

6. Retrospective application for the use of land to station a mobile home. Mobile Home At South Harp Farm South Harp South Petherton Somerset TA13 5LP

OFFICER: Lee Walton (01935) 462324

APPL.NO: 07/03589/FUL APPLICATION TYPE: Full Application

PARISH: South Petherton WARD: SOUTH PETHERTON

DESCRIPTION: Retrospective application for the use of land to station a mobile home. (GR 344551/115122)

LOCATION: Mobile Home At South Harp Farm South Harp South Petherton Somerset TA13 5LP

APPLICANT: Mrs J Day

AGENT: Paul Dance Foxgloves 11 North Street Stoke Sub Hamdon Somerset TA14 6QR

DATE ACCEPTED: 27 July 2007

Report to Regulation Committee

Reason For Referral

At the Area North Committee of 23rd January 2008 it was resolved by Members that the application be referred to the Regulation Committee with a recommendation for permission to be granted (11 in favour, 1 against, 1 abstention).

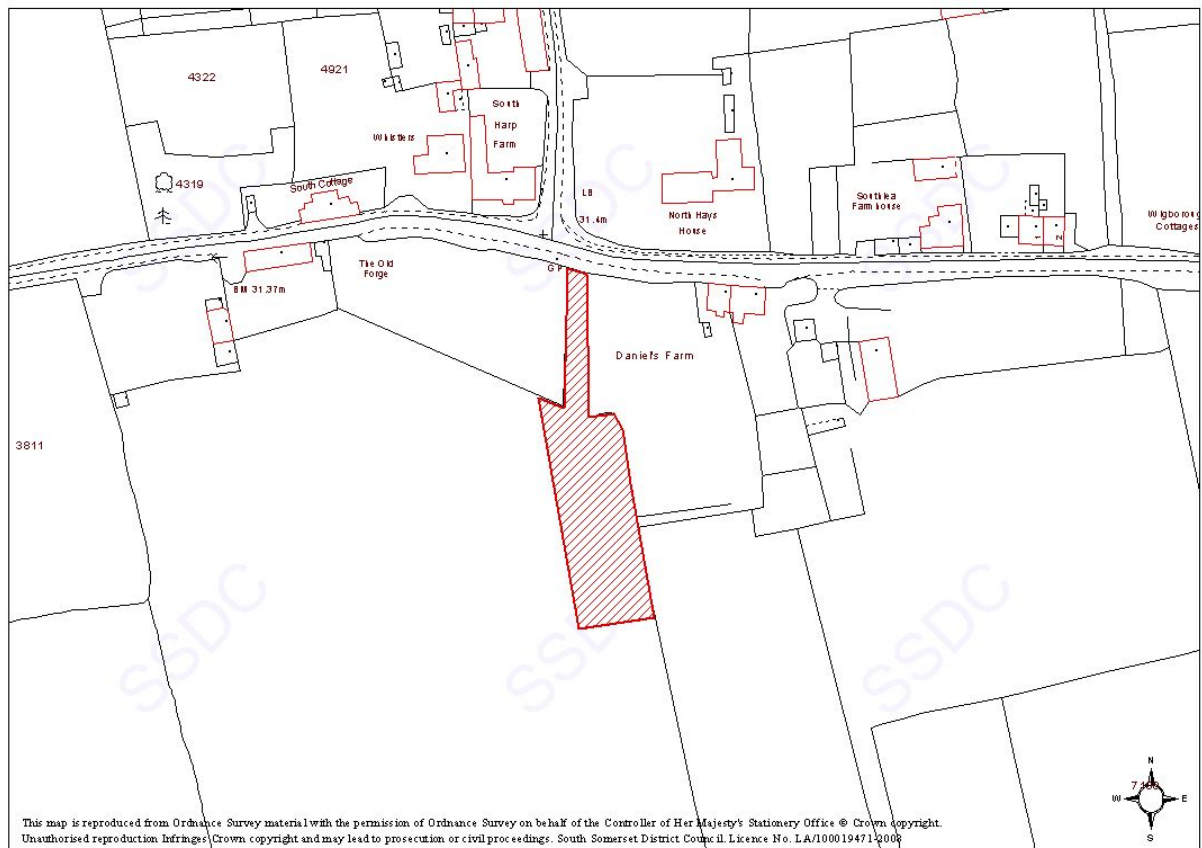
The report presented to Area North committee on 23rd January 2008 follows. The minutes of that meeting are attached as Appendix 1 and the original report to Area North on 22nd March 2006 offering additional background details is attached as Appendix 2.

Context

There have been two previous similar applications made under refs: 05/02451/FUL and 06/02057/FUL which were considered separately by the Area North Committee in May 2006 and 24th January 2007 respectively. This latter application was considered at Regulation Committee where Members decided to refuse the scheme.

This resubmission up-dates the agricultural position and includes a further personal health issue. Following the earlier refusal the applicant might have sought to appeal the Council's decision, an avenue which has not been followed by the applicant.

Location And Proposal



The applicant's site lies in designated open countryside set back on the south side of the highway running through the hamlet known as Lower Stratton. The applicant seeks planning permission for use of land to station a mobile home. The land subject of this application extends to a little more than 2 hectares (5 acres). Compared with the earlier site plan the red outline is reduced to an area associated immediately with the mobile home, with the blue outline together totalling about 2 hectares (5 acres) in extent.

Planning History

Erection of field sheltered permitted in 2007.

06/02057/FUL - Temporary siting of mobile and erection of field shelter. Refused at Regulations Committee.

05/02451/FUL - Mobile home for agricultural holding and erection of field shelter. Refused.

Policy

Somerset and Exmoor National Park Structure Plan

STR1 Sustainable Development

STR6 Development Outside Towns, Rural Centres and Villages

Policy 49 Transport Requirements of New Development

South Somerset District Local Plan 2006

HG15 Agricultural and Forestry Dwellings

ST3 Development Areas

ST6 Quality of Development

ST5 General Principles of Development
EC3 Landscape Character

Central Government Guidance
Planning Policy Statement 1 - Delivering Sustainable Development
Planning Policy Statement 7 - Sustainable Development in Rural Areas. Annex A.

Applicant's Case

The Agents justification is summarised below:

Introduction

This company has been appointed to set out the issues in more detail. There are two major considerations: the personal circumstances under which are two main issues: the historic personal circumstances and, health issues, and secondly the agricultural need considerations of the proposal.

Historic Personal Circumstances

Forced to move into the mobile home by circumstances.

Health Issues

A letter from the Multiple Sclerosis Society: Self management becomes extremely important to all sufferers. They need to have control over their life and surroundings as much as possible. This letter goes on to say that for most of us the process of obtaining Planning Permission can be stressful. Someone already coping with a lifelong, debilitating condition, this would be doubly so and for those who know Josie can see that it has taken a toll on her.

A letter from her doctor confirms the applicant is a MS sufferer and goes on to say as with any illness, it is possible that stress plays a part.

We (Paul Dance Ltd) believe that personal circumstance is a material consideration and can provide positive decisions if (the Council) considers such personal circumstances of sufficient weight to justify such a decision.

Since the last Planning application we regret to say that Ms Day has developed cancer and she is currently undergoing treatment at Bristol.

Agricultural Need Considerations

The stock numbers are similar as previously considered. Whilst we have to accept that Ms Day's stocking numbers cannot fulfil the requirements of PPS7 annex 1, we feel it important to draw attention to the fact that the income derived from the business, added to her pension, takes her income up to a level on which she can survive.

Consultations

Parish Council

Refuse

Highways

The proposed development is remote from any urban area and therefore distant from adequate services and facilities and in addition public transport services are infrequent. The fostering of growth in the need to travel is contrary to PPG13 and RPG10, and to the provisions of policies STR1 and STR6 of the South Somerset and Exmoor National Park Joint Structure Plan Review.

Area Engineer
No comment

Representations

There have been 18 neighbour notification letters issued and a site notice posted at the site (General Interest). The application was consulted on twice.

First consultation - There were 38 responses broken down into 6 objections and 34 letters in support of the application.

Supporters' state:

- No detrimental affects on neighbours
- Effective screening for mobile home from highway
- Diversity would be lost if modern farming practice was to be used
- Her presence on site 24 hours a day is essential for the proper welfare of her animals
- Application determines the future of the applicant who has always maintained the land
- Personal circumstances - long term resident.

Objectors' state:

- Agricultural appraisal is flawed and incorrect and not independent
- In spelling out the applicant's personal circumstances, it is clearer than ever
- that it is driven by her financial circumstances
- Significant impact on landscape character
- Essential care can be planned for
- Temporary permission not allowed where a permanent dwelling would not be supported
- Not financially viable
- Functional need to be applied.
- Given personal circumstances impossible for applicant to tend the land

Considerations

Members are requested to refer to the attached Committee item previously considered in January 2007. The circumstances are considered to be unchanged with the exception of the additional health issue raised treatment for which has taken place and a review of this is due in late November with periodic checks thereafter to ensure non-return.

There are two main issues relating to this application, namely, whether there is an essential need in terms of agricultural need, and the personal circumstances of the applicant. This latter consideration should normally be applied only where all other considerations cannot be progressed further.

Agricultural Need

The starting point for the consideration of this application is whether an essential need has been established. In this case the applicant's agent is clear, as is the letter from the University of Exeter: that stock numbers cannot fulfil the requirements of PPS7 Annex 1.

Planning Policy Statement 7 Annex A (Functional and Financial Tests) is central to the consideration of this type of application, namely, an agricultural workers dwelling.

Key test: Whether essential agricultural need is present, otherwise the case falls, or where there is a case, is there a significant economic justification.

Having reviewed the evidence submitted it is not considered there is an essential need. As a result the financial test is not engaged although the information submitted suggests that the development has no significant economic justification either.

Personal Circumstances

These have been fully considered previously. Personal circumstances should be rarely used on their own in determining an application and where this is the case the reasons highlighted need to be unique and not often repeatable. The circumstances are the same as those previously considered. The exception is the additional health treatment for the cancer given at Bristol, following treatment earlier in the year a further check as to her condition to take place in late November, and thereafter - all being well - 3 monthly checks thereafter.

What is sought at this time is a personal permission. This would enable the applicant to reside on the site until such time as she was not capable of living on the site. The health issues arising all point to the stress she would have from removing from the site while the planning process is an alternative form of stress and in the future one must question the amount and effort of work to keep the site relatively tidy and in order. It seems that it would be best for all concerned if the difficult decision about moving on was made now rather than prolonged. The issues arising from this application have not changed in any significant way. Those personal circumstances are not considered unique enough to justify an approval, and it is a concern that the historic circumstances show that the applicant moved onto the site in breach of planning when the judiciary attempts to remain in her previous home had been completely exhausted. Too many other people could easily seek to stay on their land simply because this is the way they have always lived. Ms Day's personal circumstances are not considered to be so unique as to warrant special merit.

Other Matters Arising

The immediate neighbours who object to the proposal believe the site to be an eyesore and further, because there is no agricultural basis in terms of essential need and of an economic justification they are unhappy that their, and others, visual amenity is harmed. Some weight should be given to the visual harm arising from this application that does not meet the Annex A requirements.

Human Rights

These have been taken into account but it is not considered that they outweigh policy in this instance.

Concluding Remarks

It is strongly advised that the evidence to approve the proposal on an agricultural workers basis is not forthcoming. It is considered that there is not an essential need and there is no economic justification to warrant support for the application.

Personal circumstances are seldom the basis for forming a recommendation to approve. Where there are these have to be relatively unique to distinguish the application from others. Personal circumstances should only be used where the issues are finely balanced. In this case there is a clear policy objection.

RECOMMENDATION

Application Refused for the following reason:

The applicant has failed to demonstrate a clear need for the applicant to live on this site and therefore the proposal is considered to be unjustified development within a countryside location that will have an adverse visual impact upon the character of the area and will inevitably foster a growth in the need to travel by private motor vehicle. The proposal is therefore contrary to policies HG15, ST3, ST5, ST6 and EC3 of the South Somerset Local Plan 2006, STR1 and STR6 of the Joint Somerset and Exmoor Structure Plan Review 2000 and advice contained within PPS1 (Sustainable Development) and PPS7 (Development in Rural Areas).