

# REPORT TO THE WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	12.01.2011		
<b>Application Number</b>	W/10/03399/FUL		
<b>Site Address</b>	Land West Of 28 Fairwood Road Dilton Marsh Wiltshire		
<b>Proposal</b>	Siting of mobile home for manager's accommodation and tackle/bait shop		
<b>Applicant</b>	Cuckoos Rest Fishing Lakes		
<b>Town/Parish Council</b>	Dilton Marsh		
<b>Electoral Division</b>	Ethandune	<b>Unitary Member:</b>	Julie Swabey
<b>Grid Ref</b>	384645 151421		
<b>Type of application</b>	Full Plan		
<b>Case Officer</b>	Mr Matthew Perks	01225 770344 Ext 5207 matthew.perks@wiltshire.gov.uk	

## Reason for the application being considered by Committee

Councillor Swabey has requested that this item is brought to Committee to consider the benefit to the local economy and the need for manager's accommodation close to the fishing lakes.

### 1. Purpose of Report

To consider the above application and to recommend that planning permission be refused.

Neighbourhood Responses

No neighbour responses were received.

Parish/Town Council Response

The Dilton Marsh Parish Council has no objections.

### 2. Main Issues

The proposal is for the siting of a mobile home for manager's accommodation and a tackle/bait shop on land to the west of 28 Fairwood Road, Dilton Marsh. The main issues in this case are therefore - whether or not the mobile home would be justified under the advice contained within Annex A of Planning Policy Statement 7 (Sustainable Development in Rural Areas) and Policy H19 of the West Wiltshire District Plan, 2004; and - whether or not the tackle/bait shop is justified in terms of current Development Plan policies.

### 3. Site Description

The site lies on the western side of Fairwood Road approximately 2000m north of Dilton Marsh by road. Cuckoo's Rests Fishing Lakes was created as a business under permission granted in 1996 (96/00803/FUL). The site measures ±4.0 ha and comprises fishing lakes and ponds. The site is accessed from Fairwood Road and has a consolidated vehicular access and car parking area. The site also has provision for up to five touring caravans.

The application site boundary has been drawn in this application so as to exclude the extended dwelling at No 28 Fairwood Road. The application site for the original fishing lakes application (96/00803/FUL) included that dwelling. Research indicates that the contact address point and telephone number for the business remain at that dwelling, although a separate access has been created.

The mobile home would be located  $\pm 5\text{m}$  of the south west of another mobile home which was the subject of a refusal by Committee under Planning Application Reference 09/03641/FUL on 10 March 2010. That application was for retrospective permission and was refused on grounds that the application fell outside of the scope of relevant Policy on new residential accommodation in rural areas including Local Plan and Government policy guidance.

The area on which the unit refused under 09/03642/FUL is located has also been excluded from the current application site. Whilst it is acknowledged that it falls outside of the application site, no indication has been given of what is proposed for the existing mobile unit, which is currently subject to the outcome of enforcement action for its removal. At the time of writing the unit remains in situ. The design of the proposed unit is different from the refused unit and it is therefore accepted that a simple re-location is not proposed.

There is also no indication in the current application of the proposed use of the area on which the refused unit is located, although it too was within the original fishing lakes application site in 1996.

#### **4. Relevant Planning History**

96/00803/FUL: Excavation of fishing lake with wildlife conservation area and broadleaf plantations:  
Permission: 08.08.1996

09/03641/FUL: Siting of a mobile home: Refused : 10.03.2010

Although not included within the application site it is considered that the refused application 09/03641/FUL has relevance. The reason is that the justification by the agent in that case included an argument that the occupants (the son of the applicant) were employed in the fishing lake enterprise. It has been confirmed that the ownership situation of No 28 and the Fishing Lakes remains as it was at the time that 09/03641/FUL was considered. The current application is again for an employee (unnamed in this instance) to serve the fishing lakes.

#### **5. Proposal**

This application is for:

- the siting of a mobile home for manager's accommodation at the Cuckoo's Rest Fishing Lakes. A temporary period of three years is being proposed. Works would include the installation of a septic tank, hard standing under the mobile and the creation of two car parking spaces.; and
- the erection of a timber shed from which tackle and bait would be sold.

The plans specify that the mobile home would be located in its own "curtilage" of some 500m<sup>2</sup> in extent. The size to the mobile would be 14m x 9.6m (footprint) with a height of 4.3m. It would be a two bedroom/two bathroom unit with separate kitchen, dining room, utility, office and lounge.

The application form indicates that accommodation would be for 1 employee, replacing 1 part-time employee.

The tackle/bait shop would be a wooden shed structure with an overall footprint of 5m x 4m with a pitched roof to a maximum ridge height of 2.6m. It would be located adjacent to the car parking area on the northern boundary of the site.

Supporting documentation includes a needs assessment for a manager's temporary dwelling and an assessment of the financial implications of development of the site. A Design and Access Statement, Flood Risk report and Planning Statement were also submitted.

According to the application documentation, the main economic activity on the site at present is the recreational enterprise served by the existing lakes, which are stocked primarily with coarse fish. Day tickets and season tickets are sold to anglers. No active fish breeding or rearing currently takes place on the unit which is occasionally re-stocked and natural breeding occurs. The lakes are not routinely oxygenated, except in July and August when flotation pumps are used to temporarily stabilise the oxygen supply in the water. The business is open daily from dawn until dusk with no night fishing permitted. Five caravan parking sites are situated between the car parking area and the lakes.

The proposals include the development of activities to provide for on-site rearing of fish in two of the smaller lakes, which would require enhanced equipment (in particular an oxygenation system) which it is argued has implications for a need for full-time management. This need and that of managing extended fishing hours including security and safety considerations as well as visitor needs, form the essential justification for the temporary mobile home for a full-time employee on site.

A financial case for the purposes of Planning Policy Statement 7 criteria is presented in the supporting documentation, but the agent has requested that this remain confidential. The assessment of this PPS7 requirement by the Agricultural Advisor is further discussed below.

## **6. Planning Policy**

Wiltshire Structure Plan 2016

DP15 Development in Open Countryside

West Wiltshire District Plan - 1st Alteration 2004

C1 Development in the countryside

C38 Nuisance

H19 Development in the open countryside

Planning Policy Statement 7 - Sustainable Development in Rural Areas (PPS7)

## **7. Consultations**

### Town/ Parish council

The Dilton Marsh Parish Council has no objections.

### Highways

The highway officer advises that, provided planners are satisfied that the proposed residential accommodation is justified for its proposed use at this rural location, there is no objection to the proposal, subject to the conditions in relation to the access.

### Agricultural Advisor

The Agricultural Advisor states that it is not clear why the existing dwelling on the holding which is owned by the freeholder of the application site cannot provide the accommodation required, and that there is a lack of clarity in aspects of the business plan. The Consultant's full evaluation of the case is discussed in greater detail under the "Planning Considerations" section below.

### Environment Agency

No objections but comments on sewage disposal.

## **8. Publicity**

The application was advertised by site notice and neighbour notification.

Expiry date: 03.12.2010

No neighbour comments were received.

## 9. Planning Considerations

### Policy and guidance background

Neither Policy H19 of the West Wiltshire District Plan, nor PPS 7 generally permit the establishment of new dwellings in the countryside without proper justification. Policy H19 states that: "*New Dwellings in the countryside and in settlements without Village Policy Limits will not be permitted unless justified in connection with the essential needs of agriculture or forestry.*" By extension Government Policy in the form of Planning Policy Statement 7 (Sustainable Development in Rural Areas) provides for accommodation serving other rural enterprises, but clear assessment criteria apply. The Agricultural Advisor has focussed in the analysis of the application on the relevant PPS 7 criteria.

The application is made on the basis of enhancements to the fishing lakes business, which would fall under PPS7 criteria in relation to a new activity in the rural area. PPS7 states that 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." By extension this would apply to the accommodation for the manager to the "new" fishing lakes enterprise.

### Agricultural Advisor assessment and related Policy/Guidance considerations

The Advisor notes that the freehold owner of the fishing lakes is also the occupant of the existing permanent dwelling that is located in very close proximity to the application site.

Research has confirmed that the permanent dwelling at No. 28 was located within the boundary of the site proposed for development of the fishing lakes under the original application 96/00803/FUL. It would therefore have been considered integral to the operation of that enterprise. It has also been confirmed that the current owner of that dwelling, No 28, was the then applicant for 96/00803/FUL and, as indicated by the Advisor, owns the Fishing Lakes business under which name the application has been submitted.

The submitted supporting document "Assessment of the Need for a Manager's Temporary Dwelling" includes proposals for the further development of the fishing lakes, which involves upgraded water treatment equipment for fish breeding as an extension of the activities on site.

The Advisor notes that the planning application for the dwelling is specifically in support of a change to the business which has particular criteria applicable under PPS7. Specific projected changes in activities in order to generate increased income noted by the Advisor include:

- Young carp would be grown on at the site, providing additional stock for the lakes and stock for sale
- The increase in volume of day tickets; and
- Limited night fishing would be allowed.

An important element of the anticipated increased viability of the business would be increased income generated from carp breeding making up 16% of the income. 49% of the projected increase would be derived from day tickets, with night tickets being 20%. 14 % would be derived from "consumables". (Where the applicant has requested that specific figures in relation to the business are not published, percentages are used for the purposes of this report). The projected increase in net additional income (i.e. after subtracting current net income) that would be produced by the promotion and improvements to the site are estimated at 280% of the existing net.

The Advisor acknowledges that, if the proposed enhancements are implemented in accordance with the business proposals, then there will be a requirement for close attention at short notice.

However, where it is noted that the freehold owner of the site also owns and occupies the permanent dwelling, no clear reason has been given to indicate why the existing dwelling cannot be used to meet the functional need.

PPS7 (Paragraph 12 (iv) to Annex A) requires that temporary dwelling should only be permitted, inter alia, where it has been shown that *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.*

The Advisor notes that the applicant "... is not a person (the applicant is identified in the forms as "Cuckoos Rest Fishing Lakes") and that there is no indication from the submissions of who will carry out the business development. There is thus no clarity of who has the firm intention and ability to develop the enterprise. It is clear that there must be some intent to develop the enterprise, otherwise the application would not exist. The Advisor observes that what is not clear is who has that intention and what ability that person or persons have to develop the enterprise in the manner proposed." This relates to a criterion to be met as set out in PPS7 paragraph 12 (i) of Annex A also has relevance, viz: *clear evidence of a firm intention and ability to develop the enterprise concerned* " must be provided.

In counter-commenting on this the Agent's consultant acknowledges that the dwelling is owned by the owner of Cuckoo's Rest Fishing Lakes, but argues that the dwelling is "...not suitable or available to be occupied by a full-time fisheries manager or indeed his family, nor is it likely to become available in the long term future. The owner runs a nearby engineering business, where he works full time. Neither he nor his wife are employed at the fishing lakes, and they have no intention of so doing in the future. They also have no plans to move from their long-standing family home." On the other hand, it is also noted in the correspondence that it is the owner himself who has the intention and ability to develop the fisheries and will be doing so, although the onus will be on a full-time manager to carry out the development.

The additional comments received by the agent's consultant thus make it clear that it is indeed the owner and occupant of the existing dwelling and the fisheries who will be developing the lake fishing business further, with at some point the unidentified full-time manager carrying out operational activities. Whilst not part of this application it is considered reasonable to pose the question (in the absence of clarity on who the manager would be and what expertise would be available) as to whether or not that manager would be the family member who it was intended to accommodate in the previously refused mobile dwelling. These personal circumstances would not normally constitute planning considerations, but given the lack of clarity on this aspect it is considered to be relevant to the issue of why an alternative solution of providing accommodation either within, or as an annex to, or possibly in a temporary mobile home on the existing domestic curtilage has not been pursued as an alternative.

PPS7 Annex A Par 13 makes it clear that "...The planning authority should make clear the period for which the temporary permission is granted, the fact that the temporary dwelling will have to be removed, and the requirements that will have to be met if a permanent permission is to be granted. Authorities should not normally grant successive extensions to a temporary permission over a period of more than three years, *nor should they normally give temporary permissions in locations where they would not permit a permanent dwelling.*" . The implication is that the LPA must consider the possibility that the granting of the temporary situation will likely lead to a permanent dwelling in the event that the business model is successful and permanency can be justified.

PPS7 further states that it is essential that all applications for planning permission for new occupational dwellings in the countryside are scrutinised thoroughly with the aim of detecting attempts to abuse the concession that the planning system makes for such dwellings. Whilst the justification for the proposal as framed in the supporting documentation is not questioned, it is considered that the history surrounding the unauthorised use immediately to the north of the proposed new unit and the options (if a family member is indeed to be the manager) of adapting the existing extended dwelling and why it has been excluded from the scheme should have been more clearly elucidated. This would enable the LPA to consider whether or not the current proposals have as one underlying factor establishing the principle of a new residential use to overcome the previous refusal on the site immediately adjacent to the unit now being applied for.

If the personal circumstances are as described above, i.e. the dwelling is to accommodate the family member currently occupying the unauthorised mobile home, then the alternative of providing annex housing in the already extended dwelling, or temporary mobile accommodation actually within the existing residential curtilage ( $\pm 480\text{m}^2$  of garden space exists to the rear of the dwelling although it is acknowledged that this includes a swimming pool according to records) should have been explored. These options were raised as part of pre-application discussions. In the absence of clarity on this

aspect it is considered that the creation of a new temporary dwelling and curtilage in the open countryside, where the existing dwelling currently serving the whole land unit would effectively become an isolated curtilage not associated with the rural enterprise of which it has been a part since inception, is not justified.

Each case must be treated on its merits and in this instance the dwelling that has served as the accommodation associated with the management and running of the business is effectively being hived off onto its own curtilage that would no longer have a functional association with the business. In the circumstances surrounding this site it is considered reasonable that the LPA would not normally consider (as has been demonstrated by the site history) permitting a permanent dwelling contrary to PPS7 because such temporary arrangements could be made to test the business model without having to extend the confines of the existing residential curtilage.

The PPS7 Paragraph 12 (iv) criterion on why the functional need cannot be met by existing accommodation has thus not been properly addressed. This is considered especially relevant given the ownership situation, where the owner of the lakes has direct and current control over the existing dwelling, including a potential extension to provide an annex or an application for temporary permission for a mobile unit within the existing residential curtilage area.

On the detail of the business plan, Council's Advisor comments that the sale projections are based on occupancy rates for the existing fishing pegs, and that there is no clear indication of how the business would be promoted to achieve the projected tripling in sales from day and night tickets which the plan envisages. The Advisor is of the view that a very substantial increase is envisaged and is of the view that it is essential to have a clear understanding of how that target is to be achieved. Further, where the functional need for the dwelling is primarily justified by the fish rearing element of the enhancements, this comprises some 20% of the projected increase in sales, with 80% coming from increased sales of fishing tickets. Thus, whilst the business plan shows a significant increase in income, there is no clear indication (aside from the introduction of night fishing) of how that tripling of income is to be achieved. Paragraph 12 (iii) of Annex A to PPS7 requires that "...clear evidence that the proposed enterprise has been planned on a sound financial basis..." is provided as part of the justification for a temporary dwelling.

The agent's consultant has highlighted, in additional correspondence in response to this part of the Advisor's opinion, that the plan includes augmentation by income from angling competitions, tuition, corporate days and other events. The sales of refreshments, angling bait and minor tackle items would make a substantial contribution to the projected increased income.

On balance, where more detail on proposed marketing measures have been provided and it has been clarified that the existing owner himself who has the intention and experience to develop the fisheries it is considered that the PPS 7 Paragraph 12 (iii) criteria are met.

In summary, the plan as proposed would generate a requirement to provide close attention in the event of breakdown to the oxygenation system and the Agricultural Advisor accepts that this could justify a full-time employee in the event of implementation. However, there is no clear indication why that requirement cannot be met through the use of the existing dwelling or by an adaptation on the existing residential curtilage to meet that need, especially in the light of the known ownership situation and the absence of clarity on if a family member would be the manager. There remains a degree of doubt on how the proposed marketing exercise would actually translate into a tripling of income but, on balance and given the existing extent of development of the lakes on which the further expansion of the business could be built, it is accepted that the figures projected as additional income would be possible under the strategy proposed. Refusal is therefore recommended only on the grounds of insufficient justification in respect of exploring alternative solutions that would not lead to a change of use to provide an additional residential curtilage in the open countryside. It is considered that the new business model could be tested by providing for the one additional proposed employee within existing (or adaptations to existing) accommodation. Alternatively nearby accommodation possibilities should also have been explored.

### Tackle/bait shop

The second element of the proposal, the tackle and bait shop, would be considered a limited retail use. However, seen in the context of its small proposed size and the primary use of the property as fishing lakes it is considered that this aspect of the proposal could have been viewed favourably as an ancillary element subject to conditions in relation to the sale of particular goods. The proposal for the shop would therefore not give rise to a reason for refusal.

### Conclusion

In the light of the above considerations, the application is recommended for refusal.

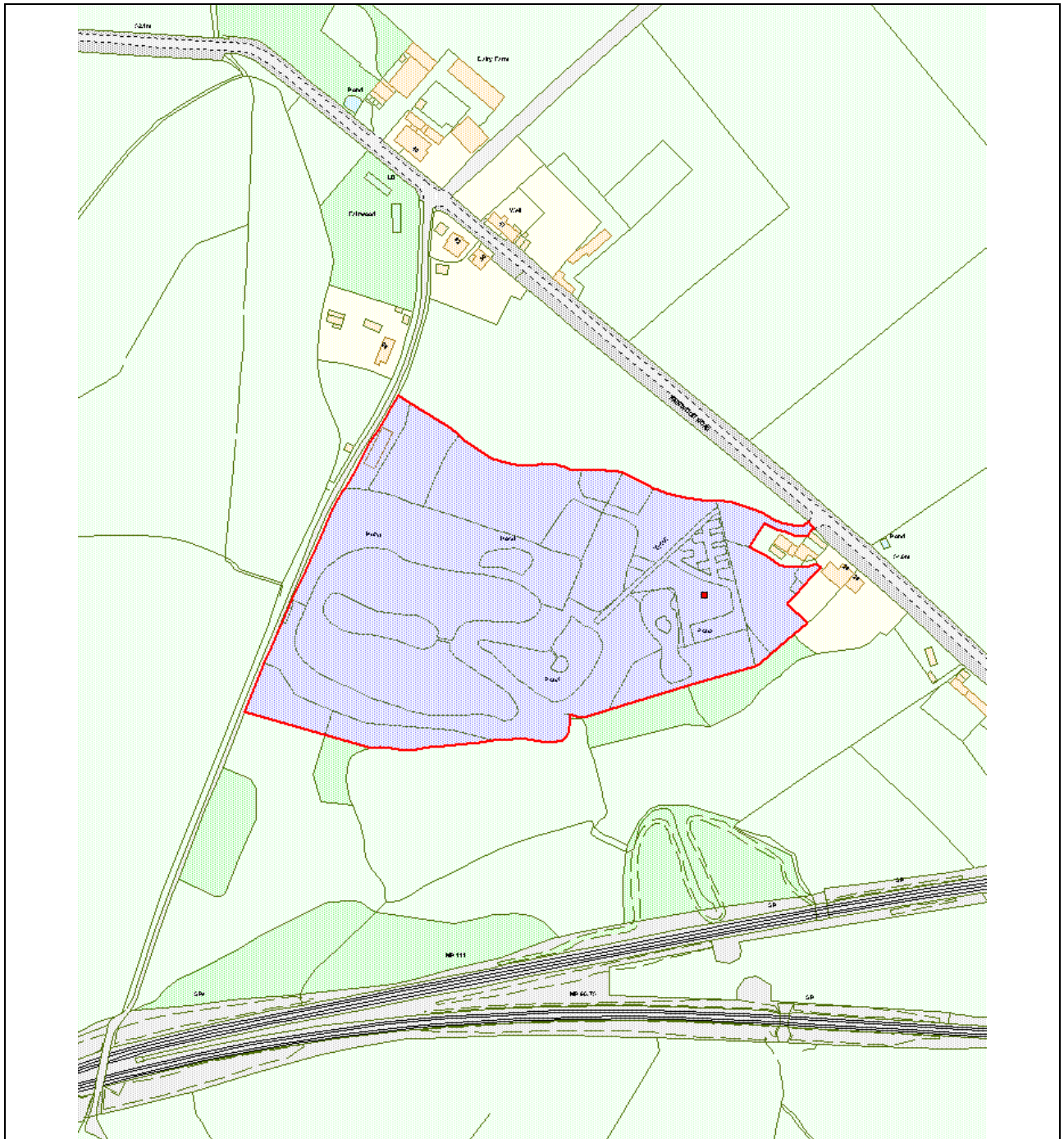
**Recommendation:           Refusal**

### **For the following reason(s):**

- 1     Annex A to Planning Policy Statement 7 (Sustainable Development in Rural Areas) advises that where a new dwelling is proposed to support a new activity or significant change to business practice it must be demonstrated that 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 worker concerned. The planning application and the supporting statements do not provide sufficient information so as make a case as to why the existing dwelling at No 28 Fairwood Road or other some other accommodation in the vicinity cannot meet the accommodation needs. The application therefore fails to meet Criterion (iv) to Paragraph 12 (iv) of Annex A of Planning Policy Statement 7.
- 2     The dwelling in the open countryside is not fully justified in connection with the essential needs of agriculture or other rural occupation where the planning application and the supporting statements do not provide sufficient information so as make a case as to why the existing dwelling at No 28 Fairwood Road or other some other accommodation in the vicinity cannot meet the accommodation needs. This is contrary to policy H19 West Wiltshire District Plan 1st Alteration 2004.

<b>Appendices:</b>	
<b>Background Documents Used in the Preparation of this Report:</b>	





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## RELEVANT APPLICATION PLANS

- Drawing : LOCATION PLAN REV A received on 14.12.2010
- Drawing : LOG CABIN received on 25.10.2010
- Drawing : MEASUREMENTS OF LOG CABIN received on 25.10.2010
- Drawing : MOBILE HOME received on 14.12.2010
- Drawing : EXISTING BLOCK PLAN received on 14.12.2010
- Drawing : PROPOSED BLOCK PLAN received on 14.12.2010