

REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	23.06.2010		
Application Number	W/09/00941/FUL		
Site Address	Land East Of Clivey Barn Farm Clivey Dilton Marsh Wiltshire		
Proposal	Agricultural workers dwelling and revised access		
Applicant	Mr Frank Brine		
Town/Parish Council	Dilton Marsh		
Electoral Division	Ethandune	Unitary Member:	Julie Swabey
Grid Ref	384073 149992		
Type of application	Full Plan		
Case Officer	Mr James Taylor	01225 770344 Ext 5169 james.taylor@wiltshire.gov.uk	

Reason for the application being considered by Committee

This application is being brought to Committee following the receipt of further requested information. This has been obtained following the members requests and deferral of a decision at the 12 May 2010 meeting.

This item was originally brought to Committee at the request of Councillor Newbury, acting on behalf of Dilton Marsh Parish Council because "This planning application is contrary to the development plan".

1. Purpose of Report

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

Further to address the request of members at the meeting of 12 May 2010 when they requested that the report be amended to include details of the experience and qualifications of the Council's 2 agricultural workers housing advisors and for comments on the financial report to be included. The report has been amended to reflect this request and is brought back to members 6 weeks later as they requested.

2. Summary of Main Issues

The main issues to consider are:

- * The principle of development.
- * Functional and financial tests of Planning Policy Statement 7: Sustainable Development in Rural Areas: Annex A.
- * Design Issues.
- * Landscape and rural character matters.
- * Highway safety.
- * Amenity interests, including proximity to existing sewerage treatment works.

3. Site Description

The application site is located on a relatively flat area of a small agricultural field which fronts onto the B3099 north west of Dilton Marsh in open countryside. The site has an existing agricultural access directly onto the B3099.

The surrounding area is characterised by its agricultural land use and is typically rural in character.

To the north east of the application site is a sewerage treatment facility. To the north and north west is a separate agricultural farmhouse and associated farm buildings. To the west are agricultural buildings under the applicants control and to the south is open countryside.

The site is not subject to any further constraints although it is noted that a public right of way runs adjacent to the west boundary of the site.

4. Planning History

No relevant history on this site, although relevant history in immediate vicinity as follows:

Relevant history on land east of 19 Clivey (piggeries):

81/01141/HIS - Extension to existing pig farm – Refusal on 19.01.1982

86/00130/FUL - Mobile home – Refusal on 29.04.1986

88/00785/FUL - Permission for continued use of residential mobile home on the site – Refusal on 19.07.1988

88/02100/OUT - Erection of detached house and garage – Refusal on 20.12.1988 (Appeal dismissed on 05.05.1989)

92/01245/FUL - Pig runs outside buildings – Refusal on 16.02.1993 (Appeal allowed on 26.11.1993)

93/00269/FUL - One 4,000 gallon underground slurry tank and one 2,000 gallon underground septic tank to serve existing piggery – Permission - 27.07.1993

99/00750/FUL - New four bedroom dwelling – Refusal on 05.08.1999

00/01674/FUL - Hay barn and cattle shed – Permission on 15.11.2000

Relevant history on land east of Clivey Barn Farm:

05/02911/FUL - Agricultural worker's dwelling – Withdrawn

Relevant history on land adjacent Sewage Works:

96/00913/FUL - Erection of 4 bedroom farmhouse with garage – Permission on 22.08.1996

5. The Proposal

The proposal is for the erection of a detached 4-bedroom agricultural workers dwelling with attached double garage. The proposal is for a 1½ storey property approximately 11.5 metres by 7.5 metres plus garage with a floor area of 6 metres by 6.5 metres. The external materials proposed are buff coloured reconstructed stone to the walls and concrete double roman tiles to the roof. The dwelling would be set back from the frontage with the B3099 by approximately 28 metres.

The proposal includes an intensification of the existing vehicular access to allow agricultural and residential use over a formalised tarmac envelope, 10 metres in length. The proposals also include some boundary landscaping with native species.

In support of the application a design and access statement has been submitted and an agricultural justification has been prepared by Killens dated March 2009. Further a letter from the occupiers of Clivey Barn Farm has been submitted stating that the sewerage treatment facility to date has not caused any odour nuisance.

Since this was last presented to planning committee the applicant has also submitted financial accounts from Marsh Accountancy in Warminster. Firstly figures titled 30 September 2008 were submitted in December 2009 and then draft accounts to year end 30 September 2009 were submitted 9 April 2010.

6. Planning Policy

West Wiltshire District Plan 1st Alteration (2004)

C1 Countryside Protection

C31a Design

C38 Nuisance

H19 Dwellings in Open Countryside

U5 Sewerage Treatment Works

Leisure and Recreation Development Plan Document

CR1 Footpaths and Rights of Way

National guidance

PPS1: Delivering Sustainable Development

PPS7: Sustainable Development in Rural Areas

7. Consultations

Dilton Marsh Parish Council

The Council requests that advice is sought from the Agricultural Advisor to determine whether the proposed development is satisfactory.

Highway Authority

The site is located outside of the planning policy area for Dilton Marsh and therefore new housing is normally resisted due to the site location being deemed unsustainable. The proposed dwelling this application relates to has been specified to be for the use of an agricultural worker and their family. Providing the occupation of the dwelling is limited to that of an agricultural worker, as specified in the application documents and supporting information, I would not wish to object on the grounds of sustainability.

In view of the above no highway objection is raised subject to conditions.

Wessex Water

No objection.

First Agricultural Advisor/Consultant

01.05.2009

“FUNCTIONAL NEED:

Existing - The application is for a permanent dwelling. It is noted that Annex A to PPS7, paragraph 3 (i) requires that there is a “clearly established existing functional need” as part of the criteria to warrant a permanent dwelling.

There may be a functional requirement to assist with farrowing the very small quantity of sows; however, the very small number (five animals) and the limited period of farrowing does not, in my opinion result in the functional test being met. On the applicant’s own case it is the expanded level of the livestock enterprises that will generate the functional need. That argument does not fit with the guidance set out in Annex A in respect of permanent dwellings.

FINANCIAL TEST:

Existing - The application is for a permanent dwelling. The financial criteria required under Annex A of PPS7 are as follows: "the unit and the agricultural activity have been established for at least three years, have been profitable for at least one of them, are currently financially sound and have a clear prospect of remaining so".

The applicant has not provided accounts for the recent trading periods. The financial information that has been provided relates to the anticipated implementation of the proposed enterprises. Aside from the arable enterprise the financial information does not relate to any of the existing farming activities at their existing level of operation. The information provided does not enable me to assess whether the financial test has been met.

CONCLUSION AND OPINION - Neither the functional nor the financial tests are met. The proposed dwelling is not warranted under Annex A of PPS7."

Second Agricultural Advisor/Consultant

08.04.2010

"FUNCTIONAL NEED:

Mr Killen has argued that there is a functional need for a dwelling on animal welfare grounds. This argument is based on anticipated future stocking levels, rather than existing levels of activity.

Currently only a small number of young cattle (17 at the time of my visit) and finishing pigs are kept at the farm buildings by the proposed dwelling site. This type and number of stock are often kept at some distance from the nearest agricultural workers dwelling without undue harm. The sows and other cattle were on land to the south-east of Dilton Marsh, approximately 1 km distant from the buildings.

Given the small number of stock kept at the buildings, and that the care of sows around farrowing is one of the main welfare demands of good husbandry for this holding, I do not consider that there is a compelling functional need for the proposed dwelling.

FINANCIAL TEST:

The holding has been operational for a number of years and accounts have been made available for the last three years.

Mr Killen has argued that the financial test is met, based on estimated profitability of an expanded farming operation following the erection of the agricultural dwelling. His estimate omits the cost of purchasing 100 calves per year, which would reduce the profit by approximately £15,000. This would leave the overall profitability of the holding marginal. However, the financial test needs to be based on existing financial performance. As can be clearly seen, the level of income achieved in the last three years is a lot less than that estimated by Mr Killen. The holding has made a very small profit in 2009 and losses in the preceding years. The accounts include no payment for labour, so after deduction of a reasonable charge for unpaid labour there would be a net loss for all three years.

EXISTING ACCOMODATION IN THE AREA:

The farm buildings are situated approximately 0.5 km to the west of Dilton Marsh. The village of Dilton Marsh contains a wide range of housing, much of it suitable for an agricultural worker's dwelling. Given that only limited stock are kept at the farm buildings and the breeding sows are kept on land to the south-east of the village, a dwelling within the village would just as suitable to the needs of the business as one sited at the farm buildings.

CONCLUSIONS:

It is my view that the application does not meet the criteria for an agricultural worker's dwelling laid down in Planning Policy Statement 7, Annex A.

- i. there is not an existing functional need for a dwelling at the proposed site due to the small number of stock actually kept at the farm buildings
- ii. the unit has not been economically profitable within the last three years and therefore cannot be viewed as financially sound
- iii. accommodation suitable for occupation by a farm worker is available in the village of

Dilton Marsh which is appropriate for meeting the husbandry needs of the business.”

Environmental Health

No objection.

8. Publicity

The application was advertised by site notice and neighbour notification.

Expiry date: 29 April 2009.

Summary of points raised:

No comments received.

9. Planning Considerations

9.1 This is an application for a new dwelling in open countryside outside of the village policy limits of Dilton Marsh. The relevant development plan policy H19 allows for new dwellings in such cases only if justified in connection with the essential needs of agriculture or forestry.

9.2 Such exemptions are also allowed for in national Planning Policy Statement 7: Sustainable Development in Rural Areas. This document sets out in detail at Annex A how such proposals can be justified only to support existing agricultural activities on well-established agricultural units. Therefore it is a fundamental concern that all of the supporting information submitted as part of this application is based on an intention to increase stock and expand the existing enterprise. As such although the agricultural unit is existing the need for an agricultural worker's dwelling is based on projections and intensifications and not existing activity.

9.3 In short the proposal for this permanent new dwelling is not to support existing agricultural activity and so fails to meet the special justification tests of PPS7 and is contrary to the relevant development plan policy H19.

9.4 For the sake of completeness it is necessary to consider the full tests laid out in PPS7. Prior to this however it is important to note that both of the Council's expert agricultural advisors raised objection to the proposals. Their comments are detailed in full above but they both reached the conclusion that the functional and financial tests of PPS7 had not been met and therefore an agricultural worker's dwelling was not justified. The second consultant reached his conclusion based on accounts information submitted for 2007, 2008 and 2009. The considerable delay in returning this matter to committee was in part due to officers giving the applicant every opportunity to provide this financial information.

9.5 Officers can confirm that in their view the financial information submitted by the applicant fails to meet the financial tests set out in PPS7: Annexe A. The financial accounts do not demonstrate that there is an existing agricultural operation, which has been on-going for at least 3 years and profitable for at least one year, to justify a functional need for an agricultural worker's dwelling.

9.6 To be justified the proposal needs to demonstrate that there is a clearly established existing functional need. This functional test has been addressed in the supporting report by Killens based on projects and intentions to expand the operations as detailed above. As such the functional test has not been applied to the existing activity on the unit and therefore the proposals fail to adequately address the functional test. It has to be considered that the intentions to expand the operation will be subject to a number of varying factors not least potential planning constraints. No detail is available to consider this however, nor any other variables which may mean that the expansion cannot take place. If this application were approved and the expansion does not then take place the agricultural worker's dwelling will not be justified and so a new dwelling would be erected in open countryside without any functional agricultural need, a clear circumvention of planning policy. Both of the Council's agricultural advisors state that the proposal does not meet the functional need.

9.7 To be justified the proposals' functional need must relate to a full-time worker primarily employed in agriculture. Since the functional need has not been justified on the existing activity then the proposal fails to adequately demonstrate this point also.

9.8 To be justified the unit and agricultural activity concerned have to have been established for at least three years. Initially the proposals failed in this regard, again because all the financial test information is based on projections in the event of intensifying the operations at the unit. The second agricultural advisor had the benefit of accounts for 2007 and 2008 which showed a net loss from the existing activity. The draft 2009 accounts indicate a small profit, however in the Council's agricultural advisor's professional opinion the accounts include no payment for labour and after a reasonable deduction for this unpaid labour there would be a net loss again. In short the financial test has not been met based on existing activity and according to PPS7 assessments should not be based on aspirations and projections.

9.9 To be justified it must be demonstrated that the functional need cannot be fulfilled by another existing dwelling on the unit or other accommodation in the area. The Council has no information available to refute the applicant's claim that no other suitable and reasonably available dwellings exist to meet a need; however it is stressed that the functional need has not been adequately demonstrated anyway. Further the Council's second agricultural consultant was of the professional view that any need could be met equally well by a dwelling in the village and there is no need to live on the site.

9.10 In conclusion this application fails the functional and financial tests of PPS7 and has raised objection from both the Council's agricultural advisors. The second view was sought specifically at the request of members and this independent advisor was of the professional opinion that the dwelling was not justified under the function and financial tests of PPS7. They shared the view of the Council's first advisor who has identical qualifications to the applicant's advisor.

9.11 Therefore the application should be refused as it is a proposal for a permanent dwelling in open countryside without an adequate agricultural justification contrary to Policy H19 of the development plan and national guidance. There are no other planning reasons for refusal as detailed in the originally committee report of 24 June 2009.

10. Experience and Qualifications of the agricultural advisors

Applicant's agricultural advisor

Mr T. Killen BSc(Hons) MRICS FAAV

A copy of their CV (which includes qualifications, employment history and positions of responsibility) is attached as an appendix to their submitted report dated March 2009. In addition they state that they have acted on behalf of applicants and local authorities in respect of applications for agricultural dwellings for almost 20 years including extensive experience of acting in West Wiltshire.

Qualifications

Honours degree in Rural Land Management from Reading (BSc Hons)

Fellow of Central Association of Agricultural Valuers (FAAV)

Professional Member of the Royal Institution of Chartered Surveyors (MRICS)

Employment History

1992 – 2000 (Surveyor & Auctioneer) - Alder King Rural Surveyors

Areas of work: Professional services (including estate & farm management, tenancy issues, compulsory purchase & compensation, valuations, planning & development, agency) & Livestock Marketing

2000 – 2003 (Senior Surveyor) - Cooper & Tanner Chartered Surveyors

Areas of work: Professional services including estate & farm management, tenancy issues, compulsory purchase & compensation, valuations, planning & development, agency

2003 – 2008 (Director) - Voyce Pullin

Areas of work: Professional services including estate & farm management, tenancy issues, compulsory purchase & compensation, valuations, planning & development, agency

Present (Partner) - Killens

Positions of Responsibility

1996: Member of the Committee of the Gloucestershire & District Association of Agricultural Valuers
2002 – 2003: Chairman, Gloucestershire & District Association of Agricultural Valuers
2002 – 2006: Member of the Rural Faculty Committee of the Royal Institution of Chartered Surveyors for Somerset, Gloucestershire & North Wiltshire
2003 -2004: Vice Chairman of the Rural Faculty Committee of the Royal Institution of Chartered Surveyors for Somerset, Gloucestershire & North Wiltshire
2003: Member of the Rural Policy Panel of the Royal Institution of Chartered Surveyors for the South West
2004 – 2006: Chairman of the Rural Faculty Committee of the Royal Institution of Chartered Surveyors for Somerset, Gloucestershire & North Wiltshire

Council's first agricultural advisor

Mr A.M. Coke BSc(Hons) MRICS FAAV

Qualifications

Honours degree in Rural land Management from Reading (BSc Hons)
Fellow of Central Association of Agricultural Valuers (FAAV)
Professional Member of the Royal Institution of Chartered Surveyors (MRICS)

I hold the degree of Bachelor of Science (Honours) in Land Management from the University of Reading. I am a member of the Royal Institution of Chartered Surveyors (MRICS) in the Rural Faculty. I was granted membership of the RICS in 1991. I am a Fellow of the Central Association of Agricultural Valuers (FAAV). I was granted Fellowship of the CAAV in 1999

Summary of Employment and Experience

I am a Director of APA Consultants. APA Consultants Ltd was established by its Directors in 2009. The business was previously Agricultural Planning Associates (APA). APA was formed in spring 2003 to provide specialist advice on the agricultural implications of planning applications. Clients of both APA and APA Consultants Ltd include Wiltshire Council (formerly the four District Councils in Wiltshire), Bath and North East Somerset Council, Test Valley Borough Council, North Devon Council and private individuals.

Prior to the formation of APA I was an Associate at Savills, Wimborne (2001 – 2003) where I was responsible for land management and commercial advice, I also advised the public sector clients on agricultural matters.

Before taking employment with Savills I was employed as Rural Estate Manager for Wiltshire County Council (1997 – 2001) with day to day responsibility for the 8,000 acre County Farms Estate and the provision of agricultural planning advice to the District Councils in Wiltshire.

Including my employment prior to Wiltshire County Council I have provided agricultural planning advice for some 16 years, including over 50 planning appeals.

Council's second agricultural advisor

Mr R. Bacon BSc(Hons) MBA

A copy of their background was detailed on their report dated April 2010 as follows:

Richard Bacon MBA, BSc (Hons) Agriculture, is Senior Curriculum Leader for Agriculture, Countryside and Equine at Warwickshire College, Moreton Morrell, Warwick, one of the leading land-based colleges in the UK. His main teaching role is to lecture in rural and equine business management. This work includes regular research into the performance of equine enterprises. He is editor of the Equine Business Guide, published by Warwickshire College, and author of Horses and Money - How to Manage an Equine Business, published by Blackwell Science. Consultancy work encompasses a range of rural and equine business management problems, and includes providing an informed opinion on a number of planning related cases at the request of both applicants and planning authorities. He has been a speaker at a number of conferences arranged by leading equine and rural organisations. Prior to working at Warwickshire College he spent 5 years in agricultural consultancy with ADAS.

To amplify this they have stated that their first degree was a 2:1 in Agriculture from Wye and that they completed the MBA in 2002.

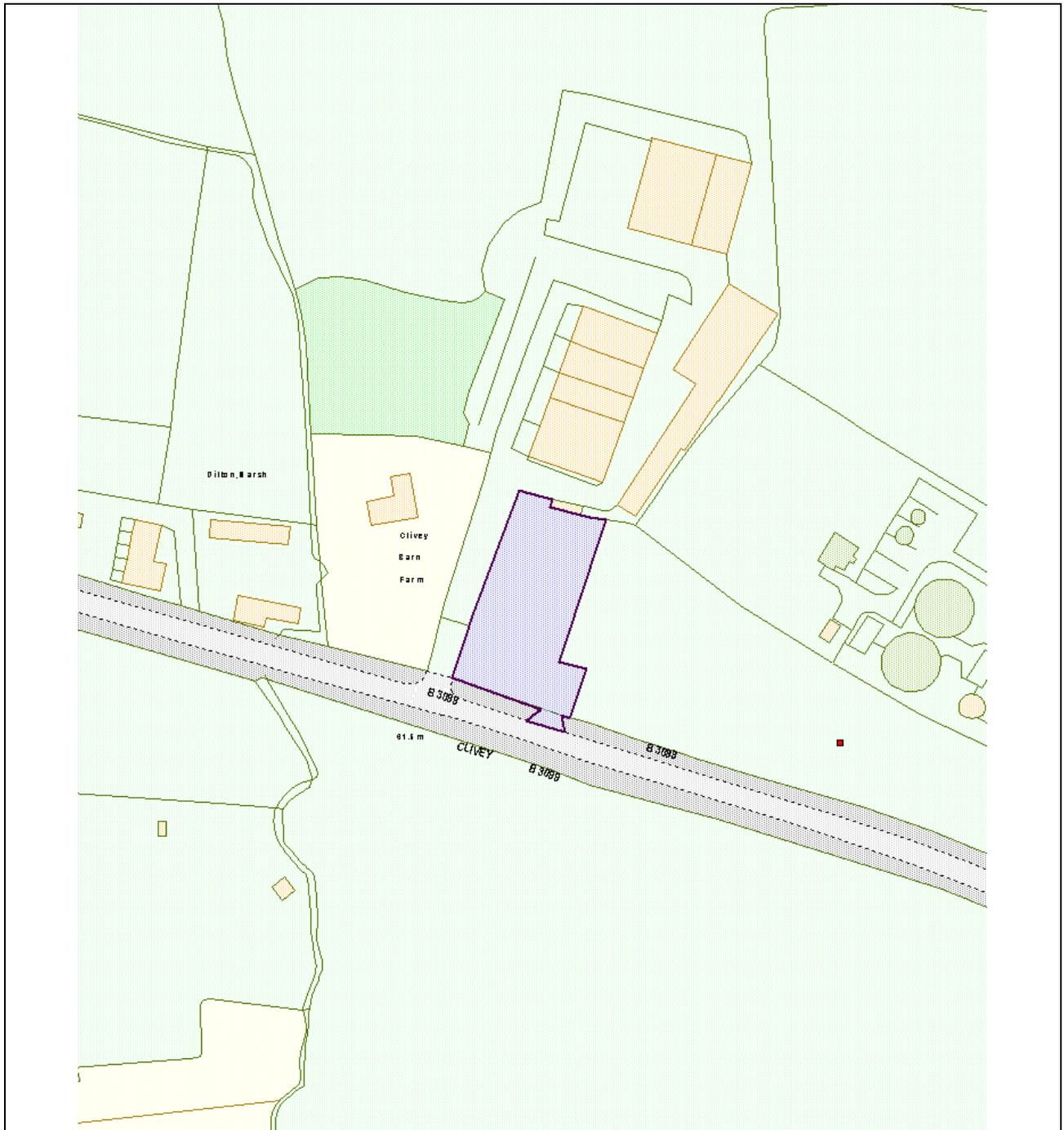
Consultancy work has included planning related cases, usually appraisals of applications for rural occupational dwellings, for Authorities in Dumfries and Galloway, Northants and Bucks, as well as assisting a number of applicants with rural occupational dwelling appraisals.

Recommendation: Refusal

For the following reason(s):

- 1 The proposal for a permanent new agricultural workers dwelling sited in open countryside would be contrary to the West Wiltshire District Plan 1st Alteration (2004) Policy H19 by reason of the inadequate agricultural justification which fails to meet the functional and financial tests set out in Planning Policy Statement 7: Sustainable Development in Rural Areas, Annex A paragraphs 3-11.

Appendices:	
Background Documents Used in the Preparation of this Report:	



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RELEVANT APPLICATION PLANS

Drawing : PLAN01 received on 26.03.2009
Drawing : PLAN02 received on 26.03.2009
Drawing : PLAN03 received on 26.03.2009
Drawing : PLAN04 received on 26.03.2009
Drawing : PLAN05 received on 26.03.2009
Drawing : PLAN06 received on 26.03.2009
Drawing : PLAN07 received on 26.03.2009