

PLANNING COMMITTEE AGENDA - 10th February 2016

Applications of a non-delegated nature

<u>Item No.</u>	Description
1.	15/01622/FULL - Erection of an agricultural worker's dwelling and an agricultural livestock building at Land at NGR 316711 110152 (Ten Oaks Farm), Clayhidon, Devon. RECOMMENDATION Subject to the provision of a Section 106 Agreement/Unilateral Undertaking and conditions grant permission.
2.	15/01672/FULL - Removal of Condition 3 (holiday occupancy condition) of Planning Permission 05/01218/FULL at The Barn, Pugham Farm, Westleigh. RECOMMENDATION Refuse permission.

Application No. 15/01622/FULL

Plans List No. 1

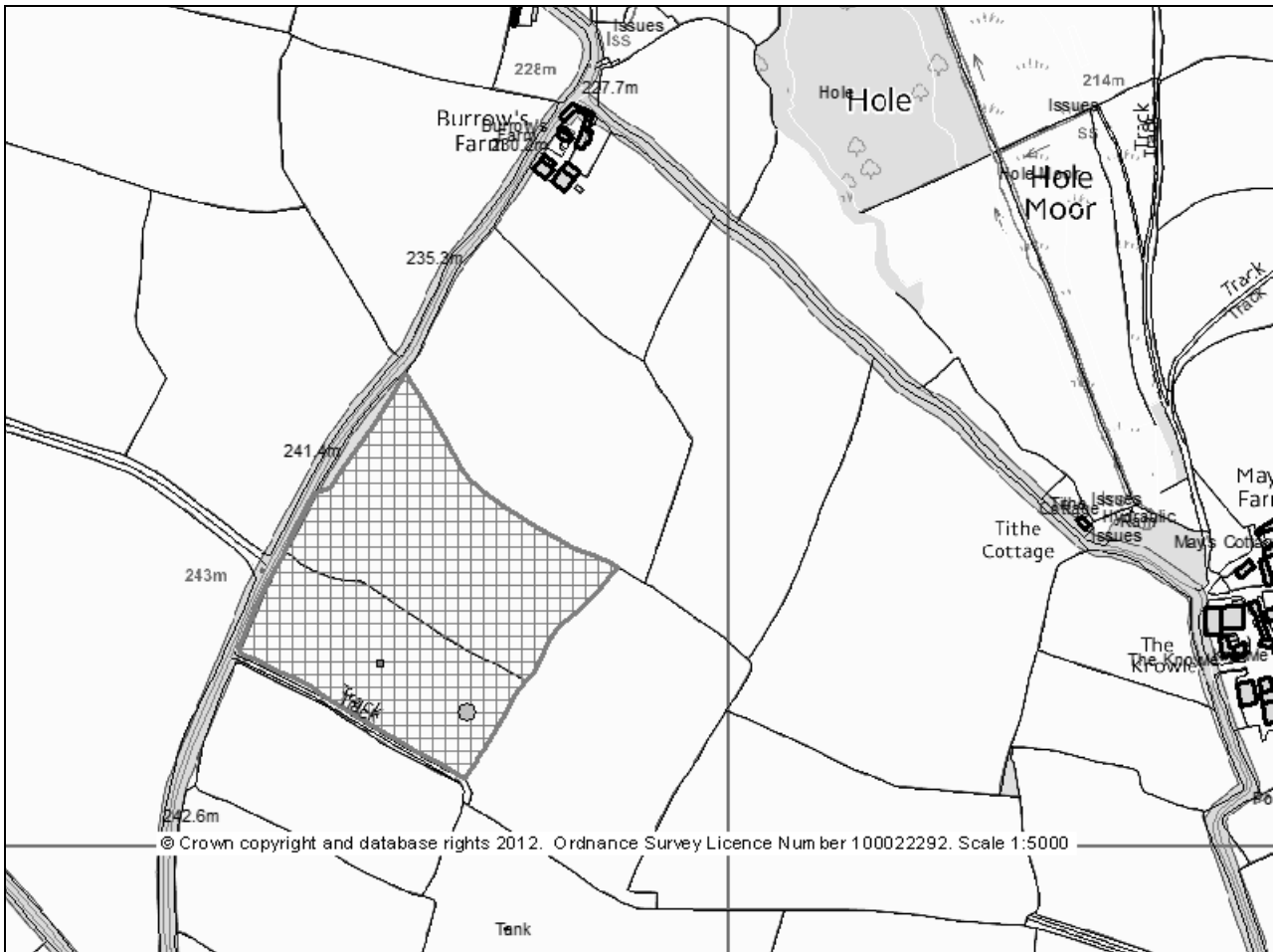
Grid Ref: 316711 : 110152

Applicant: Mr R Greenhill

Location: Land at NGR 316711 110152 (Ten Oaks Farm)
Clayhidon Devon

Proposal: Erection of an agricultural worker's dwelling and an
agricultural livestock building

Date Valid: 20th October 2015



Application No. 15/01622/FULL

RECOMMENDATION

Subject to the provision of a Section 106 Agreement/Unilateral Undertaking and conditions grant permission.

COUNCILLOR FRANK ROSAMOND HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASON:

To consider the absence of an effective business plan sufficient to justify the application, allied to concerns in respect of the water supply.

To update Planning Committee following a request for further information at the meeting on 2nd December 2015.

Updated information

At the Planning Committee held on 2nd December 2015 Members of Planning Committee requested officers to obtain additional information on three matters:

- 1 Financial sustainability
- 2 Water supply and sufficiency of the supply, including storage capacity.
- 3 Sufficiency of the land area available for the enterprise. To show the time livestock is in the building is kept outside

As set out by the applicants agent below in response to your officers request for further information.

The Inspector's decision to grant the Appeal was: 'to facilitate the further expansion and development of the agricultural enterprise'. This application is for that further expansion and development.

- 1) The documents supporting this application evidence that the agricultural enterprise is currently financially sound. Moreover, approval will increase income as a result of expansion and improved efficiency as set out with the projected financial returns.

Regarding the request by Members for the applicant to divulge private financial funding information; officers will no doubt advise Members about whether or not proof of capital funding for a development proposal is a prerequisite of approval; and if it fulfils any planning purpose. Adopting a rational approach, 'the proof of the pudding is in the eating'. It is self-evident that if finances are not available the proposed development will not occur.

Officer comment: No additional information has been provided over and above the agent's comments above. Your officers have asked for copies of sales and purchase receipts but these have not yet been supplied, although the applicant is considering this further. Should these be provided, Members will be updated on this. Members have been informed that the financial information already provided as to the viability of the unit is available for scrutiny within the planning office, should they wish to consider these figures, but is not replicated in their public officer report due to its confidential nature.

- 2) Turning to adequacy of 'rainwater harvesting' water supply for the livestock. First and foremost this is a matter that falls under the 'Animal Welfare Act 2006', just as when this Council grants permission for industrial premises the welfare of workers falls under the 'Health and Safety at Work Act'. Thus, the appropriate 'safeguards' exist.

Secondly, 'rainwater harvesting' is recognised as highly sustainable source of both commercial and domestic water supply which should be encouraged, alongside alternative energy sources, independent of 'mains supplies'.

It is evident that this enterprise has successfully operated from the existing 'rainwater harvesting' system and treatment plant for the past four years. The risk of inadequate water supply with this enterprise in comparison to other livestock farms, particularly 'dairy', that employ a private water supply, is low, for the calves are rotated every 10 weeks. Thus all that is required is 10 weeks storage, which can adequately be met, by installing the same system with the second barn.

Current storage capacity is x 2 - 10,000L tanks and 1,000L storage in the existing livestock barn - 21,000L. The current 50 head of young calves consume an average of 5L per day, 1,750L per week over 10 weeks. Allowing for 12 weeks, this equates to 21,000L; adding domestic usage 2,750L over the same period totals 23,750L,- Obviously, this requirement will double to 47,500L with the introduction of the second livestock barn. Adding a contingency of 25% equates to 59,375L storage capacity. This would be met by installing an additional 4no 10,000L tanks. Thus the enterprise could operate for 3 months without any rainfall (frequently, there has been rainfall in excess of requirement, which has been diverted to the nearby ditch). Moreover, in the event of severe drought, incoming stocking can cease. In this regard this enterprise is much less at risk than established beef, dairy or arable farms.

The Inspector during her examination of the current enterprise found no reason to dismiss on the grounds that the water supply system was inadequate. There is no reason to doubt that provided that the same system is employed with the second (applied for) livestock building there would be self-sufficiency of water supply.

Nevertheless, there is a contingency, that of a private 'bore hole' water supply. I attach an email dated the 16th December 2015 from 'Geologic boreholes' stating that the location is suitable for borehole water supply; and attaches data regarding 'Knowle Farm, just 2km distance. Stating that the borehole at 'Knowle Farm produces 2,200L per hr. The geology is consistent, so there is no reason not to conclude that the same volume of water could be extracted. Thus the daily water requirement at Ten Oaks Farm could be met in 20 minutes. Obviously that volume of water is well in excess of the maximum requirement of 706L per day.

Officer comment: It is evident that there is sufficient appropriate water for the number of livestock to be kept on the land at any one time, with a possible alternative source if required by way of a bore hole. The existing livestock business has operated on the basis of rainwater harvesting for the past 4 years.

3) The adequacy of grazing land has to be considered in the specific context of this enterprise. The stock is 2 -12 week old calves rotated. Hence there will be 50 head of 2 week old new arrivals and 50 head of 7 week old calves at a time. The stock are kept within the building until approximately 6-8 weeks of age, when they are weaned over a period of 4-6 weeks and introduced to grazing in addition to continuing being fed prepared feed; after which they leave site. Thus, over a 10 week period 50 head of stock will only graze for a period of 4-6 weeks. Being young calves they only lightly graze the land, hence the need to keep a small flock of 40 ewes to keep the grass under control. The stock being rotated every 10 weeks provides a period of 2 weeks between rotations to sterilise the buildings and carry out maintenance, and leeway in the event of late arrival or departure of stock. For the past four years, one field has been sufficient for grazing, the other providing hay. Thus there is a contingency that both fields could be utilized for grazing. As noted with the water supply, in the event of severe drought depleting grass growth, stocking can cease; or borehole water can be used to irrigate the pasture.

The National Planning Policy Framework advises 'approving development proposals that accord with the development plan without delay'. In the event of your Council deciding to refuse this application or further delay a decision, an appeal together with an application for 'costs' against this Council will ensue.

Officer comment: The above information appears to demonstrate that there is sufficient land available for the intended stock levels.

4) 'All progeny is sold either privately or through Sedgemoor or Exeter Livestock Markets and the applicants have been mentioned within market reports for the quality and prices achieved for their stock'. This addresses a multitude of objections and concerns raised at the Meeting of the 2nd December 2015.

Conclusion:

Based on the information provided to date, your officers continue to recommend approved, subject to conditions.

PROPOSED DEVELOPMENT

The Application seeks the erection of a permanent agricultural worker's dwelling and an agricultural livestock building. This application follows the approval of a temporary mobile agricultural worker's dwelling under appeal Ref: APP/ Y1138/A/12/2172238 on 7th September 2012.

The previous application and approval established on similar numbers of stock that there was an essential need for a dwelling to support the developing livestock enterprise was sufficiently demonstrated and thus that the proposal does not conflict with Core Strategy Policy COR18 or with the National Planning Policy Framework. (The Framework).

Where essential need is established standard national policy is to provide in the first instance a temporary unit of accommodation over a 3 year time period to establish the viability of the unit.

In this case a temporary consent was granted through a planning appeal some questions arose in relation to the size to which the enterprise might ultimately grow, given the current absence of any mains services and the likely costs of providing these in due course. Nonetheless, given the clear support in the Framework for the development (and not just the diversification) of agricultural businesses, allowing the dwelling on a temporary basis is justified to facilitate the further establishment and development of the livestock enterprise.

Therefore the main issues with regard to this proposal are:

1. Is the existing enterprise based on sound financial basis
2. Are there sufficient services for the enterprise

APPLICANT'S SUPPORTING INFORMATION

Agricultural Appraisal
Foul drainage Assessment Form
Design and Access Statement
Breakdown of income and expenditure (Confidential)

PLANNING HISTORY

10/01749/FULL Erection of an agricultural livestock/storage building - PERMIT
11/01618/FULL Retention of caravan for occupation by agricultural worker for temporary period of 3 years; and retention of agricultural track and formation of new track and hardstanding- REFUSED (APPEAL ALLOWED 07.09.12)
15/01206/FULL Erection of dwelling and garage to replace existing caravan - Withdrawn

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness
COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High quality design
DM8 - Parking
DM10 - Rural workers dwellings
DM14 - Design of housing
DM22 - Agricultural development
DM29 - Protected landscapes
DM15 - Dwelling sizes

CONSULTATIONS

HIGHWAY AUTHORITY - 30th October 2015

Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>

For domestic vehicular accesses from adopted highway into privately owned property (serving up to 3 dwellings) the arrangement must comply with Part One, Sections 3.10, 3.11 and 7.4 of Devon County Council's Highways in Residential and Commercial Estates Design Guide. For driveway gradients a maximum of 10% is preferred although each site must be considered on its merits.

ENVIRONMENT AGENCY - 19th November 2015 - Operational development less than 1ha within Flood Zone 1 - No consultation required - see surface water management good practice advice - see standard comment.

CLAYHIDON PARISH COUNCIL - 13th November 2015

The council does not support the application and makes the following observations.

The parish council has considered the re-submission and remains of the view that there is no viable and sustainable agricultural evidence presented to support the expired temporary permission, let alone the permanent dwelling application.

This would set an unwelcome precedent reference achieving a new dwelling. At just 12 acres, any agricultural tie would be meaningless. The location in open countryside remains a key consideration. Potentially a series of applications would destroy the essential character of this area of the Blackdown Hills.

The information contained in the Agricultural Appraisal shows a standard man day calculation of 1.67 based on 200 calves per annum. This is incorrect. The total number of calves at any one time is currently 50. If the new agricultural building is approved the numbers are proposed to double. This does not equate to 1 full time worker needed to be present at all times of the day and night for the proper functioning of the enterprise.

It has been reported that the Planning Notice was erected for four hours on one day and then removed.

The council has concerns over the water supply on site. The water is being harvested from the roof. Is this sustainable?

ENVIRONMENTAL HEALTH - 3rd November 2015

Contaminated Land - no objections to this proposal

Air Quality - no objections to this proposal

Environmental Permitting N/A

Drainage - no objections to these proposals

Noise & other nuisances - no objections to these proposals

Housing Standards - no objections to these proposals

Licensing - No comment

Food Hygiene - N/A

Private Water Supplies - INFORMATIVE NOTE:

No record is held as being a private supply. However, if a private water supply is to be used together with any other associated property, the supply would become a small private supply, unless a commercial element is involved when it would become a commercial supply. In either circumstance would be subject to the Private Water Supply Regulations 2009. As such a private water risk assessment and sampling regime will need to be undertaken by this Authority prior to any residential or commercial use. Please contact Public Health at Mid Devon District Council to discuss on completion of the proposal.
Health and Safety - no objections to this proposal

REPRESENTATIONS

There have been two representations

- 1) This is inappropriate development within the AONB.
- 2) There are inaccuracies in the application
- 3) Not proved its viability

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The primary material considerations in assessing this application are:-

1) Previous appeal decision for siting of temporary mobile unit

2) Agricultural Workers Dwelling

3) Agricultural Building

1. Previous appeal decision for siting of temporary mobile unit

See attached appeal decision Appendix 1

2. Agricultural Workers Dwelling

The site is within the Blackdown Hills AONB. The holding extends to approximately 5.1 hectares of relatively level pasture land in two fields. The north western boundaries of the two fields front onto an unclassified public highway off which the site is accessed. The caravan which the applicant is residing in (granted temporary consent in 2012 under appeal Ref: APP/ Y1138/A/12/2172238) is located in the northern corner of the southernmost field, close to the south eastern boundary. The existing agricultural building is located further to the south of the caravan with a stone track from the access to the highway and running along the southern boundary of the field. Timber post and rail fencing has been installed around the field in order to separate the pasture land from the recent developments (track, caravan, building).

The proposal is to provide a modest permanent chalet style bungalow, located on the footprint of the existing mobile unit and its veranda. In addition the proposal is to provide a further agricultural building located to the south of the existing building, along with an intervening concrete yard.

The site is in an isolated rural location where prevailing national and local planning policies restrict the provision of new residential dwellings and the residential use of land unless there is a proven need for an agricultural (or other rural) worker to reside on a holding. Policy COR18 of Mid Devon Core Strategy is a relevant policy as is DM10 (rural workers dwellings) of the Local Plan Part 3. In addition the National Planning Policy Framework (NPPF) sets out the criteria or other means of establishing whether or not there is an 'essential' need for such a dwelling. In addition Planning Policy Statement 7 Annexe A although superseded is still considered to be a suitable guide/tool to help assess such applications.

Policy DM10 has 4 elements

- a) It can be demonstrated that the nature and demands of an existing rural business are such that a full time worker has an essential need to be permanently resident at or near their place of work so they are available most times.

An assessment of the labour requirement for the holding has been provided in support of the application. This states that based on the rearing of 200 calves annually and including some time for maintenance and cutting hay, the annual labour requirement is 501.80 standard man days, with 426 of these days being attributed to the management of the calves. This assessment has been made using The Agriculture Budgeting and Costing Book for derivation of labour requirements. These figures are the same as those provided for the 2011 application and the subsequent appeal. At the time of the appeal the applicant had just reached the 50 calves per quarter.

The appeal established "the key element of the functional test is not the amount of labour required but whether it is essential for a worker to be readily available at most times, including at night. Very young calves are susceptible to infection, such that regular monitoring and prompt intervention are required for the success of the enterprise, and I heard that other emergencies can also arise during the night-time period. Given the nature and scale of the enterprise, I accept it is necessary for a worker to be on hand at night. The security benefits of an on-site presence also weigh in favour of the proposal. I conclude therefore that the functional test is met". Therefore the functional/essential need has been established through the previous appeal. That there is a requirement for at least one worker to be present at most times and therefore there is an essential need. This has not changed from this appeal date, with regard to the essential need.

In the appeal decision, the Inspector noted that given the clear support in the Framework for the development of agricultural businesses, allowing the dwelling on a temporary basis was justified to facilitate the further establishment and development of the livestock enterprise. He stated that in due course, the Council is likely to expect comprehensive and detailed information to demonstrate the sustained continuation and/or development of the enterprise throughout the period of the temporary permission. The applicant has sustained the enterprise at the level on which the appeal Inspector established there was an essential need to live on site, and intends to develop the business further by an increase in the numbers of calves on site. In this respect, the applicant is also applying for a further livestock building as part of this application.

Officers requested further information on the water supply as the cost of mains water installation would negatively affect the finances of the farm holding.

The present water supply by way of rain water harvesting has operated sufficiently for the last 4 years, the additional agricultural building will provide further water supply for the needs of the expanding unit. The agent has therefore commented that the sufficiency of this approach has been proven and with the roof area of the new historic building, rainwater harvesting will continue to be sufficient to secure the needs of the expanded holding in the future. No details of water use or storage in terms of volume have been provided. Sufficiency of water for stock is covered by other welfare standards. Given the arrangement has been demonstrated over the last 4 years, on balance it is considered acceptable.

- b) The need cannot be met within a nearby settlement, or by existing housing at or near the site or through the conversion of a suitable redundant or disused rural building at the site.

It was agreed between the Local Authority and the applicant at the time of the appeal that there is no other suitable and available dwelling in the immediate locality. Having undertaken a search on the Internet there are still no available properties within very close proximity to the site either to rent or buy. Therefore the need established within the appeal approval is unable to be satisfied by external means. Therefore the application meets this test of the Local Plan DM10.

- c) The size and scale of rural workers dwellings will be commensurate with the scale of the operation and designed to reflect the location and setting of the proposed site.

The inspector stated in paragraph 13 of the appeal that - With regard to the proposal's visual impact on the character and natural beauty of the AONB surroundings, the caravan, tract are well screened by existing hedging. Moreover the surrounding countryside is relatively flat, such that the development has little long range views. Thus no harm is caused to the character of the AONB landscape.

The application proposes a modest 2/3bedroomed chalet bungalow with a main foot print of 9.35m x 8.5m with an attached single storey section measuring 5.6m x 3.3m, the overall floor area being 130sqm measured externally. It is considered that this size of dwelling is appropriate for the size of unit and will have no major impact on the AONB or neighbouring properties. The change from a mobile unit to this modest dwelling will provide a more appropriate scheme for the AONB. The design is simple and will sit in the landscape appropriately and is close to the calf sheds to provide security and observation. In addition the size of the dwelling complies with space requirements set out at DM15 and the recent technical housing standards - nationally described space standard. There are no details as to the proposed materials therefore these will be conditioned. It is considered the proposed modest dwelling meets with Local Plan Part 3 policy DM10 and policy DM14 which relates to the design of new housing.

- d) The rural enterprise has been established for at least three years, is currently financially sound, and has a clear prospect of remaining so.

The business has been running for a period of 4 years and details have been provided of accounts over this time period which detail income and outgoings. These are commercially sensitive and are not within the public domain. Net and gross Income is shown to be stable over the period, and providing a small but acceptable income for the size of the unit. The intention is to double the number of calves following the installation of the new agricultural building. Financial projections of the business following the erection and stocking of the sound agricultural building have been provided. They show an increasing business profit. On balance it is considered that this element has been met and is compliant with DM10.

The appeal Ref: APP/ Y1138/A/12/2172238 on 7th September 2012 raised some questions with regard to the lack of main services and in particular if the proposed enterprise could grow without it. The applicant has now provided a septic tank for the use of the caravan and continues to use water collected from rain sources, in addition electricity is now by mains supply with a backup generator. Although there is no specific mains water it is concluded that the increase in the number of buildings will provide additional water for the use of the site through rainwater harvesting. Potable water will need to be monitored and checked by the Environmental Health section of this Authority. The intention is to double the output of the unit hence the inclusion within the application for a new barn to cater for this. The essential benefit of this additional building is that of efficiency of the calf rearing enterprise, to allow rotation of stock from one building to another at 6-8 weeks. This will save time of dismantling, storing and re-erecting the pens. It will also allow more flexibility in the time periods for keeping stock.

It has been confirmed by the applicant that the cost of providing the agricultural workers dwelling and livestock building are not dependent upon the income from the agricultural enterprise itself. Therefore there are no perceived issues with regard to the sustainability and financial operation of the unit.

Policy AL/IN/3 makes clear that new housing developments will provide at least 60sqm of equipped and landscaped public open space per market dwelling, or a contribution per dwelling in accordance with the SPD. The SPD makes clear in paragraph 14 that the scheme for collecting contributions for off-site provision applies to all new housing, including single dwellings, whether built as tied accommodation, conversions of existing buildings, flats, maisonettes or permanent mobile homes. There is therefore a clear policy justification for this contribution.

A financial contribution of £1442 towards public open space provision is still to be made in respect of Policy AL/IN/3 and a unilateral undertaking has been sent for signature.

Any Positive decision will need to be withheld until payment has been received or alternatively a legal basis established to secure it via S106.

New Homes Bonus

Consideration should be given to the New Homes Bonus that would be generated by this application. If New Homes Bonus is distributed across the Council Tax bands in the same way as last year, the award for each market house is estimated to be £1,028 per year, paid for a period of 6 years. The amount of New Homes Bonus that would be generated from the proposal over a period of 6 years is therefore estimated to be £6,168

For the reasons given above, the proposed development is considered to comply with the policies of the adopted Development Plan, and therefore approval is recommended.

3. Agricultural Building

This application also seeks planning permission for the erection of an agricultural livestock building measuring 12 metres x 30.5 metres x 4.2 metres to eaves and 5.5 metres to ridge. The southeast elevation is proposed to be entirely open to the three bays with the provision of galvanized steel feed barriers on the remaining two bays; the remaining three elevations are proposed to have 1.5 metre high horizontal tongue and groove dung boarding with Yorkshire boarding above and with the additional provision of a galvanized sheeted gate on the south west elevation. The building is proposed to be roofed in steel metal sheeting. The overall design of the building adequately reflects the intended agricultural nature of its use.

The agricultural barn is to be provided immediately to the west of the existing barn and to be constructed in similar materials and of a size similar to that of the existing barn. Between the two barns a concrete hard standing is to be provided. The primary purpose is to support farming activities related to the land holding and the building is needed for that purpose. The new barn will also allow the enterprise to develop further.

The site lies within the Blackdown Hills AONB where new development should not harm the special beauty of the area. The building is proposed to be located at the furthest point from the public highway, which is approximately 170 metres. Although the building will be visible from the public highway, it is not felt that the proposal will harm the overall beauty of the locality and will largely preserve the unspoilt and rural character of the area, as the building will be seen in context with the existing agricultural building. It will provide needed additional cover for the expanding business. In appropriate cases the Council will consider the need to require that the building be removed when it is no longer required for agricultural purposes and the site reinstated to its former use. Given the location of the site within the sensitive Blackdown Hills AONB and the relatively large size of the building (in conjunction with the previous approval) in relation to the overall size of the current land holding, a condition to this effect is considered to be reasonable and necessary and is therefore recommended for imposition.

The proposal is for a building which will be seen in context of the existing agricultural building and as such will meet with the requirements of DM29 in particular the character and setting within the special qualities of the landscape. The building will only be seen from the immediate highway. The biodiversity will not be impacted and linking habitats will be retained.

It is considered that the proposal meets and complies with the appropriate policies COR2 and COR18 of the Mid Devon Core Strategy (Local Plan 1) and DM2, DM22, and DM29 of the Local Plan 3 of the (Development Management Policies).

CONDITIONS

1. The Agricultural Workers dwelling and agricultural livestock building hereby permitted shall be begun before the expiration of 1 year from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

3. No development shall begin until details or samples of the colour and finish of the materials to be used for the external surfaces of the dwelling and agricultural livestock building have been submitted to and approved in writing by the Local Planning Authority, such approved details or samples shall be so retained.
4. The agricultural livestock building hereby approved will be brought into its intended use prior to the occupation of the agricultural workers dwelling.
5. The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture (as defined by Section 336(i) of The Town and Country Planning Act 1990) or in forestry, or a widow or widower of such a person, or to any dependants.
6. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes [A, B, C, and E of Part 1 relating to the enlargement of a dwellinghouse or addition or alteration to the roof of a dwellinghouse or the provision of any building or enclosure, swimming or other pool within the dwelling curtilage.
7. On the agricultural livestock building becoming redundant for the use applied for or any agricultural use, it shall be demolished and all resultant materials removed from site within 3 years of redundancy.
8. To safeguard the rural character of the area & special qualities of the Area of Outstanding Natural Beauty in accordance with Policy COR18 of Mid Devon Core Strategy (Local Plan 1) and Policy DM22 of Local Plan Part 3 (Development Management Policies).

REASONS FOR CONDITIONS

1. To ensure that the accommodation continues to meet with the needs of an essential rural worker in connection with the existing agricultural enterprise where it has been established that there will be a functional need for permanent accommodation on the site and for the business to develop in the way envisaged.
2. For the avoidance of doubt and in the interests of proper planning.
3. To protect the visual amenities of the area in accordance with policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 and DM29 of the Local Plan Part 3 of the (Development Management Policies).
4. To ensure the farm holding is able to continue to expand, to be financially sound meeting projections and to ensure the barn is built in accordance with the scheme proposed.
5. The site is located outside defined settlement limits in the open countryside, where national and local planning policy resists the erection of new dwellings without special agricultural/occupational justification in accordance with Policy COR18 of Mid Devon Core Strategy (Local Plan 1) and guidance in National Planning Policy Framework (NPPF).
6. To safeguard the visual amenities of the area and to ensure that the dwelling remains of a size commensurate with the needs of the agricultural holding to which it relates, in accordance with policy DM10 of the Local Plan Part 3 of the (Development Management Policies).

INFORMATIVE NOTE

1. The applicant is advised that the Local Planning Authority is unlikely to view favourably any future applications to enlarge the size of this agricultural worker's dwelling.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The current proposal is acceptable in that the applicant has demonstrated an essential need for a rural worker to live at or near their place of work in the countryside and that there are no existing dwellings available to fulfil that need. The siting, layout, scale and massing of the dwelling is considered to be acceptable and there will not be any unreasonable impacts on the visual or other environmental amenities of the area, highways safety or any neighbouring occupiers.

The proposed agricultural building is considered to be reasonably necessary for the purposes of agriculture on the holding and is sited in an appropriate location on the land. Its design adequately reflects the agricultural nature of the development. The site is located within the Area of Outstanding Natural Beauty and the proposal is acceptable in the respect of the impact on its character, appearance or other aspects of its natural beauty. Accordingly the application complies with policies COR2 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM2, DM22, and DM29 of the Local Plan Part 3 of the Development Management Policies).

Application No. 15/01672/FULL

Plans List No. 2

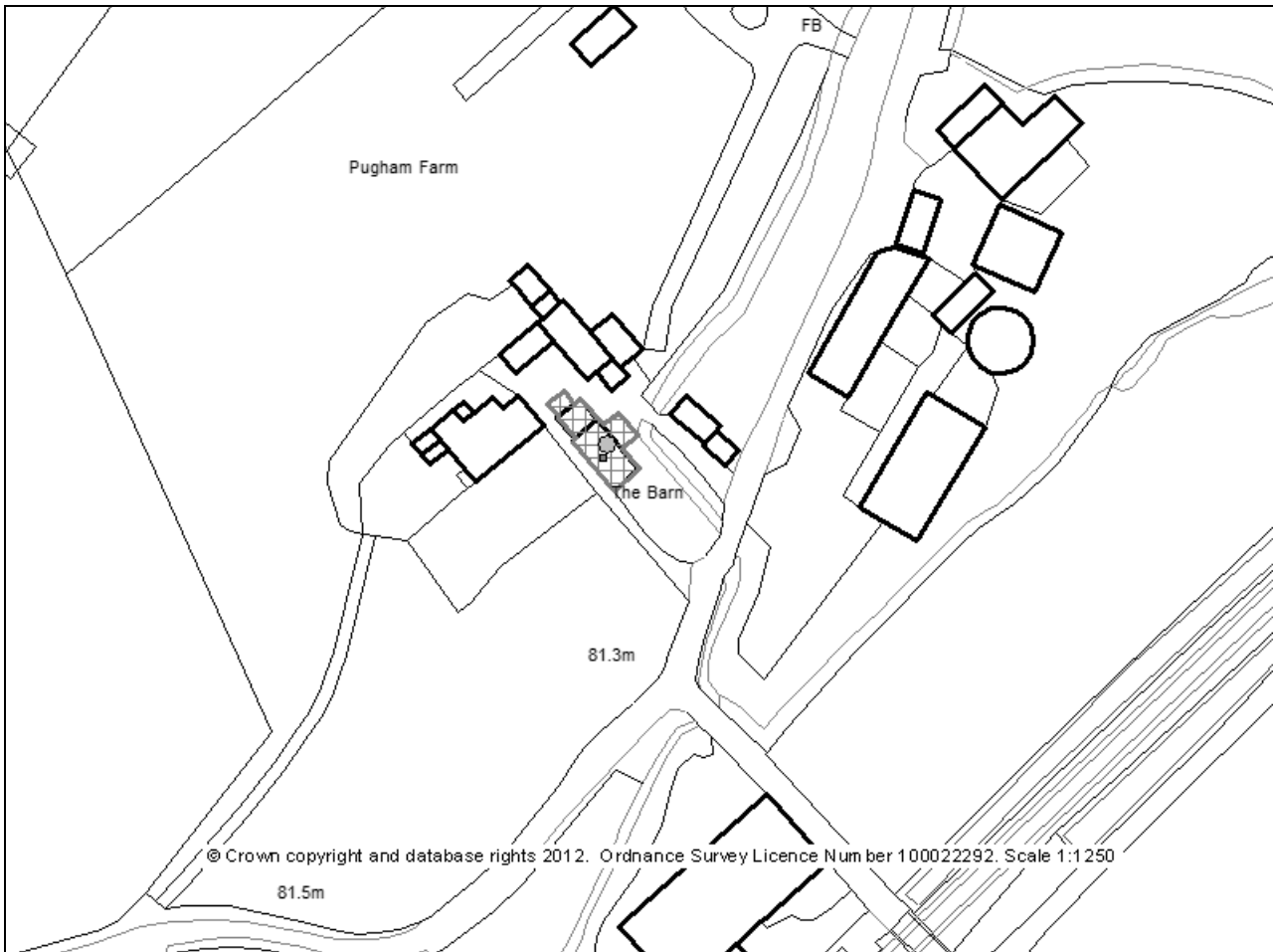
Grid Ref: 305661 : 115266

Applicant: Mr G Moore

Location: The Barn Pugham Farm Westleigh Tiverton

Proposal: Removal of Condition 3 (holiday occupancy condition)
of Planning Permission 05/01218/FULL

Date Valid: 29th October 2015



Application No. 15/01672/FULL

RECOMMENDATION

Refuse permission.

PROPOSED DEVELOPMENT

Pugham Farm is located just to the north of the M5 and mainline railway, on the road between Sampford Peverell and Westleigh. 'The Barn' is located to the north east of the access drive from the road to the main house. Planning permission was granted for the conversion of the barn to 1 unit of holiday accommodation in 2005. In granting planning permission, a condition was attached restricting occupation purely to holiday accommodation in line with the policy which prevailed at that time. This planning application seeks the removal of a previously imposed planning condition that restricted the occupation of 'The Barn' to holiday accommodation as follows:

The occupation of the building shall be restricted to bona fide holidaymakers for individual periods not exceeding 4 weeks in total in any consecutive period of 13 weeks (3 months). A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.

The reason given for the imposition of the condition was: 'The site is in a rural area, outside of any defined settlement limit where it is the Policy of the Local Planning Authority to restrict the provision of new residential dwellings. However, holiday accommodation is considered to be an appropriate commercial reuse for a rural building and conforms with Development Plan Policy.'

APPLICANT'S SUPPORTING INFORMATION

Extract from Greenslade Taylor Hunt sales particulars
Holiday Letting details
Costings associated with holiday let

PLANNING HISTORY

05/01218/FULL Conversion of barn to holiday let - HOLIDAY OCCUPANCY CONDITION APPLIES - PERMIT

11/01988/FULL Removal of Condition 3 of planning permission 05/01218/FULL to allow for the holiday let to be used as a permanent dwelling (APPEAL DISMISSED 7.2.13) - REFUSE

12/00448/CLU Certificate of Lawfulness for the existing use of an agricultural building as a dwelling for a period in excess of 4 years (APPEAL DISMISSED 7.2.13) - REFUSE

13/00992/FULL Conversion of redundant barn to 4 bedroom dwelling and garage - DELETE

15/01130/FULL Removal of Condition 3, holiday occupancy condition, of Planning Permission - REFUSED

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR9 - Access
COR12 - Development Focus
COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High quality design
DM8 - Parking
DM11 - Conversion of rural buildings
DM21 - Protection of employment land
DM24 - Tourism and leisure development

CONSULTATIONS

HIGHWAY AUTHORITY - 4th November 2015
Standing advice applies
<http://www.devon.gov.uk/highways-standingadvice.pdf>

BURLESCOMBE PARISH COUNCIL - 3rd November 2015
No objections.

REPRESENTATIONS

None

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1) Planning history including previous appeal decision
- 2) Demand and viability of the building as holiday accommodation
- 3) S106 requirements

Planning History including previous appeal decision

The planning history is listed earlier in this report. The building was converted to a holiday let, which is a dwelling restricted by an occupancy condition, following permission granted in 2005. In 2011 a planning application was made to remove the occupancy condition, however at that time no attempts to let the building for holiday purposes had ever been made and the building had been occupied as someone's main home.

The main issue in the appeal was whether the holiday occupancy condition was reasonable and necessary having regard to local and national policy aimed at promoting more sustainable patterns of development. The appeal decision was issued after the introduction of the National Planning Policy Framework but prior to the adoption of Mid Devon's Local Plan Part 3 and its redundant rural building conversion policy. The Inspector stated in his appeal decision that the policy support in the NPPF and in the emerging (at that time) Local Plan Part 3 for the re-use of redundant barns did not apply to the application building as the building was not redundant and had already been converted. This situation has not materially changed since that time.

The Inspector made the following conclusion in dismissing the appeal:

"In this case I am not satisfied that I have been provided with sufficient evidence to enable me to conclude that condition 3 is not reasonable or necessary in the interests of sustainable development. Removing the condition without cogent evidence of lack of demand, viability or any marketing attempt whatsoever would undermine Policies COR1, COR12 and COR18 of the Mid-Devon Core Strategy (Local Plan part 1), which aim to promote sustainable patterns of development. In coming to this view I have had regard to the personal considerations put forward in support of the proposal, but these do not outweigh the more general planning considerations".

A similar application has previously been before the Planning Committee reference number 15/01130/Full on the 23rd September 2015 when members were minded to refuse.

In summary, policy COR1 relates to the development of sustainable communities, policy COR12 sets the focus of development in the district, concentrating it in the towns with a limited role for a number of identified villages. This site is outside any recognised settlement and so policy COR18 applies which sets out the types of development which are acceptable in principle in rural areas, with new unrestricted residential development only acceptable in very limited circumstances such as to provide affordable housing or housing essential to accommodate a rural worker.

The onus in this application is on the applicants to demonstrate that there is a lack of demand or viability for running the building as holiday accommodation.

2. Demand and viability of the building as holiday accommodation

Since the previous appeal was dismissed in 2013 the applicants have begun letting the property for holiday accommodation. Dates submitted for the use of the building as a holiday unit commence according to the information submitted as the 11th July 2014. The property is advertised through a holiday cottage agency and on that agency's 'cottages 4 you' website. Interrogation of this website shows that the property was booked for most of November, 20 days in December, (2015) 22 days January, 7 days February, 14 days March, 7 days April, and 24 days in August along with other sporadic bookings in future months (2016). This shows a degree of interest presently equating to 74 days of 2016 already booked. The Mid Devon tourism study indicates that in the Mid Devon area the majority of bookings over the summer period are generally late bookings so the relatively low numbers of pre committed bookings do not necessarily justify the removal of a condition. There are no details on the site to show previous bookings, although there are a number of excellent reviews of the property from 2014 to date with an average score given of 8.6 out of 10. No information has been provided for the period from the appeal in February 2013 to 11th July 2014.

Some previous booking details have been provided by the applicant for 2014 7 days in July, 28 days in August, 3 days in October, and 12 days in December; there is no information concerning the interim months of September, November or the preceding months. Total days let 50 2015, 7 days in January 2014, 4 days in February, 4 days in March, 24 days in April, 7 days in May, 3 days in June, 27 days in August, 15 days in September, 9 days in October and 7 days in December. Total days let 107.

As the property has been shown to have been used for 2 years only as a holiday let it is considered that the evidence available to the Council from the letting agent's website and the applicant amounts to insufficient evidence provided to demonstrate that the letting of the property as a holiday unit is not viable in this location or providing an appropriate facility for the area.

According to the figures set out above the letting of the unit has increased by over 100% from that of the first year of records submitted. The general average for holiday occupancy across the country varies but on average it is indicated by tourism websites that occupancy rates should be around 20 weeks a year rising in more popular areas. This equates to 140 letting days per annum. Although the existing unit is presently reaching 107 letting days a year based on the information supplied, it is only its 2nd year of trading as a holiday let unit, based on the figures to hand. Therefore it cannot be established that the holiday unit is not viable, the holiday letting process has not had enough time to establish this.

The costs submitted relating to the running of the units is considered without corroboration to be on the relatively high side and not necessarily an appropriate cost for the number of visitors claimed. The costs submitted are not official invoices raised but hand written costs. The inclusion of gas, electricity costs would normally be covered as an inclusive cost and already budgeted as part of the letting rental. The other ongoing cost would appear to be reasonable, although a large majority of these are undertaken by the applicant according to their information received. If the property is not rented then there would be no requirement for some of the activities such as window cleaner, or cleaning personnel.

No attempt seems to have been made to consider selling the property as a going concern at an appropriate sale figure for a period of at least 18 months to be able to demonstrate that the business is unviable.

This element was highlighted by the inspector as part of the requirements needed to potentially justify the removal of the condition.

The Mid Devon Tourism Study dated November 2014 considers that the Local Planning Authority should support the development of sustainable rural tourism and leisure and this is reflected in policy DM24 of the Local Plan Part 3 which relates to tourism and leisure development. The study covers a wide range of tourist related activities and part of this includes data relating to bed spaces and the mix between hotels to campsites. Total tourism spend in Mid Devon is lower than other areas in Devon. The study concludes that this is probably due to the lack of larger tourism attractions in the District, along with above average proportion of visitors who stay with friends. The study identifies that nationally there has been a growth in short breaks and activity breaks. It is considered that the provision of this type of self-catering accommodation for tourism is growing while there is a decrease in B&B accommodation. As with all tourism activities the weather has an impact on numbers along with activities overseas. Predicted growth is anticipated to be in short and mid lengths stays / trips, primarily from people resident within the South West region. Future growth in visitor numbers is expected to arise principally from visitors who live 20 - 40 km from tourist attractions. The study also identifies that there is an opportunity to continue to develop tourism and leisure facilities and accommodation around the M5 North Devon Link Road corridors. The findings of the Tourism Study further indicate that there is demand for this type of tourist accommodation in the area and your officers consider that the evidence provided to date to counter that assertion is lacking.

Your officers consider that insufficient information has been supplied to demonstrate that the current enterprise is unviable or there is a lack of demand for holiday accommodation in the locality. The proposal is therefore considered to be contrary to policies Mid Devon Core Strategy (Local Plan Part 1) COR1, COR12 and COR18.

3. S106 requirements

Should the application be approved, financial contributions towards public open space would be payable in line with this Authority's Supplementary Planning Document on the 'Provision and funding of open space through development' and policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document. At the time of writing this report, no request has as yet been made to the applicant for a contribution of £1442 (based on the number of habitable rooms) and if the proposal is to be approved then payment will need to be made prior to any approval being made.

REASON FOR REFUSAL

1. The site is situated within the countryside, where Development Plan policy provides that residential development should be strictly controlled, and only provided for where consistent with the policies and proposals set out in the Plan. In this instance the building has been converted to a dwelling whose occupancy is restricted by condition to only allow for holiday lets; the building is not redundant and therefore the provisions of the National Planning Policy Framework and Policy DM11 of Local Plan Part 3 (Development Plan Policies) in relation to the conversion of redundant buildings do not apply. The Local Planning Authority is of the opinion that insufficient information has been supplied to demonstrate that the current enterprise is unviable or there is a lack of demand for holiday accommodation in the locality which would justify the removal of the holiday restriction condition. The use of 'The Barn' as a permanent residential dwelling would be contrary to Mid Devon Core Strategy (Local Plan Part 1) Policies COR1, COR12 and COR18.

Mrs Jenny Clifford
Head of Planning and Regeneration