

Officer Report On Planning Application: 14/05120/FUL

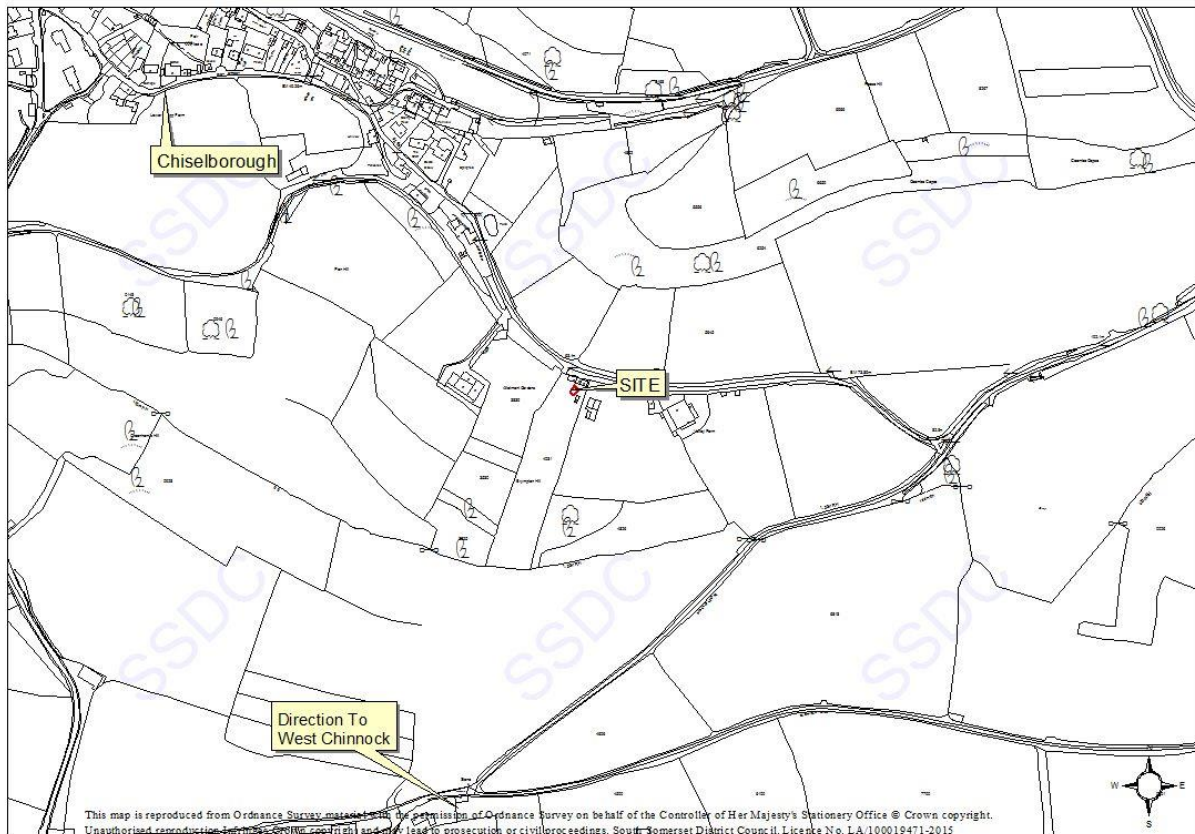
Proposal:	Retention of wooden building for residential use for temporary period of 3 years (retrospective) (GR 347428/114365)
Site Address:	Little Brympton Allotment Road Chiselborough
Parish:	Chiselborough
PARRETT Ward (SSDC Member)	Cllr R Pallister
Recommending Case Officer:	Mike Hicks Tel: 01935 462015 Email: mike.hicks@southsomerset.gov.uk.
Target date:	2nd January 2015
Applicant:	Mr Patrick Tucker
Agent: (no agent if blank)	
Application Type:	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL TO COMMITTEE

The application was referred to the ward member under the scheme of delegation. At the request of the ward member and with the agreement of the vice chair of the committee, the application is referred to the planning committee for the following reasons:

Local community and Parish Council support, the very specific circumstances relating to the history of the site and issues surrounding 'low impact' dwellings and planning policy.

SITE DESCRIPTION AND PROPOSAL





The application is made for the residential occupation of the site within an existing timber building. The application form describes the rural enterprise as a 'local food enterprise and educational low impact living project'. The applicants propose to run the enterprise from the site, including the growing of a range of produce on the land. The enterprise would comprise of the following elements:

- Growing of produce on the land including vegetables, fruit, flowers and mushrooms.
- Farm gate sales.
- Sales of goods grown on the land, including products derived from the land such as apple juice and preserves.
- Keeping of bees including the production of and sale of honey.
- Keeping of livestock including ducks and one breeding cow. Sale of calves for meat and processing and sales of dairy products.
- Catering using produce from the site.
- Land based education comprising 17 visits to the site per year by local special needs children and monthly volunteer days for the local community.
- Woodwork such as spoons, chopping boards etc. from wood derived from the land.

The site comprises of a paddock/garden land measuring approximately 7800 square metres (0.07 hectares or 1.8 acres). The land is located to the southern side of the highway, to the south east of Chiselborough and is located approximately 220 metres from the nearest dwelling. The land occupies the northern slope of Brympton Hill rises upwards from the highway edge towards the southern boundary which is about 35 metres in elevation above the road.

The building measures approximately 8 metres in length by 4.8 metres in width. It has a dual pitched roof with a maximum height of 4.7 meters. External materials consist of timber cladding to the walls and metal cladding to the roof.

There is a compost toilet located outside the timber building.

SITE HISTORY

The site has some complex planning and enforcement history as follows:

- Permission was granted in 1990 for the formation of an access and stationing of a static caravan for a horticultural worker. Successive temporary permissions were granted, the most recent in 2000 under reference 00/02925/COU expired in February 2004. This permission was personal to the previous occupier and owner.
- In 2008 an enforcement file was opened following the construction of the timber structure that is subject to this application. It was understood that the structure was being occupied by the previous occupier and owner. An enforcement notice dated 22nd October 2008 was served. The notice requires the following:
 - The building shall be used for residential purposes by Albert Holman only.
 - Other than for the above use the structure shall be used only as a workshop and for storage in connection with and ancillary to the agricultural use of the land.
 - There shall be no extensions to the building.
 - Within 3 months of the current owner/occupier no longer has an interest in the land the building shall be demolished and removed from the site.
- It is understood that the previous occupier moved out of the building in 2012 due to ill health.

The current occupiers moved into the building in June 2014.

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the NPPF indicate it is a matter of law that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

For the purposes of determining current applications the local planning authority considers that the adopted development plan comprises the saved policies of the South Somerset Local Plan 2006.

South Somerset Local Plan Policies

Saved Policy ST3- Development areas

Saved Policy ST5- General principles

Saved Policy ST6- Quality of development

Saved Policy EC3- Landscape Character

Saved Policy EU3- Non mains sewerage

Saved Policy HG12- Low impact housing sites

On the 8th January 2015, South Somerset District Council received the Inspector's Report into the emerging South Somerset Local Plan (2006 - 2028). The conclusion of the report is that the local plan is 'sound', subject to a number of agreed modifications.

Under the terms of Paragraph 216 of the National Planning Policy Framework (NPPF) weight should be given to relevant policies in emerging plans according to "the stage of preparation" and therefore the emerging local plan must be given substantial weight in decision-taking and it is therefore essential that the development is considered against all relevant policies.

Emerging Local Plan

Emerging Policy SD1- Sustainable Development

Emerging Policy EQ2- General Development

Emerging Policy HG9- Housing for agricultural and other workers

National Planning Policy Framework (March 2012)

Chapter 1- Building a strong, competitive economy

Chapter 3- Supporting a prosperous rural economy

Chapter 4- Promoting sustainable transport

Chapter 8- Promoting healthy communities

Chapter 9- Protecting Green Belt land

Chapter 10- Meeting the challenge of climate change, flooding and coastal change

Chapter 11- Conserving and enhancing the natural environment

National Planning Practice Guide (2013)

The following sections are of most relevance-

Determining a planning application

Rural housing

RELEVANT HISTORY

00/02925/COU- Retention of access and continued use of land as a site for caravan for a horticultural worker- Permitted with conditions (personal to A Holman).

97/01082/FUL- Retention of access and continued use of land as a site for caravan for a horticultural worker- Permitted with conditions (personal to A. Holman).

93/00560/FUL - Retention of access and continued use of land as a site for caravan for a horticultural worker- Permitted with conditions (personal to A. Holman).

90/00646/FUL - Retention of access and continued use of land as a site for caravan for a horticultural worker- Permitted with conditions (personal to A. Holman).

89/00484/FUL - Formation of access and use of land as a site for a caravan for horticultural worker- Refused.

CONSULTATIONS

Landscape Officer:

The low-impact dwelling is noted. I also note that whilst not domestic, there is a scattered development presence along and aside East Street and a variety of building forms. The site itself is visually contained by a mature hedge boundary; and the dwelling in close proximity to the road frontage, yet well screened by existing structures, which are all positive elements of this proposal. I also note the productive use of the landscape resource. Consequently, providing there is a commitment (as there appears to be) to maintain the health and integrity of the bounding hedgerows, then I have no landscape issues to raise.

Agricultural Advisor:

The applicant has failed to demonstrate the functional need to support a temporary residence. I cannot support this application

Chiselborough Parish Council:

The Chiselborough Parish Council have no objections to this application as it stands. It is a personal application that won't change! We definitely wouldn't wish to see any permanent

buildings on the site!

We are pleased to see that Mr Patrick Tucker is running occasional workshops on the site for autistic children! We feel his set up would be an asset to the village and further afield.

West and Middle Chinnock Parish Council:

The Parish Council objects to the above proposed application on two counts:

- That the previous application to build a wooden shed on the site and the permission granted to live there was made on a personal basis to the previous owner, which would end when he left the site. We believe this agreement should be enforced.
- The Council is concerned of the precedent implications being set, if the current enforcement notice; planning history and agreements in respect of this site are ignored and residential accommodation is permitted.

Highway Authority:

Standing advice applies.

Environmental Protection Department:

Should planning permission be granted then I would like to see the following condition attached.

Foul water drainage details to serve the development, shall be submitted to and approved in writing by the local planning authority and such approved drainage details shall be completed and become fully operational before the development is occupied.

Following its installation such approved scheme shall be permanently retained and maintained thereafter.

REPRESENTATIONS

16 letters of support (plus one additional with no address), 2 letters making representations and 1 letter of objection have been received. The following comments are made in support of the application:

- Contribution the applicants will make to the local community (a letter of support has been received from the Long Sutton Support Centre which is an educational unit which works with students with Autism).
- Facilities for the community such as vegetable/produce sales.
- Overall high level of support from the local community.
- Opportunities for volunteering/education for special needs individuals.
- Low impact and environmentally sustainable.
- The wide range of products the applicant will produce will provide a high return for a small area.
- The proposal will be of benefit to biodiversity.

The following general representations/areas of concern are made:

- The needs of a family are different to those of the previous single occupier.
- Concerns over parking provision for visitors to the site.
- A secure water supply should be confirmed and means for disposal of foul water.
- Conflict with the Village Plan.

- The 'personal permission' clause suggested by Chiselborough Parish Council would not be tenable and would create a precedent.
- Concerns over whether the business is sustainable - any future permissions need to consider financial accounts based on the first two years.
- The size, topography and aspect of the holding mean that the proposal is not viable.
- Permission should only be granted if the Planning Authority consider that the operation is sustainable, including financially.

The letter of objection makes the following points:

- The building is located outside the medieval village boundary.
- If granted the application would set a precedent for further building at the top of East Street towards Valley Farm.

CONSIDERATIONS

Principle of development:

The application site lies in open countryside. In terms of determining the application the key consideration relates to whether the proposal complies with the development plan and if not whether material considerations indicate that planning permission should be granted. In addition to this, the NPPF is a material consideration that is given enhanced weight where local policies are absent, out of date or silent on any given issue. It should be noted that the emerging local plan will be adopted in March 2015 and therefore can be given significant weight in the determination of this application.

Overall the NPPF provides that there should be a presumption in favour of 'sustainable development'. Paragraph 7 sets out three dimensions to sustainability, economic, social and environmental. More specifically, paragraph 55 of the NPPF relates to dwellings in rural areas and seeks to promote housing where it will enhance and maintain the vitality of rural communities. Of significance it states that Planning Authorities should avoid 'isolated' dwellings unless there are special circumstances of which the following two are of relevance:

- The essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- Where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.....

Having regard to the above, it is necessary to consider whether the proposed dwelling is 'isolated' and therefore whether the restrictions within paragraph 55 should apply. It is a matter of a judgement of the individual circumstances on the basis of 'fact and degree' as to whether a site is isolated. The site is located approximately 200 metres from the nearest dwelling located on the edge of Chiselborough (Primrose Cottage). Having regarded to this distance and the presence of agricultural land between the site and the village edge, it is considered that the site is isolated and therefore that paragraph 55 should apply. As such justification is required on the basis of the 'need for a rural worker'.

Emerging Policy HG9 relates to housing for agricultural and other related workers and is considered to be the basis for determining such applications. It states that housing in the countryside to meet the accommodation needs of a full time worker in agriculture or other businesses where a rural location is essential should demonstrate that:

- There is a clearly established existing functional need;
- The enterprise is economically viable;
- Provision on-site (or in the immediate vicinity) is necessary for the operation of the

business;

- No suitable accommodation exists (or could be made available) in established buildings on the site or in the immediate vicinity;
- It does not involve replacing a dwelling disposed of recently as general market housing;
- The dwelling is no larger than that required to meet the operational needs of the business;
- The siting and landscaping of the new dwelling minimises the impact upon the local landscape character and visual amenity of the countryside and ensures no adverse impact upon the integrity of nationally and internationally designated sites, such as AONB.

In addition to the above, Saved policy HG12 relates to low impact housing and is also of relevance to this proposal. This policy states that low impact residential dwellings will not be permitted unless:

- All structures are temporary bender or yurt type structures, are not visually intrusive and their removal will allow regeneration of the site.
- Vehicle movements, noise, fumes or any subsidiary business activities would not harm the residential amenities of neighbouring dwellings or the character of the area.
- The site is reasonably well related to schools and other community facilities.
- No serious highway problem would result.
- The site includes the following facilities:
 - A refuse collection point.
 - Access to a drinking water supply.
 - A satisfactory means of sewage disposal/management and surface water disposal.
- Landscaping schemes and/or land management are provided if appropriate.

All permissions granted will be temporary to allow for review and assessment of the impact of the site.

This policy is discussed later in the report.

2. Dwellings for rural workers

The established methodology for assessing rural worker dwellings is contained within Annexe A to PPS 7. Whilst PPS7 is superceded by the NPPF, it remains the established methodology for assessing 'essential need' and this approach has been backed up many times at planning appeal.

The relevant criteria within Annexe A require the following:

- "(i) clear evidence of a firm intention and ability to develop the enterprise concerned (Significant investment in new farm buildings is often a good indication of intentions);
- (ii) Functional need (see paragraph 4 of this Annex);
- (iii) Clear evidence that the proposed enterprise has been planned on a sound financial basis;
- (iv) 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; and
- (v) Other normal planning requirements, e.g. on siting and access, are satisfied".

The proposed enterprise provides some difficulties in relation to the above criteria in that the 'low impact' nature of the proposed use does necessarily not fit into a use, for example of more conventional nature and scale. Nevertheless, the relevant functional and financial tests remain the basis for appraising the application.

Clear evidence of a firm intention and ability to develop the enterprise:

In terms of ability to develop the business, this may be supported by the experience and qualifications of the applicant. The applicants have only resided at the property for approximately 7 months. However during this period, it is clear that work has been carried out in terms of clearing scrub vegetation and other works to provide the necessary conditions to make use of the land. The applicants have submitted some details of qualifications and experience which is relevant and relatively extensive. As such the ability of the applicants is not in doubt.

In addition to the above, the intention and genuineness of the applicants is very clear and it is felt that this is one of the factors that has led to widespread support within the village.

Functional need:

In terms of the functional test paragraph 4 (a) of Annexe A requires it to be established whether it is 'essential' for the proper functioning of the enterprise for one or more workers to be available at most times (day and night) for essential care at short notice and to deal with emergencies that could otherwise cause serious loss of crops or products.

The Councils Agricultural Advisor has been consulted and has confirmed that the functional need has not been demonstrated. The scale of the business in terms of livestock is considered to be minimal and therefore there is no essential requirement for a worker to reside on site. Arguments could be advanced on the basis of site security, however these are rarely supported at appeal.

Evidence that the holding has been planned on a sound financial basis:

In relation to this test, there is some evidence of financial planning. The applicants have submitted a breakdown of costs and projected income. Projected cost and income figures are provided for the various aspects of the enterprise including the sale of produce from the site in a range of formats including, vegetables, honey, dairy and meat, eggs and cut flowers. Other aspects of the business include woodwork, land based education and catering. It is noted that the projected figures do not account for increased costs due to inflation or costs arising from depreciation/ wear and tear on equipment.

Overall, the net profit projections are as follows;

Year 1 £4685

Year 2 £14314

Year 3 £16830

The income generated would be significantly below the wage expected for agricultural workers. However, the feasibility of this is made more viable due to the low cost nature of the business, for example the building is 'off grid' which keeps overheads for the business low.

Other accommodation in the area:

The application does not provide substantive evidence in relation to other accommodation. However on the basis of the level of income the business may generate, it is considered that this would not be sufficient to enable the applicants to rent locally on the open market.

Overall, it is considered that the functional need and requirement of the business for residential provision on site has not been demonstrated either when assessed against Annexe A or emerging policy HG9. In terms of economic viability, the applicants propose a

wide range of income streams and this diversity is required due to the limited scale of the holding. In this regard, the range of individual products and incomes are would be labour intensive. Whilst the proposals involve the use of voluntary labour, despite the clear good intent, the feasibility of making a sustainable living out of the enterprise is not certain.

Character and appearance:

The building is located at the northern end of the site adjacent to the highway. There is a substantial amount of vegetation between the building and the highway and therefore it is not readily visible from this vantage point. The Councils Landscape Officer has not objected and has commented that no objections are raised provided that there is a commitment to retaining the roadside vegetation.

Having regard to the above considerations and the modest scale of the building, it is considered that it would not result in harm to the character and appearance of the area or to wider landscape character.

Residential amenity:

Having regard to the distance of the site from neighbouring properties it is considered that there would be no harm to the amenities of nearby occupiers as a result of the proposal.

Highway safety:

The site entrance affords good visibility and it is considered that vehicle speeds outside the site would be below 30 mph given the restricted width of the highway. Turning space within the site is relatively restricted although it is adequate and would be acceptable given the above considerations.

Educational use:

The applicants have proposed an educational element within the proposal which forms part of the business plan. This would consist of sessions with students from the Long Sutton Academy. The sessions would be on a bi weekly basis during term time and this totals 18 sessions per year.

It is considered that a low frequency of use such as this would be acceptable although it is accepted that there could be implications in terms of vehicular movements to the site and manoeuvring. Under the GPDO (as amended) the use of buildings or land can be changed for up to 28 days per year. The purpose of this provision is to allow some degree of flexibility for such ancillary uses. Given that this element of the proposal would be below this threshold it would not be considered reasonable to object to the proposal on this basis. However, a larger scale public use of the site may be unacceptable given the above considerations.

Overall planning balance:

A balanced judgement has to be made when assessing the proposal against the development plan and other material considerations. In terms of the development plan the proposal would not comply with emerging policy HG9. Saved policy HG12 relates to low impact housing. The policy is not being carried over to the emerging local plan as it was considered government policy in respect to isolated dwellings is set out in paragraph 55 of the NPPF. The policy recognises that there is some demand for low impact housing and permits in principle housing of bender or yurt type structures.

It should be noted however that the existing timber structure would not comply with this aspect of the policy which specifically required 'yurt' or 'bender' structures. It is further noted that the policy is out of date and its removal from the development plan is imminent. In this regard, Paragraph 215 of the NPPF states that policies should be afforded a degree of weight in accordance with their compliance with the NPPF. In this regard, the NPPF is clear in terms of restricting isolated dwellings under paragraph 55 which refers to 'special circumstances' needing to be met in order for permission to be granted. As discussed above, the proposal would not meet the required tests through either the emerging local plan policy or Annexe A.

Having regard to these conclusions, the proposal should finally be assessed against the NPPF as a whole and whether any other material considerations would constitute 'special circumstances' in order for permission to be granted.

It is acknowledged that the proposal would make a contribution to the social aspects of sustainability as outlined within paragraph 7 of the NPPF. The proposal would create a community facility through the proposed 'farm gate' sales and volunteering opportunities and whilst considered to be 'isolated' it is nevertheless approximately 700 metres away from the village centre where there are some basic services.

It is also noted that the proposals have received community support as evidenced by the letters that have been received during consideration of this application and these factors weigh in favour of the application.

Furthermore, the 'low impact' lifestyle of the applicants, using natural resources prudently, minimising waste and pollution all in principle accord well with the 'third strand' of sustainable development as set out in paragraph 7 of the NPPF and the proposal would respect local landscape character. However, there are some concerns that the proposal is granted could set a precedent for similar proposals that could cumulatively harm local character.

The Parish Council support the proposal on the basis that it is a personal permission. As such, other occupiers would not be able to implement the permission as opposed to the applicants. However, the application is for an open permission, although given the specific circumstances a personal permission whilst unusual could be feasible given the specific local support for the individuals concerned and the unusual nature of the proposed enterprise. This could be secured through a planning condition.

Conclusion:

Given the circumstances of this application it is a balanced decision. There is community support for the proposal, it would not harm the character and there are a number of positive aspects of the proposed enterprise as outlined in this report. However the proposal would not comply with the relevant development plan policies, specifically policy HG9 of the emerging local plan, saved policy HG12 and the requirements of paragraph 55 of the NPPF. Having regard to the above, on balance it is considered that there are insufficient grounds to constitute 'special circumstances' to grant permission contrary to the above development plan policies and the relevant sections of the NPPF.

RECOMMENDATION

Refuse permission for the following reason:

01. The site is located in an isolated location and the applicant has not demonstrated a functional need, that provision on site is essential for the functioning of the business

and has not demonstrated that the enterprise has clear prospects of being economically viable. As such the proposal would not comply with emerging policy HG9 of the South Somerset Local Plan and paragraph 55 of the NPPF.
