

<b>Date of Meeting</b>	01 July 2015
<b>Application Number</b>	15/02843/VAR
<b>Site Address</b>	Church Farm Tytherington Warminster Wiltshire BA12 7AE
<b>Proposal</b>	Removal of conditions 1 and 2 of planning permission 14/05912/VAR - Removal of the equestrian/holiday ties on the house and holiday units to allow permanent residential occupation
<b>Applicant</b>	Mr J Giddings
<b>Town/Parish Council</b>	HEYTESBURY IMBER AND KNOOK
<b>Ward</b>	WARMINSTER COPHEAP AND WYLYE
<b>Grid Ref</b>	391545 141130
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Jemma Foster

### **Reason for the application being considered by Committee**

Councillor Newbury has requested that the application be considered by the Planning Committee for the following reasons:

- The applicant has requested the application be heard at the Planning Committee, in the interest of public debate and as there are no objections from the public to date

### **1. Purpose of Report**

To consider the application and recommend refusal.

### **2. Report Summary**

The main issues to consider are:

- Principle
- Impact upon the character and appearance of the area
- Impact upon neighbouring amenity
- Access and highways
- Other

### **3. Site Description**

Church Farm is located in Tytherington which as defined in the Wiltshire Core Strategy as being in the open countryside. The site is also located in the Area of Outstanding Natural Beauty (AONB), a conservation area and an area of high archaeology potential.

### **4. Planning History**

00/00791/FUL – Demolition of existing buildings, conversion of retained building and erection of one dwelling, 4 holiday units and 2 workers units - Approved

03/00236/FUL – Alteration of the 4 holiday units to 2 holiday units - Approved

14/03556/VAR – Variation of Condition 1 & 2 of 03/00236/FUL to change the occupancy condition - Approved

14/05912/VAR – Variation of Condition 1 of 14/03556/VAR to allow the managers house to be sold, occupied and let separately.

Having had discussions with the Applicants and taking into account the planning history, there is currently on site, 4 holiday lets and one dwelling which is tied to either the management of the holiday lets or the equestrian use that is on site.

### **5. The Proposal**

This application is to remove the tie on the managers dwelling and to remove the occupancy conditions on the 4 holiday lets to allow them all to be independent residential dwellings.

The conditions are as stated below:

14/05912/VAR

*Condition 1: The occupation of the dwelling referred to on the site plan (dated Feb 2003, received 13<sup>th</sup> June 2014) as 'House' shall be restricted to a person (and dependents) solely engaged in the management of the equestrian or holiday let use hereby approved.*

*Condition 2 – The accommodation approved under planning reference 03/00236/FUL as '2 units of holiday accommodation and 2 units of workers accommodation' shall not be used other than as holiday accommodation and shall not be used as a main or permanent residence. The owner(s) of the unit(s) or their successors(s) in title shall maintain comprehensive up-to-date register listing occupiers of the holiday accommodation hereby approved, their main home addresses and the date of occupation at the site. The register shall be made available for inspection by the Local Planning Authority at reasonable notice.*

### **6. Planning Policy**

Wiltshire Core Strategy

CP1 – Settlement Strategy

CP2 – Delivery Strategy

CP48 – Supporting Rural Life

CP57 – Ensuring High Quality Design and Place Shaping

CP60 – Sustainable Transport

National Planning Policy Framework 2012 (NPPF)

Planning Practice Guidance 2014 (PPG)

## **7. Consultations**

Heytesbury, Imber and Knook Parish Council – No Objection

Wiltshire Council Spatial Planning Officer – Refuse as contrary to Core Policy 48

Wiltshire Council Environmental Health Officer – There are other residential properties located very close to the proximity of the stables. The Environmental Health Department has no history of complaints regarding the equestrian use in terms of odour or noise and therefore it is considered that if the ties were to be removed there would be no impact upon future residential users from the existing equestrian business.

## **8. Publicity**

The application was advertised by a site notice and neighbour notification letters. The deadline for any correspondence was 21<sup>st</sup> April 2015. To date no comments have been received from the public.

## **9. Planning Considerations**

### **9.1 Background**

The applicants implemented the 2003 permission when they were in a Capital Gains Tax rollover situation and there was a very high chance of getting a Rural Development Grant which they applied for just as the last Foot and Mouth epidemic broke out which meant that Defra refused to visit the site but because of the time scales with the Capital Gains Tax the applicants decided to start the footings. Once Defra had visited the site they refused funding because the footings had already been started and due to the timescales, the applicants overran the time scale for the Capital Gains Tax. The applicants managed to secure a mortgage with a foreign bank which has now finished but they will not renew it, however the bank has given them an extension to sell. The applicants are not able to get another mortgage as it is a commercial property without profitable figures.

The holiday lets in question were awarded a 4\* rating by Quality in Tourism in 2014 and are advertised on many holiday tourism websites. Despite this the average occupancy of the holiday lets has been below average 47% in 2013/14, 40% in 2012/13 and 42% in 2011/12. Taking into account the income and costs, the holiday let business has been failing with a substantial loss every year.

The applicants have marketed the managers dwelling with the 4 holiday lets and equestrian business with 2 national companies Strutt & Parker LLP and Hamptons International who advertise locally and through property search engines such as rightmove. The business is on the market for £1,675,000 and has been since 21<sup>st</sup> October 2014. A Letter from Strutt & Parker confirms that the property was valued in excess of £2,000,000 but due to the existing restrictions/ties the property has been marketed at a much lower price.

Strutt & Parker have confirmed that they have had only 4 viewings since October 2014 and the feedback generated was a concern over the restrictive nature of the holiday cottage classification and that they would only be interested in purchasing the property if they had the ability in the future to sell one or more of the holiday cottages as second homes.

Hamptons International launched the property to the London Market and took it to a number of London Roadshows. They have been successful in attracting interest but due to the restrictions on the holiday let and equestrian ties, nobody has taken it any further. The main reason for this is the inability to find any bank or lender who will offer finance on the property. No residential lender will offer finance on a property with the ties in place and the property does not generate enough income to satisfy any commercial lenders and they will also not accept properties with the ties in place.

The applicants have verbally advised that the managers dwelling with the existing equestrian business has been advertised separately from the holiday lets but also had no interest. It is important to note that the Local Planning Authority have had no evidence supporting this element of the scheme (cost, advertising, etc).

The question was raised with the applicants as to why the holiday lets had not been marketed individually. The response to this was that again, no commercial lender would offer finance on the holiday let due to the failing business and by selling only 1 or 2 holiday lets, the overall business would be in a much worse position financially. It is true that by selling 1 or 2 of the holiday lets would generate some additional income, but this would only serve a short term solution and the issues with getting a mortgage on the remainder of the holiday lets would still prove too difficult. It was therefore considered that by marketing the holiday lets individually would be too high a financial risk. Hamptons International have advised that the impact of selling off individual units next to the main house where the majority of the value exists in the scheme, would have crippled any sale. There is also no market for second homes with a holiday cottage tie and there are no financial institutions who will lend against such properties. Also a substantial financial investment would be required in splitting up the communal areas to create private gardens, car parking spaces etc which the applicant is not able to fund. Hamptons International also believe that due to the remote location, they would struggle to see any other uses other than residential in this particular area.

## **9.2 Principle**

The site is located in Tytherington which is located in the open countryside where under CP1 and CP2, dwellings are not considered to be appropriate as they represent unsustainable development. The nearest large village as identified in the Wiltshire Core Strategy is Heytesbury.

The proposal would result in 5 open market dwellings in the open countryside which would be located in an unsustainable location and would therefore be contrary to CP1, CP2, CP60 and the principles of the NPPF.

Paragraph 55 of the NPPF states: *Local Planning Authorities should avoid isolated homes in the*

*countryside unless there are special circumstances such as:*

- *The essential need for a rural worker to live permanently at or near their place of work in the countryside; or*
- *Where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future heritage assets; or*
- *Where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
- *The exceptional quality of innovative nature of the design of the dwelling.*

The proposal in question is not for a rural worker, would not represent a viable use of a heritage asset, is not a re-use of a redundant or disused building that would lead to an enhancement of the setting and is not of exceptional design. The proposal is therefore contrary to the NPPF.

CP48 states: *Proposals to convert and re-use rural buildings for employment, tourism, cultural and community uses will be supported where it satisfies the following criteria:*

- The buildings are structurally sound and capable of conversion without major rebuilding, and with only necessary extension or modification which preserves the character of the original building; and*
- The use would not detract from the character and appearance of the landscape or settlement and would not be detrimental to the amenities of residential areas; and*
- The building can be served by adequate access and infrastructure; and*
- The site has reasonable access to local services or*
- The conversion or reuse of a heritage asset would lead to its viable long term safeguarding*  
*Where there is clear evidence that the above uses are not practical propositions, residential development may be appropriate where it meets the above criteria. In isolated locations, the re-use of redundant or disused buildings for residential purposes may be permitted where justified by special circumstances, in line with national policy.*

It is clear that the proposal is not the conversion/re-use of an existing rural building as it is existing but the criteria above still applies and it is considered that the proposal complies with part i – iii and v. However it is considered that the proposed does not comply with point iv which will be discussed below. The proposal then has to provide clear evidence as to why the above uses are not practical propositions and justify special circumstances for the Local Planning Authority to provide a positive recommendation.

It would be a requirement by the Local Planning Authority for the applicant to market the holiday lets individually as by marketing the entire site at £1.675 million clearly misses a large proportion of the population that may want to buy a holiday let/ business, managers dwelling etc. With the absence of this evidence, the proposal fails to comply with the requirements of CP48.

It is important to highlight that under Core Policy 40 (Hotels, bed and breakfasts, guest houses and conference facilities), it states that there is a lack of both budget and high quality leisure accommodation within parts of Wiltshire, particularly to the south. It is also important to note that if this application were to be approved, it would set a precedent for ties on other holiday lets to be changed to residential dwellings without the necessary evidence.

## **9.2 Impact upon the character and appearance of the area**

There are no external changes to be made to the buildings as existing and therefore it is considered

that the proposal would not have an adverse impact upon the character and appearance of the area (AONB, Conservation, Archaeology).

### **9.3 Impact upon neighbouring amenity**

The buildings are existing, no external changes are proposed and therefore it is considered that the proposal would not have an adverse impact upon the amenity of existing neighbouring dwellings.

### **9.4 Highway Impact**

There is adequate parking and turning facilities on site and therefore the proposal would comply with the relevant legislation. However the proposals would result in 5 open market dwellings in the open countryside where future occupiers would be reliant upon the private car for all services (education, food, work, socialising etc) where there is limited public transport in the immediate area – the closest bus stop is located approximately a 20 minute walk to Sutton Veny where there is a bus link to Warminster. The proposal would therefore be located in an unsustainable location which would be contrary to CP60 and point iv of CP48.

It is important to note that the vehicular movements/sustainability issues associated with holiday lets is very different to those associated with residential properties because residential dwellings need to have access to schools, doctors, shops etc on a regular basis.

### **9.5 Other**

The PPG states that no affordable housing or tariff-style contributions should be sought from 5 units or less in designated rural areas. Therefore no affordable housing has been requested.

It has been requested to take into account the permitted development rights for agricultural buildings to be converted to residential uses, however the buildings subject of this application are not agricultural and therefore the relevant permitted development rights do not apply.

## **10. Conclusion**

The proposal would fail to comply with the relevant Core Policies of the Wiltshire Core Strategy and the NPPF and therefore is recommended for Refusal

### **RECOMMENDATION: Refuse for the following reasons**

The site is in the open countryside and therefore is located in an unsustainable location where no special circumstances have been put forward to allow new residential dwellings. The proposal conflicts with the plan-led approach to the delivery of new housing sites outside of the identified limits of development, as set out in Core Policy 1 and 2 which seeks to properly plan for sustainable development and provide new housing sites to deliver the identified needs in a community area through a Site Allocation DPD and/or a Neighbourhood Plan, a strategy that is supported by the Wiltshire Core Strategy Inspector and the Secretary of State in several appeal decisions. Furthermore, the proposal would inevitably result in an unacceptable precedence for other holiday lets in Wiltshire. The proposal therefore fails to comply with Core Policies 1, 2, 48 and 60 of the Wiltshire Core Strategy and the NPPF.

