

OTTERY ST MARY
(Ottery St Mary rural)

07/1974/FUL

Target Date: 07/09/2007

Applicant:

Dr L J Broom

Location:

Land adjoining Skinners Ash Farm, Fenny Bridges, EX14 3BH

Proposal:

Continuation of existing use of residential caravans and agricultural storage container

CONSULTATIONS

County Highway Authority

Initially had concerns about the access into the site, preferring it to be taken from the south, off the gated access onto the former A30, rather than the rear access lane. However, visibility is substandard at the southern access and the land required to improve it is not within the ownership or control of the applicant. This being so, the Highway Authority have agreed that with some alteration the access into the site from the lane to the north could be improved and be capable of accommodating the limited amount of traffic associated with the agricultural use of the land and the applicant's residential accommodation.

The alterations are relatively minor and are discussed later in this report. The Highway Authority has indicated that whilst it still has concerns in respect of the narrowness of the approach lane to the site from the north, because the lane is a no through road and very lightly trafficked, and because there could be an agricultural justification for the development, I would not wish to pursue a highway objection on this point alone. The Highway Authority has however recommended that any permission that the Council might grant should include two conditions relating to the creation of visibility splays and the hardening, surfacing and drainage of the access for a distance of not less than 4.0m back from its junction with the lane.

Environmental Health

No reply to consultation.

TOWN/PARISH COUNCIL

Recommend refusal:

- No agricultural justification for the change of use of this agricultural site.
- Inadequate facilities for residential use.

WARD MEMBER(S)

The initial comments of the Ward Member(s) are –

Councillor Bloxham

"It is considered that this application be refused. The statement of need does not provide justification for residential accommodation and storage on this agricultural land. The raising of pigs as described by the applicant is common and there are many examples of this practice locally where adjacent residential accommodation and storage is not present.

The land in question was originally part of the larger and adjacent Skinners Ash Farm. There is ample residential and storage capacity existing which was adequate and close enough to this land prior to its purchase.

The caravans and storage facility present on the land today are totally out of keeping with this rural environment.

Residential use and storage brings with it vehicles which are also kept on the land. There is also waste present. All of these things are out of keeping.

There is inadequate provision for utilities for residential use to be sustained. From the details supplied with the application, only mains water is present. Of particular concern, there is no provision for sewerage and waste.

This is agricultural land, it should remain so and there is nothing in the application which justifies moving away from that position. “

In the event that this application comes to Committee I would reserve my position until I am in full possession of all the relevant facts and arguments for and against.

REPRESENTATIONS

Objections

4 letters have been received raising the following points:

- Development is illegal, applicants are flouting planning laws and this is a ploy to build a house on the land.
- This would set a precedent for others wanting a cheap home.
- No need to live on site to tend the animals.
- Lane inadequate to accommodate large lorries and extra volume of traffic.
- Noise and smell, intruding upon peace and quiet of nearby residents.

RELEVANT PLANNING HISTORY

There have been no previous planning applications in respect of the use of this particular site.

PLANNING POLICIES

Government Guidance

PPS7 – Sustainable Development in Rural Areas

Devon Country Structure Plan (2001-2016)

Policy CO6 – Quality of New Development

East Devon Local Plan (1995-2011)

Policy S4 – Countryside Protection

Policy D1 – Design and Local Distinctiveness

Policy H8 – Dwellings for Persons employed in Agriculture or Forestry.

SITE LOCATION AND DESCRIPTION

This site lies along the north side of the former A30 on the western outskirts of Fenny Bridges. It is a roughly square shaped parcel of land that rises quite noticeably from the A30 northwards towards a lane that runs along the northern, well vegetated boundary of the site. It has a gated vehicular access on its south side off the former A30, over which the applicant has a right of way into the field. A high hedgerow defines the remainder of the southern frontage. This hedge, which would need to be reshaped and set back to provide visibility to the west of the access is not within the ownership or control of the applicant.

Access into the site is also obtained from the lane that runs along the northern boundary. This is a lightly trafficked no through road, and a gate at the western end of the frontage provides access into the application site. This internal track runs along and inside the northern hedgerow boundary and terminates in the north-eastern corner of the field, where two caravans and a storage container have been stationed. The applicant and his family live in the two mobile units and the storage container is used for deliveries of straw, feed etc. In a supporting statement the applicant advises that the site is part of a 5 hectare block that is rented from his father. It was purchased with the intention of providing land upon which the applicant could establish a pig unit and is believed to have originally been part of the landholding of Skinners Ash Farm which lies to the east.

The field itself is now being used by the applicant to keep and breed pigs. The rear gardens of properties along the north side of the former A30 stand close to the southern boundary of the field and the land to the east and west is largely open countryside.

PROPOSED DEVELOPMENT

This application seeks to regularise the stationing of the two caravans and the storage container, in connection with the agricultural use of the land for the keeping and breeding of pigs.

Justification for the continued siting of the units is provided in the form of a supporting statement from the applicant, a copy of which is appended to this report. The application was also accompanied by a Design and Access Statement, which will be available should Members wish to see it. A summary of that Statement is reproduced below:

- There is no alternative accommodation on the unit. Equally there is no accommodation in the area that is either suitable or available.
- There will undoubtedly be a labour requirement for at least one full-time worker and a functional need to provide essential care to valuable livestock both day and night throughout the year.
- The enterprise has been planned on a sound financial basis.
- No new access is required. In addition, there will be no loss of the present landscape/environmental features of the site.
- The position chosen is the least conspicuous part of the field, thus minimising visual intrusion and disturbance to local residents.
- There will be a negligible impact on the surrounding areas by reason of noise, smell or other nuisance.
- There will be negligible effect on the public highway or local traffic movements.

The two caravans that have been stationed in the north-eastern corner of the field measure approximately 10.4m x 3.1m and are laid out in an 'L' shaped arrangement. The agricultural container is positioned to the west of the caravans and measures 12.2m x 2.5m.

CONSIDERATIONS AND ASSESSMENT

Background

In April of this year the Council were advised that two caravans and a large container unit had been positioned within a field to the rear of the Greyhound Inn at Fenny Bridges, on land that was once part of Skinners Ash Farm. Investigations revealed that no planning permission had been granted for either the caravans or the container, and although the person responsible indicated that he had been in contact with the Council about using the field for keeping and breeding pigs, it was clear that a breach of planning control had occurred, and that action was needed accordingly.

To this end, following further site visits and correspondence with the owner/occupier of the caravans, authority was given by the Chairman of the Development Control Committee in June to commence enforcement proceedings to secure the cessation of the unauthorised residential use of the caravans. The file was passed to the Council's Legal Department accordingly.

A month or so later, and before any action had been commenced, the Council received this formal planning application for the retention of the caravans and the storage container, together with supporting information explaining the nature of the agricultural use to which the field is being put and the justification for the siting of the caravans and storage unit. In these circumstances no further action has been taken in respect of the enforcement issue, pending consideration of and a decision being taken upon this application

The Agricultural Case.

Members will have noted the applicant's justification for the actions that he has taken in siting the caravans within this field. Whilst not condoning such action and understanding the cynicism that has been expressed by some local residents, questioning the applicant's motives, the Council now has to consider the agricultural case that has been presented concerning the need for the caravans and storage unit to accompany the pig farming use of the land. To that end advice has been sought from the Council's agricultural adviser, and a copy of his letter of 26th July is also appended to this report insofar as it provides a thorough examination of the agricultural issues involved here.

Annex A to PPS 7 – Sustainable Development in Rural Areas provides guidance to local planning authorities upon the issues involved in handling applications for temporary agricultural dwellings. At paragraph 12 the guidance says:

“If a new dwelling is essential to support a new farming activity, whether on a newly-created agricultural unit or an established one, it should normally, for the first three years, be provided by a caravan, a wooden structure which can be easily dismantled, or other temporary accommodation. It should satisfy the following criteria:

- (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.”

Paragraph 4 of Annex A, dealing with the functional test states:

“A *functional test* is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement might arise, for example, if workers are needed to be on hand day and night:

- (i) in case animals or agricultural processes require essential care at short notice;
- (ii) to deal quickly with emergencies that could otherwise cause serious loss of crops or products, for example, by frost damage or the failure of automatic systems. “

Applying the guidance set out in PPS7 to this development and then assessing it against the advice provided by the Council's agricultural adviser, and in particular his concluding comments, Members will note that he is of the opinion that both the functional and financial tests of PPS7 have been satisfied in this case. With such positive advice upon the justification for the continued siting of these two caravans it is felt that it would be difficult for the Council to mount a sustainable objection to the agricultural case that has been put forward in this application.

Local Plan Policy H8 deals with Dwellings for Persons Employed in Agriculture or Forestry and many of its provisions replicate the advice and guidance within PPS 7, relating to there being a proven and essential need for the occupier of the dwelling to be permanently housed on the land for functional reasons (the functional test), the unit being commercially viable (the financial test) and there being no buildings on the holding suitable for conversion to meet the residential need. In the light of the advice from the Council's agricultural adviser about the functional and financial tests when applied to this proposal, it is considered that the development meets the relevant provisions of Policy H8 of the adopted local Plan.

Highway Issues

Having initially indicated a preference for the use of the southernmost access into the field from the former A30 the Highway Authority has acknowledged that the improvements to visibility that would be necessary to improve that access are not within the ownership or control of the applicant. This being so attention switched to the northern access off the lane that runs from the former A30 eastwards (which is most convenient to serve the caravans and storage container) where improvements can be made to accommodate visibility into and out of the site. This lane is a no through road and is lightly trafficked.

The physical works necessary to improve visibility involve trimming back the roadside vegetation to the west, and levelling the raised bank to the east, to a maximum height of 900mm, up to an existing holly tree. The existing tarmac surface just inside the access would be increased to allow a vehicle to park at right angles to the lane, before exiting.

The conclusion reached upon the highway aspects of this proposal is that the lane to the north of the site can accommodate the traffic associated with this agricultural use, and that the relatively minor physical changes around the access into the site would improve visibility at that access. There are no highway objections to the development, subject to conditions ensuring that the physical improvements are carried out.

Impact on Landscape

The two caravans are sited in the north-eastern corner of the field and because of the topography of the land in this area, with the field sloping northwards from the former A30 before flattening out, public views of the caravans and storage container from the south are limited. Indeed it is not possible to see them from along the former A30.

In views from the north, the caravans and container are largely screened by the existing hedgerow along the lane.

Notwithstanding the temporary nature of the caravans and container, their actual impact upon the landscape in this area of Fenny Bridges is considered to be minimal. In correspondence with the applicant he has indicated his willingness to paint the container a suitable green colour so that it blends better against the hedgerow behind it.

Impact on Residential Amenity

The caravans and container are some distance away from the nearest dwelling and for this reason it is felt that they have little impact upon the amenities enjoyed by occupiers of any other dwellings in the vicinity.

The land itself is being used for agricultural purposes and whilst nearby residents have raised issues of noise and smell because of the nature of the applicant's particular farming activities, again it is felt that there could be no sustainable planning objections to this farming use.

CONCLUSIONS

Whilst not condoning the applicant's decision to site these caravans and the storage container on farmland at Fenny Bridges, without first obtaining the necessary planning permission, the Council is now required to determine whether or not there is an agricultural justification for their retention. In this respect Members will need to note the views of its Agricultural Adviser and the positive conclusions within his letter of 26th July.

The proposal meets all of the relevant provisions of Policy H8 of the Local Plan, there are no highway objections and the caravans are not considered to have an adverse impact upon either the visual amenities of the area or the residential amenities of occupiers of nearby dwellings. The caravans and container do not, however, constitute an acceptable permanent form of development and if permission is to be granted then it should be for a temporary period only, whilst the applicant develops his farming business. It should also be subject to an agricultural occupancy condition tying the occupation of the caravans to the pig farm.

RECOMMENDATION

APPROVE subject to the following planning conditions:

1. The caravans and storage container hereby permitted shall be removed on or before 31st December 2010 unless an application has been submitted to and approved in writing by the Local Planning Authority for their continued siting.
(Reason – The caravans and storage container are not considered to be appropriate permanent forms of development and permission is granted for a temporary period only, to enable the Local Planning Authority to review the accommodation needs of the agricultural holding at the end of the 3 year period).
2. The caravans hereby granted shall be occupied only by the applicant Dr L Broom and his immediate family and by no other person or persons.
(Reason – The caravans are justified only by the agricultural needs of the applicant in connection with the operation of his pig farm and should be occupied solely for that purpose throughout the duration of the temporary permission.)
3. Within 6 months of the permission hereby granted the storage container shall be painted in a colour to be submitted to and agreed in writing by the local planning authority, and maintained in that colour for the duration of the temporary planning permission.

(Reason – To safeguard the visual amenities of the area).

4. At the existing western access there shall be no obstruction to visibility greater than 900mm above adjoining road level within splays based upon co-ordinates of 2.0m x 17m. Such visibility shall be fully provided before the development hereby permitted is first brought into use and shall thereafter be maintained at all times.

(Reason – To provide adequate visibility from and of emerging vehicles)

5. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority in accordance with the details shown on the approved plan for a distance of not less than 4.0 metres back from its junction with the public highway.

(Reason – To prevent mud and other debris being carried onto the public highway)

Reasons for approval

The proposal complies with the Devon Structure Plan 2001-2016 policies ST1 (Sustainable Development) and ST5 (Development Priority 2001 to 2016)

The proposal complies with the Adopted East Devon Local Plan 1995-2011, Policies S5 (Countryside Protection), D1 (Design and Local Distinctiveness), H8 (Dwellings for Persons Employed in Agriculture or Forestry) and TA7 (Adequacy of Road Network and Site Access).

Note to applicant

A further extension of this temporary permission will not be granted unless the applicant has achieved full planning permission for a new agricultural worker's dwelling, having first provided detailed and audited accounts for a minimum of two years with an estimated account for the third year. Any such application for planning permission must be submitted by September 2010. A further statement shall also be submitted setting out the functional need for one agricultural worker to be on hand permanently.