

Officer Report On Planning Application: 16/00621/FUL

Proposal :	Conversion of a double garage into a one bedroom dwelling (retrospective).
Site Address:	Long Orchard Farm, Pibsbury, Langport.
Parish:	Huish Episcopi
LANGPORT AND HUISH Ward (SSDC Member)	Cllr Clare Aparicio Paul
Recommending Case Officer:	John Millar Tel: (01935) 462465 Email: john.millar@southsomerset.gov.uk
Target date :	20th April 2016
Applicant :	Mr John Crossman
Agent: (no agent if blank)	Mr Dathan Trent, Della Valle Architects, Lake View, The Maltings, Charlton Estate, Shepton Mallet BA4 5QE
Application Type :	Minor Dwellings 1-9 site less than 1ha

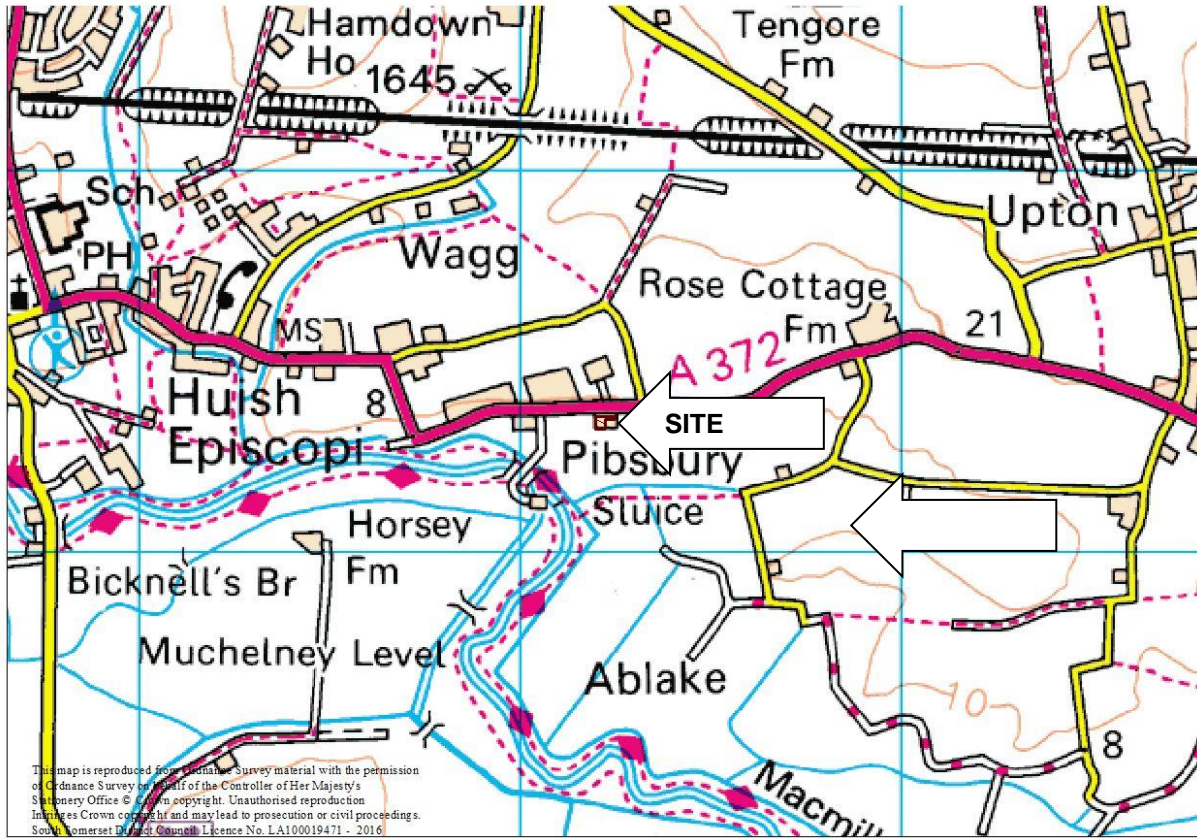
UPDATE

The application is to be considered again at Area North Committee following deferral at the meeting of April 27th 2016. This deferral was to allow formal clarification in respect to the ownership of the application site in order to fully consider possible restrictions on occupancy should planning permission be granted. The land is confirmed as being unregistered, however the applicant has provided an Epitome of Title, which seeks to prove ownership of the land. A further update will be made to members following consideration by SSDC Legal Services.

REASON FOR REFERRAL TO COMMITTEE

This application is referred to committee at request of the Ward Member with the agreement of the Area Chairman to enable the issues raised to be fully debated by Members.

SITE DESCRIPTION AND PROPOSAL



The site is located to the south of the A372, to the east of the developed core of Pibsbury, a settlement comprising a small group of buildings between Langport and Long Sutton. There are no local services within the settlement and it is located approximately over 1km from the western edge of Huish Episcopi and Langport. The site comprises a large detached dwelling within a wider farm yard and a smaller one bedroom dwelling, to which this application relates. The larger dwelling referred to as Long Orchard Farm, was approved as an agricultural workers dwelling by outline planning permission and subsequent reserved matters application in 1994 and 1999 respectively. The proposal included a detached double garage. While initial commenced in 2003, the dwelling was not fully constructed until 2010. At the same time, an application (10/03749/FUL) was made for the provision of a residential annex in place of the approved garage. This application was refused on the basis that there was no agricultural justification for the provision of additional ancillary living accommodation at this site. Following refusal, the existing building, which now forms a separate one bedroom dwelling was constructed without the benefit of planning permission and is now occupied by the applicant and his wife as a stand-alone dwelling. It is stated that the structure was initially built as the garage approved under the original 1990s planning permission and then converted into a dwelling. These conversion works have taken place between April 2013 and March 2014, at which point the property was occupied. A retrospective application seeking to retain the existing dwelling has been recently refused under planning application 15/01229/FUL.

The application is a resubmission of that application, and still seeks consent to retain the unauthorised dwelling. The applicant has sought to address the reasons for refusal by providing additional information and altering the proposed site layout and formalising the residential curtilage and parking arrangements.

HISTORY

15/02022/COL: Application for a Certificate of Lawfulness for the use of dwelling to comply with the agricultural tie/S106 agreement - Refused 4th March 2016.

15/01229/FUL: Conversion of double garage to one-bedroomed dwelling (Retrospective) - Refused 12 November 2015.

10/03749/FUL: The erection of a residential annexe - Refused 28 October 2010

9902303REM: Erection of Agricultural workers dwelling and garage - Approved. (Building Control records commencement of development in 2003).

94/01798/OUT: The Erection of an Agricultural Workers Dwellinghouse and garage - Approved 19 November 1998

95/06650/FUL: The continued use of land as a site for a mobile home for agricultural worker and the erection of a porch thereto - Approved.

94/06650/FUL: The continued use of land as a site for a mobile home for agricultural worker. Approved. The original permission ref: 893107 - Approved 11 June 1990.

POLICY

The South Somerset Local Plan (2006 - 2028) was adopted on the 5th March 2015. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and Section 70(2) of the Town and Country Planning Act 1990 (as amended), the adopted local plan now forms part of the development plan. As such, decisions on the award of planning permission should be made in accordance with this development plan, unless material considerations indicate otherwise. Legislation and national policy are clear that the starting point for decision-making is the development plan, where development that accords with an up-to-date local plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

Policies of the South Somerset Local Plan (2006-2028)

SD1 - Sustainable Development
SS1 - Settlement Strategy
SS2 - Development in Rural Settlements
TA5 - Transport Impact of New Development
TA6 - Parking Standards
EQ2 - General Development
EQ4 - Biodiversity

National Planning Policy Framework

Core Planning Principles - Paragraph 17
Chapter 4 - Promoting Sustainable Transport
Chapter 6 - Delivering a Wide Choice of High Quality Homes
Chapter 7 - Requiring Good Design
Chapter 11 - Conserving and Enhancing the Natural Environment

National Planning Practice Guidance

Design
Natural Environment
Rural Housing

Policy-related Material Considerations

Somerset County Council Parking Strategy (September 2013)
Somerset County Council Highways Development Control - Standing Advice (June 2015)

CONSULTATIONS

Parish Council: No objections - The Parish Council have advised that they were happier with the amended application, despite it being retrospective, but did also advise that the dwelling must remain agriculturally tied.

SCC Highway Authority: County Council Standing Advice should be applied, specifically provision of appropriate visibility splays, properly consolidated access, positive drainage arrangements to ensure no surface water runoff onto the public highway and appropriate parking and turning provision on-site.

SSDC Highway Consultant: Consider sustainability issues (transport) and the distance to local services and facilities. The development would lead to an increase in use of the existing vehicular access. The plans need to show the extent of the existing visibility splays at the access, including improvements if the existing sight-lines are not to full standard. It would also be beneficial to confirm that the existing access is 5.0m wide to allow two vehicles to pass each other given the location of the site off the A372.

Natural England: Advised that the previous comments apply equally, as the proposed amendments are unlikely to have a significantly different impact on the natural environment than the original application.

The previous comments stated no objections but did note the proximity to the Somerset Levels and Moors Special Protection Area (SPA), which is a European designated site. It was advised that European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010 (as amended). It was also listed as a Ramsar site and notified at a national level as Wet Moor Site of Special Scientific Interest (SSSI). Despite the proximity to these

designated sites, no harm was anticipated as a result of the development, as proposed.

REPRESENTATIONS

Four letters of objection and two letters of support have been received. The main points raised in objection are as follows:

- The application is the same as previously refused. How is it possible to convert a garage into a dwelling without planning permission, have retrospective planning permission refused and then apply again. How often can an application be made before it is finally resolved?
- Providing a two metre fence and obscuring the roof lights will not prevent the applicant overhearing what is being said in the adjoining property's garden.
- Reference has been made to the proximity of neighbouring houses in housing estates. The occupier of the neighbouring dwelling has stated that this is not a housing estate and they would not have spent the money they did on the land and building the house if they wanted to live so close to another dwelling.
- The proposed fence will take up a section of the neighbour's garden and will restrict access to their backdoor. It will also block access to the neighbour's manhole cover, which services a drain that the applicant has tapped into without permission. The neighbour has advised that they have given notice that they will be removing the applicant's connection to this drain in the near future.
- The property has a wood burning stove, that gives off noxious fumes, forcing the adjoining property's windows to be left closed, even in summer.
- The proposed shed is to provide kennelling for dogs, not bicycle storage. Dog faeces is disposed of in the adjoining field and can cause offensive odours in the summer.
- Since the applicant moved into Long Orchard Farm, the wider site has become untidy and unsightly.
- The adjoining house was surrounded by flood water two years ago so there is a risk of flooding.

The main points raised in the two letters of support are as follows:

- The new plans are an improvement to the look of the building and its surroundings and will be an improvement to the area. They would also make the property more private to the existing dwelling.
- Two houses have been approved only 1 field away so it would be inconsistent not to approve this plan.

CONSIDERATIONS

History and Principle of Development

Permission for the retention of this dwelling was recently refused under planning application 15/01229/FUL. The fact that a similar scheme to that now proposed has been refused so recently, must be given great weight in determining the current scheme. This scheme must therefore be determined on the basis of whether any changes to the proposal or the policy environment address the previous reasons for refusal. The reasons for refusal of the most recent application were:

01. The proposal would represent new residential development in open countryside, for

which an overriding essential need has not been justified. The application site is remote from local services and as such will increase the need for journeys to be made by private vehicles. The proposed development therefore constitutes unsustainable development that is contrary to policies SD1, SS1 and SS2 of the South Somerset Local Plan (2006-2028) and to the aims and objectives of the National Planning Policy Framework.

02. The proposed dwelling, by virtue of the window positions and close proximity to the adjoining dwelling, hereby referred to as 'Long Orchard Farm', would lead to the unacceptable harm to the residential amenity of the occupiers of both properties due to mutual overlooking, as well as resulting in an overbearing and unneighbourly form of development that will cause unacceptable harm to the residential amenity of the occupiers of 'Long Orchard Farm'. As such, the proposal is contrary to policies SD1 and EQ2 of the South Somerset Local Plan (2006-2028) and to the core planning principles (paragraph 17) of the National Planning Policy Framework.

Reason for Refusal 01

By way of providing a history of the site, a previous application (10/03749/FUL) was submitted to provide an annexe to the main dwelling, Long Orchard Farm, in which the applicant was to reside. However, as the main dwelling is agriculturally tied, this application was refused on the basis of that there was no justification for additional living accommodation. Due to more recent bad relations between the applicant and his daughter, who occupies the main dwelling, there is no prospect of there being any formal relationship between the two properties, hence the current situation, where the building is being proposed as a completely separate single dwelling.

Despite the refusal of the 2010 application, the applicant started to construct the existing building in 2012, apparently in line with the approved garage from the original 1990s permission. Prior to the full completion of the 'garage' further works were undertaken from April 2014 to 'convert' the structure into a self-contained dwelling, which is now occupied by the applicant and his wife. This followed discussions with planning officers, in which advice was given that planning permission would be required and any continued development would be at the applicant's risk. Despite the assertion that this is a conversion of the approved garage, it is noted that the built structure did not fully accord with the approved plans in that there is a slight increase in height, changes to some of the details, as well as the addition of roof lights prior to completion. It is further noted that the garage doors were never installed with conversion also taking place prior to completion of the garage works. It also has to be taken into account that at the time of construction, the garage was built separately from the main dwelling, therefore even if in line with the approved plans, it would not have been for a use incidental to the domestic use of the main dwelling, as originally intended. For these reasons, it was considered appropriate to consider the retention of this dwelling in the same manner as a new dwelling from the outset rather than against policy guidance, such as paragraph 55 of the NPPF, aimed at supporting the conversion of redundant and disused buildings.

In this case, the application site lies to the east of the main group of dwellings that make up Pibsbury, a settlement with no local services of its own. The site is therefore subject to the same degree of protection as the open countryside. In assessing planning application 15/01229/FUL, it was therefore considered to be unsustainable by virtue of its distance from key local services. Furthermore, it was noted there are no footpaths from the site linking it to any nearby public footways. As such, any occupiers would be reliant on the use of a motor vehicle, unless they wished to walk along and cross an unpaved and unlit stretch of the A372, which would clearly not be desirable from a public safety point of view. For these reasons, the proposed development of the site was not considered to accord with local and national policies for the protection of the countryside, thereby failing to meet the aims of sustainable

development identified within the Local Plan and NPPF, and therefore refused under delegated powers following a recommendation of refusal from the Parish Council and adjoining occupier.

The applicant now seeks to demonstrate that the proposal is sustainably located, and therefore acceptable. They have quoted an appeal decision (APP/R3325/W/15/3011490), which followed the refusal of a dwelling some 800m from the developed edge of Curry Rivel. This appeal was allowed, with the Inspector stating that 800m was a reasonable walking distance, quoting the 800m referred to Manual for Streets, which states *"walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes' (up to about 800m) walking distance of residential areas which residents may access comfortably on foot."* This paragraph continues *"However, this is not an upper limit and PPS13 4 states that walking offers the greatest potential to replace short car trips, particularly those under 2km."* In this case, the application site is significantly more than 800m from the nearest local services, being approximately 1.35km from the Rose and Crown public house and bus stop, 1.6km from St Marys Church and 1.7km from Huish Academy. The larger services within Langport are a greater distance beyond these. The applicant has based their justification on the 2km referred to in the now superseded PPS13 (Planning Policy Statement 13) and has further sought to justify the acceptability of these distances by referring to 'statutory walking distance', which dictates whether school pupils qualify for free school transport. While this is acknowledged, it is noted that 'walkable neighbourhoods', as referred to in Manual for Streets, very much relates to the design and layout of roads and streets within built-up, urban environments, where walking is likely to be more convenient and safer. PPS13 also made reference to the fact that in rural areas, the potential for using public transport and for non-recreational walking and cycling is more limited than in urban areas. Likewise the 'statutory walking distance' is not a measure of sustainability, but a defined distance used to determine whether free transport is applicable. In all cases, there is a reference to being able to walk in 'reasonable safety'. As already mentioned above, not only is the site significantly distant from the nearest services, there is still the need to cross a busy 'A' road.

The applicant does also refer to a recent approval of two houses on 'Land Opposite Autumn Leaves', approximately 100m to the west. This was a scheme approved by Area North Committee, however it is also noted that there was a previous extant permission for one dwelling on that site. In considering the development of this application site, the development is even further away from local services and extends built form further into open countryside beyond the current developed edge of Pibsbury, and further away from the footway, which links the settlement of Pibsbury to the nearer, more sustainable locations.

Overall, despite the additional information submitted in support of the application, the circumstances remain exactly the same as when the previous application was refused. Since this decision, there has been no significant shift in planning policy, or alteration to the proposal. For this reason, the proposed development is still considered to be unacceptable and is again recommended for refusal.

It is further noted that the Parish Council no longer object to the proposal, however do state that the property should be agriculturally tied. It should be noted that the applicant has not applied on the basis of this being an agricultural worker's dwelling and nevertheless, it is not considered that there is any justification for such a rural workers dwelling in any case.

Reason for Refusal 02

The second refusal reason on previous application 15/01229/FUL, related to the relationship between the dwelling and the adjoining property, which are approximately 3m apart. The siting is not such that there were any identified issues as a result of overshadowing, however

concern was raised in respect to potential for mutual overlooking and a general overbearing impact as a result of the proximity. While there are no windows immediately facing each other, the windows of both of the main dwelling and the application dwelling do have views towards each other. This and the close proximity were considered to lead to an inappropriate unneighbourly and overbearing impact.

In seeking to address the amenity issues, the applicant has shown a site layout that was lacking in the previous application. A clearly defined residential curtilage running to the north, west and east of dwelling is shown, as is a defined parking area. It is also proposed to obscure east facing roof lights and provide a 2m high fence between the proposed curtilage and that of the neighbouring property. It is also argued that the proximity of dwellings are no different from many development sites in district.

In considering the proximity, it is felt that this does differ slightly from other development sites, in that the dwelling has been provided unlawfully, in a rural location, where such close relationships may not be expected, however the provision of clearly defined curtilage arrangements do improve the situation in that domestic activities will be directed further away from the adjoining dwelling, which is likely to improve the mutual relationship between the properties and provide private amenity space away from overlooking. The proposed garden area to the east is also likely to be adequately private with no unacceptable impact on residential amenity. One area of concern is that this area is currently used as garden of the adjoining property, however there is a complicated relationship between ownership of the land on the application site and the wider site, including the land on which the adjoining house is located, which results from the family relationship between the applicant and adjoining neighbour (father and daughter). While it is not ideal to show the sub-division of the garden, which appears to be in the ownership of the adjoining occupant, the applicant has provided sight of conveyance deeds, which do indicate that the entirety of the site is registered to the applicant. This may be disputed but no evidence has been provided to the contrary. Ultimately however, this will be a civil matter between the applicant and the adjoining resident. From a planning point of view, there are no significant concerns if the proposed dwelling were to be approved and only have access to the undisputed areas of garden curtilage shown. Similarly, while the neighbouring occupier would still expect reasonable access to their manhole cover, this is also largely a civil matter, and would not constitute unacceptable harm to residential amenity that would warrant refusal of the application.

On balance, the revisions to the proposal, to include a defined curtilage and improve privacy for the occupiers of both properties, reduces the impact of the dwelling proposed to a degree that is considered to adequately address refusal reason 2.

Highway Safety

In considering the highway safety issues, the County Council Highway Authority have referred to their Standing Advice, however in considering the previously refused application, they gave more detailed comments, referring to a former commercial element to the farm, with a number of employment uses having occurred. Taking this into account, the Highways Authority considered that the generation of vehicle movements associated with the proposed dwelling, along with the current use of the farm, the existing dwelling, the extant commercial uses could generate an increase in traffic generation, where there is considered to be sub-standard access. The Highway Authority noted that by only using a small part of the site, the other uses could continue uncontrolled, which could also lead to a conflict in traffic movements. In order to address these concerns, it was suggested that there should be a reduction in traffic movements or an improvement in the visibility splays. Being a 60mph road, it was suggested that splays of 2.4m by 215m would be required. The Council's Highway Consultant did not raise concerns in principle, subject to the establishment of splays to the east that accord with

submitted drawing, which equates to a visibility splay of 50m to the east. It is also suggested that by setting the gate back by 6m, properly consolidating the access and providing appropriate turning and parking space could negate any highway safety issues. Having taken both of these views into account, it was noted that visibility to the east is impeded by vegetation, however the suggested visibility splay of 50m to the east is a condition of outline planning permission 94/01798/OUT so this could realistically be provided. It was also noted that there are clear distant views in both directions, notwithstanding any land ownership issues. As such, it is considered that there was scope for appropriate alterations to address highway safety issues and as such was not considered necessary to refuse on highway safety grounds.

In commenting on this latest application, the Highway Consultant refers to showing the extent of visibility again and suggests the widening of the access to 5m to allow vehicles to pass. At present, the access is short of the 5m, however there is plenty of space to the west of the existing access to widen, further improving access. It is therefore considered that should the application be approved, a condition could be imposed to require the access to be increased to 5m in width, as well as requiring the aforementioned visibility, a properly consolidated access and appropriate drainage arrangements. Otherwise, the proposal incorporates an appropriate level of parking and there is sufficient turning space within the wider site.

Other Issues

The site is near to the Somerset Levels and Moors Special Protection Area (SPA), which is a European designated site, and also listed as a Ramsar site and notified at a national level as Wet Moor Site of Special Scientific Interest (SSSI). Despite the proximity to these designated sites, the proposed development is not considered to have any adverse impact on these national and locally important sites.

Conclusion

Despite amending the scheme to improve the previously identified harm tot residential amenity, it is still considered that the site is poorly related to key local services, by virtue of distance to these services, and the development fails to provide for an essential need.

RECOMMENDATION

Refuse permission

FOR THE FOLLOWING REASON:

01. The proposal would represent new residential development in a rural location outside of established settlement boundaries, for which an overriding essential need has not been justified. By virtue of distance and lack of safe means of pedestrian access, the application site is poorly related to local services and as such will increase the need for journeys to be made by private vehicles. The proposed development therefore constitutes unsustainable development that is contrary to policies SD1, SS1 and SS2 of the South Somerset Local Plan (2006-2028) and to the aims and objectives of the National Planning Policy Framework.
-