

RALEIGH  
(Woodbury)

07/2949/AGR

Target Date: 20.12.2007

Applicant: F W S Carter & Sons Ltd.

Location: Land at Greendale Barton

Proposal: Farm shop

## **CONSULTATIONS**

### County Highway Authority

Initial comments –

Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access (capacity testing), and off street parking/on site turning facilities, contrary to Policy TR10 of the Devon County Structure Plan.

It is understood at the time of writing this report that further information is going to be submitted which is likely to overcome this objection. Any further information together with the Highway Authority comments will be presented to the Committee.

### South West Water

No comments received.

### Environment Agency

No comments received.

### County Archaeologist

No comments received.

### Economic Development

No comments received.

## **PARISH COUNCIL**

APPROVE in view of the fact that EDDC have agreed to treat this as permitted development. However, attention was drawn to a paragraph in a letter of objection from Mr Jung as follows "The term 'Agricultural building' precludes buildings if the principal purpose for which they are used is for retailing, packing or exhibiting." The clerk was instructed to look further into this paragraph and discuss the matter with the planning officer at EDDC. In addition, concern was expressed over the dominant position of the proposed development, divorced as it is from the main farm holding and it was suggested that the impact should be lessened by reducing the eaves by approximately 1 metre, thereby lowering the roof height. In addition it would appear that there was only a very small amount of car parking provided and it was also felt that the proposed track should be no more than 3 metres in width. In view of the historic nature of the site it was suggested that English Heritage should be advised and a full archaeological survey undertaken prior to any works commencing.

## **WARD MEMBER**

No comments received

## **REPRESENTATIONS**

10 letters of objection have been received.

Summary of objections -

Danger to highway safety with increase of traffic and development along the A3052 and conflict due to mix of industrial and retail traffic on access road to Greendale.

The position of the shop in open countryside would be in a prominent location and would be an incongruous feature in the landscape of the area.

Concerns with regard to the close proximity to the historic and sensitive site of Windmill Hill, an ancient battle ground site from the civil war.

The proposal is divorced and independent from the farm and cannot therefore be regarded as ancillary to the farmstead, but instead, a new employment undertaking in open countryside.

The site falls outside of the industrial employment area of Greendale.

The term agricultural building precludes buildings if the principal purpose for which they are used is retailing, packing or exhibiting. Therefore a farm shop does not fall within the class of permitted development for farm buildings.

The size of the shop is larger than buildings which are excluded from Sunday trading hours. Therefore, for Sunday trading purposes the store will be classified in the same manner as supermarkets.

The road leading down to the Industrial Estate will pass by the chicken sheds giving rise to concerns over the possibility of bird flu and other diseases and the effect of possible restrictions.

The applicants already own a farm shop on the adjoining field and poultry farm.

## **RELEVANT PLANNING HISTORY**

App no.	Year	Proposal	Date and decision
P0923	1994	Use of land for motocross circuit With ancillary car park	Refused 02 September 1994

## **PLANNING POLICIES**

### Government Guidance

PPS7 - Sustainable Development in Rural Areas.

PPG7 Annex E – Permitted Development Rights for Agriculture and Forestry. (Annex E is retained for reference from PPG7 as it is still in force until completion of a review by the Office of the Deputy Prime Minister of the General Permitted Development Order 1995 and has not been replaced).

## Devon Country Structure Plan 2001-2016

Policy ST5 - Development Priority  
Policy CO6 - Quality of New Development  
Policy TR10 – Strategic Road Network and Roadside Service Areas

## East Devon Local Plan 1995-2011

Policy S5 - Countryside Protection  
Policy D1- Design and Local Distinctiveness  
Policy SH8 – Rural Shops, Garden Centres, Nurseries and Similar Retail Uses  
Policy E5 – Rural Diversification  
Policy TA7 – Adequacy of Road Network and Site Access

## **SITE LOCATION AND DESCRIPTION**

The proposed building is sited in a large open field of 7.8Ha adjacent to the A3052 Sidmouth Road at the entrance to the Greendale Business Park approximately 4Km east of Clyst St Mary. The proposed access to the building is from the road that currently serves the Greendale Barton Business Park approximately 50m north of the junction with the Sidmouth Road. There are no existing buildings in the immediate vicinity of the site.

## **PROPOSED DEVELOPMENT**

The proposed building measures 29.8m x 12.1m with an eaves height of 3.2m and a ridge height of 8.0m. It is proposed that the walls are clad in vertical timber boarding above brickwork with brown/red clay tiles for the roof.

## **CONSIDERATIONS AND ASSESSMENT**

### Background

This application has been submitted as a determination under part 6 of the Town & Country Planning (General Permitted Development) Order 1995 to consider the siting, design and external appearance of the building. The Council would normally require a full planning application for such a proposal from the outset. However, in this case, Case Law was submitted in support of the application to claim that the application could be dealt with on the basis of a determination under Part 6 of the Town & Country Planning (General Permitted Development) Order 1995. Although the Council does not necessarily agree with this view, it was considered to be prudent to accept the application on the basis of a determination and effectively *convert it to a planning application* by stating that prior approval is required in this case. The reason for this was that as the Council had been notified of the intent to erect the building as 'permitted development' at the expiry of the 28 day notification period for such a proposal, the applicants may have considered implementing the development as they considered it to be permitted development and had given the Council the requisite notice.

The applicants were therefore informed that prior approval is required in this case and further information was requested with regard to the following –

1. A plan showing the full extent of the agricultural holding which the building would serve
2. A plan showing the extent of any other land within the applicants control in the vicinity of the site
3. Detailed plans showing elevations of the proposed building together with existing and proposed ground levels
4. Detailed plans showing access arrangements and car parking

5. Details of any other buildings being used for, or suitable for the sale of produce on land within the applicant's control in the vicinity of the site.
6. Details of produce to be sold from the shop, including proportions of produce derived from the holding and any imported goods.

Further information on some of the above was received on 9 November 2007, a copy of which is attached to this report for information.

The Council must now determine whether to refuse or give approval to the siting, design and appearance of the proposed development.

### **Comment**

The issues that need to be considered in determination of this application are whether the building is considered to be reasonably necessary for the purposes of agriculture within the unit and whether the siting, design and appearance of the proposed building are appropriate.

The farm holding consists of an area of 486 Hectares of land which extends to the south of the application site. The Greendale Business Park, which is also in the control of the appellants, lies approximately 400m to the south and the farmstead of Hogsbrook Farm is situated approximately 1.3km to the south of the proposed site.

The applicant's have submitted the application on the basis that the proposal is 'Reasonably necessary for the purposes of agriculture within the unit'.

It may be argued that a farm shop building, where it is established that its use is ancillary to agricultural, enjoys GPDO Part 6 rights as permitted development, subject to the conditions attendant on that Part. In (Monmouth B.C. 24/2/1992 DCS No. 037-968-400) an inspector felt that a building at a farm shop area was reasonably necessary for the purposes of agriculture within a holding and was permitted development. This decision was upheld by the courts in Monmouth D.C. v S.O.S. for Wales & Bowen 11/1/1993. However, in a later appeal decision (New Forest D.C. 30/1/95 DCS No: 100/031-833) an inspector instead noted that it had been held in *Hidderley v Warwickshire C.C.* 1963 that the erection of a farm shop is not development that is requisite for the purposes of agriculture. It is therefore clear that there is some ambiguity as to whether such an application can be dealt with on the basis of permitted development.

With regard to this application and whether the building is considered to be 'reasonably necessary', it needs to be judged with regard to the proposal having an *ancillary* use to the holding. In assessing the justified need for the building, further information was requested with regard to details of produce to be sold from the shop, including proportions of produce derived from the holding and any imported goods. The only additional information that has been submitted to the Council in this regard is to confirm that the building is to be used to sell produce from the holding, observing restrictions on imported produce.

With regard to procedure, Annexe E of PPG7 (paragraphs E15 & E16) the legislation empowers the Council to request further details in respect of proposals where they will need to consider the effect of the development on the landscape in terms of visual amenity. Paragraph E27 of the annexe states that new buildings should normally form part of a group rather than stand in isolation and sites on skylines should be avoided if possible.

As the site of the proposed building is completely unrelated to any other buildings and remotely sited in a prominent location, it is not considered that the proposed use of the building can be considered to be ancillary or subordinate to the agricultural use of the holding. The proposed farm shop is sited over 1km from the farmstead and the Local Plan Policy E5 (Rural Diversification) specifically requires that "*any new building is modest in scale and is sited in or adjacent to existing buildings*". The proposal is therefore in direct conflict with this policy and it is

considered that due to the size, prominence and isolated location, the proposed building would have the appearance of an independent enterprise which is unrelated to any farmstead.

The proposal is also contrary to Local Plan Policy SH8 (Rural Shops, Garden Centres, Nurseries and Similar Retail uses) which requires that any such development “*does not harm the character of the landscape or the amenities of the locality.*” In addition, due to the scale of the proposed building, the proposal conflicts with Local Plan Policy D1 (Design and Local Distinctiveness) as it does not relate well to its context in this isolated location.

The adjoining land to the immediate west of the application site, is also within the ownership of the applicants. There is an existing small farm shop on this land which is within the applicants’ control and is used in conjunction with an existing poultry unit.

The applicant’s have offered to enter into a unilateral undertaking that should this application be approved, then trading from the farm shop on the poultry unit would cease. (A copy of the letter dated 10 December 2007 is attached for information.)

It should be noted, however, that the existing farm shop has a floor area of 31 square metres with a height of 4 metres to the ridge. It is not conspicuously located when seen in the context of the existing poultry units. The floor area of the current proposal is 360 square metres with a ridge height of 8 metres, almost twelve times larger than and twice as high as the existing farm shop. It is in an isolated, prominent and highly visible location.

The applicant’s claim that there are no suitable existing buildings on the holding that could be utilised for the purposes of the proposal and that the location and access to the existing farmstead of Hogsbrook Farm would not be suitable. If this is the case, however, it is not considered that the proposed siting of the building is appropriate. The proposal is sited in a prominent and elevated location within open countryside and unrelated to any other buildings associated with the farm holding and although there is no designated landscape policy for the area, the building is sited in an exposed and highly visible location within attractive countryside. In addition, the scale of the proposal is such that it is not considered to be ancillary to the use of the farm holding.

It is not considered that an objection could be substantiated with regard to the principle of a farm shop on a holding of this size, albeit that no detailed information has been submitted with regard to the actual produce to be sold. However, the siting and the scale of the proposed development are not considered to be appropriate in this case. The proposal is therefore contrary to the relevant Structure plan and Local Plan Policies cited above which seek to protect the countryside.

## **CONCLUSIONS**

It is considered that due to its inappropriate siting and size the proposal would have a detrimental impact on the character and appearance of landscape of the area. If it is considered that there is a justified need for the building, it is not considered that the siting is appropriate in this case and any new building should be sited near existing buildings where the use would appear to be subservient to an agricultural use.

The proposed development is therefore contrary to Government Advice and the relevant Structure Plan and Local Plan policies cited above which seek to protect the countryside.

## **RECOMMENDATION**

REFUSE for the following reasons -

1. The proposed building, due to its inappropriate siting in an exposed and highly visible location within attractive countryside, would be detrimental to the character and appearance of the landscape of the area. The proposal is therefore contrary to Policies

ST5 (Development Priority) and CO6 (Quality of New Development) of the Devon Structure Plan 2001-2016 and Policies S5 (Countryside Protection), D1 (Design and Local Distinctiveness) & SH8 (Rural Shops, Garden Centres, Nurseries and Similar Retail Uses) of The East Devon Local Plan 1995 -2011.

2. Due to the size and location of the proposed building, divorced from the farmstead and unrelated to any other building, the proposal is not considered to be ancillary to the agricultural use of the holding. In addition there is insufficient evidence of the produce to be sold and a detailed justification for this size of the building. The proposal is therefore contrary to Policies E5 (Rural Diversification), S5 (Countryside Protection) & D1 (Design and Local Distinctiveness) of The East Devon Local Plan 1995 -2011.
  
3. Any reason based on highway safety, if substantiated by the County Highway Authority.

#### List of Background Papers

Application file, consultations and policy documents referred to in the report.