, members raised the following points:

- The applicant operated an efficient site elsewhere in the district where there were no problems with noise.
- Noise from refrigerated lorries and reversing lights could not easily be controlled.
- Some controls were needed; 11pm was too late for the site to operate.
- Results of the EIA should be seen before any changes to conditions could be considered.

The Assistant Solicitor advised that she was concerned that members were being asked to consider amending the conditions in the absence of the EIA, which was a material planning consideration, and which, potentially, could have an impact on wildlife as well as residential amenity. She indicated that she did not consider that members had sufficient information at this point in time to determine these proposed changes to the conditions.

The Head of Development and Building Control explained that the next stage would be to scope the application to decide what should be included in the EIA. He said that the impact of noise on wildlife could be included.

It was proposed and seconded that the Environmental Health Officer's advice should be accepted and that the suggested amendments to conditions 28 and 29 should be rejected. The motion was carried by 7 votes in favour and 2 against.

RESOLVED: that amendments to Conditions 28 and 29 of planning permission granted on 21st February 2006 be refused.

(Voting: 7 in favour, 2 against)

7. Date of Next Meeting (Agenda Item7)

Members noted that the next meeting of the Committee is scheduled to take place on Tuesday, 21st August 2007 at 10.00am in The Council Chamber, Council Offices, Brympton Way, Yeovil.

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Chairman