

# AGENDA

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**Meeting:** Western Area Planning Committee  
**Place:** Council Chamber - County Hall, Trowbridge BA14 8JN  
**Date:** Wednesday 1 July 2015  
**Time:** 3.00 pm

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Please direct any enquiries on this Agenda to Will Oulton, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713935 or email [william.oulton@wiltshire.gov.uk](mailto:william.oulton@wiltshire.gov.uk)

Press enquiries to Communications on direct lines (01225) 713114/713115.

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## Membership:

Cllr Christopher Newbury (Chairman)	Cllr Magnus Macdonald
Cllr John Knight (Vice-Chair)	Cllr Horace Prickett
Cllr Trevor Carbin	Cllr Pip Ridout
Cllr Ernie Clark	Cllr Jonathon Seed
Cllr Andrew Davis	Cllr Roy While
Cllr Dennis Drewett	

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## Substitutes:

Cllr Nick Blakemore	Cllr Gordon King
Cllr Rosemary Brown	Cllr Stephen Oldrieve
Cllr Terry Chivers	Cllr Jeff Osborn
Cllr Fleur de Rhé-Philippe	Cllr Jerry Wickham
Cllr Russell Hawker	Cllr Philip Whitehead
Cllr Keith Humphries	

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# AGENDA

## Part I

### Items to be considered when the meeting is open to the public

1 **Apologies for Absence**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 5 - 10*)

To approve and sign as a correct record the minutes of the meeting held on 10 June 2015.

3 **Chairman's Announcements**

To receive any announcements through the Chair.

4 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

5 **Public Participation and Councillors' Questions**

The Council welcomes contributions from members of the public.

Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register in person no later than 2.50pm on the day of the meeting.

The Chairman will allow up to 3 speakers in favour and up to 3 speakers against an application and up to 3 speakers on any other item on this agenda. Each speaker will be given up to 3 minutes and invited to speak immediately prior to the item being considered. The rules on public participation in respect of planning applications are detailed in the Council's Planning Code of Good Practice.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular, questions on non-determined planning applications. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda (acting on behalf of the Corporate

Director) no later than 5pm on **Wednesday 24 June 2015**. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

## 6 **Planning Applications**

To consider and determine the following planning applications:

6a **14/07623/VAR - Weston Nurseries, Coomb View, Corton, Warminster, BA12 0SZ** (Pages 11 - 18)

6b **15/02843/VAR - Church Farm, Tytherington, Warminster, BA12 7AE** (Pages 19 - 28)

## 7 **Urgent Items**

Any other items of business which, in the opinion of the Chairman, should be taken as a matter of urgency.

### **Part II**

*Item during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed*

None

## **WESTERN AREA PLANNING COMMITTEE**

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### **DRAFT MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 10 JUNE 2015 IN THE COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.**

#### **Present:**

Cllr Christopher Newbury (Chairman), Cllr John Knight (Vice-Chair), Cllr Trevor Carbin,  
Cllr Ernie Clark, Cllr Andrew Davis, Cllr Magnus Macdonald, Cllr Horace Prickett,  
Cllr Pip Ridout, Cllr Jonathon Seed and Cllr Roy While

#### **Also Present:**

Cllr John Hubbard  
Cllr Fleur De Rhe-Philippe

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#### **57 Apologies for Absence**

Apologies for absence were received from:

- Dennis Drewett

#### **58 Minutes of the Previous Meeting**

The minutes of the meeting held on 20 May 2015 were presented.

#### **Resolved:**

**To approve as a correct record and sign the minutes of the meeting held  
on 20 May 2015.**

#### **59 Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency  
and explained that the setup of the meeting was due to technical issues.

#### **60 Declarations of Interest**

There were no declarations of interest.

## 61 **Public Participation and Councillors' Questions**

The Chairman welcomed all present. He then explained the rules of public participation and the procedure to be followed at the meeting.

The following written question and response was received and noted:

### **Question from Councillor Ernie Clark, Hilperton Division:**

Re Wiltshire Council v Secretary of State for Communities and Local Government [2015] EWHC 1459 (Admin) - judgment handed down on 20 May 2015.

This seems to be a truly appalling decision by a High Court judge, and surely needs to be appealed to the Court of Appeal on grounds of procedural error and error of law.

The old saying is that it is a woman's privilege to change her mind, but that cannot extend to a decision handed down by a High Court judge which has already finally determined an issue, viz. [74] of [2015] EWHC 1261 (Admin):-

"In the circumstances and, with a degree of reluctance, I find that I am unable to exercise my discretion not to quash the decision letter."

Furthermore, it is plainly inconsistent and wrong not to quash the decision letter in Appeal B on the basis that the decision would have been the same in spite of the Secretary of State's error of law, but to refuse to quash the decision letter in Appeal A because the decision would almost certainly have been different and hence would deprive the Developer Defendants of the benefits of that unlawful decision letter.

The consequences of such flawed reasoning must be that a Local Planning Authority can never overturn an Appeal Decision, however serious the unlawfulness of it may be.

The judge also seems totally to have ignored the fact that Wiltshire Council is the Local Planning Authority with a duty to the public at large to ensure that the integrity of the planning system in its area is maintained and in that respect it cannot be treated as on a par with developers. There is no proper evaluation in the judgment of the harm to the public interest that will be caused by not quashing the decision letter.

I am advised that the proper approach to the exercise of the discretion, which is supposed to be exceptional, not to quash a decision that has been found to be unlawful is that of Mr Justice Gilbart on 19 February 2015 in *Davies v Carmarthenshire County Council* [2015] EWHC 230 (Admin), following *Bateman*

v South Cambridgeshire District Council [2011] EWCA Civ 157, particularly Moore-Bick LJ at [31].

In the circumstances will Wiltshire Council be taking this decision to the Court of Appeal? If not, why not?

### **Response**

Officers can confirm that the Council is seeking permission from the Courts to appeal the Judge's decision not to quash the decision letter issued by the Secretary of State in relation to the planning appeal at Devizes Road, Hilperton.

The following supplementary question and response was received and noted:

### **Question from Councillor Ernie Clark, Hilperton Division:**

As both the decision letters from the Secretary of State were unlawful, will WC be appealing both decisions, A and B?

### **Response**

The question would be circulated to the legal and planning officer to be answered at a later date.

## **62 Planning Applications**

The Committee considered the following applications:

### **63 14/09500/FUL - Sienna's Valley Farm, Huntenhull Lane, Chapmanslade, BA13 4AS**

#### **Public Participation**

Professor Nigel Brown spoke in objection to the application.

Mr Charles Thackway spoke in objection to the application.

Mr Keith Muston spoke in objection to the application.

Mr Derek Tanswell spoke in support of the application.

Mr Edward Drew spoke in support of the application.

Mr Dennis Barnard representing Chapmanslade Parish Council spoke in objection to the application.

The Senior Planning Officer outlined the report which recommended the application for approval. Key issues were stated to include the principle of the development, impacts upon the character and appearance of the landscape, impact upon neighbouring amenities and the highways impact. The committee

had previously deferred the application on the 17 December 2014 to allow the Local Planning Authority to gather more information.

Members of the Committee then had the opportunity to ask technical questions of the officer.

Members of the public then had the opportunity to present their views to the Committee as detailed above.

The local Unitary Member, Councillor Fleur De Rhe-Philipe, then spoke in objection to the application.

Issues discussed in the course of the debate included: whether there was an essential need for the dwelling, the visual impact on the character and appearance of the area, the viability of the proposed business plan and the close location of the applicant's residence in Frome.

Advice was provided by Mr Tony Coke, the Council's Specialist Agricultural Advisor.

At the end of the debate it was;

### **Resolved**

**To refuse planning permission for the following reasons:**

**The site is located in the open countryside, outside the limits of development for Chapmanslade as defined in the Wiltshire Core Strategy. Residential development in this location is restricted by policy CP48 to that required to meet the needs of employment essential to the countryside. The Council consider that the functional need for accommodation to oversee any birthing/sick animals could be met through permitted development rights to be on hand during such events and does not justify a year round presence. The applicant has failed to submit robust financial information to support such a dwelling and no evidence has been submitted demonstrating that the appellants could not provide sufficient oversight of the holding from a dwelling in a nearby settlement. Furthermore, the siting of the temporary dwelling harms the character and appearance of the Special Landscape Area. The proposal fails to comply with Core Policies 48, 51 and 57 of the Wiltshire Core Strategy and Saved Policy C3 of the West Wiltshire District Local Plan and the NPPF, namely paragraph 17 and 55.**

**63a Proposed Discharge of Section 52 legal agreement - Lewington Close/Longford Road, Melksham**

Public Participation



Mrs Janet Williams spoke in objection to the application.  
Mr David Timbrell spoke in objection to the application.  
Mr Paul Walsh spoke in support of the application.

The Senior Planning Officer outlined the report which recommended the application for approval. The key consideration was identified as assessing whether the Section 52 Agreement served a valid purpose, given the changes in circumstances and planning background since its completion in 1975. The committee had previously discussed the application at the meeting on the 20 May 2015 which resolved that Planning Officers should gather more information.

Members of the public then had the opportunity to present their views to the Committee, as detailed above.

The local Unitary Member, Councillor John Hubbard, then read a statement on behalf of Mr Jenkins and spoke in objection to the application.

The legal officer advised the committee that the Section 52 agreement was a contract between the council and the party to the agreement. The legal agreement would be held on the land making it a land charge.

Issues discussed in the course of the debate included: the relevance of the Section 52 Agreement today and the need to protect the residents from over development.

At the conclusion of debate, it was

### **Resolved**

**To approve the discharge by the Council of the Section 52 Agreement.**

Recorded Votes

Cllr Ernie Clark – Against  
Cllr Andrew Davis - Against

### 64 **Planning Enforcement Update - Crockerton**

Steven Hawkins, Planning Enforcement Team Leader, referred to the enforcement update included in the agenda.

Members discussed the budget for direct action allocated to the enforcement team and being able to call enforcement items into the committee.

At the end of the discussion it was;

**Resolved**

**To congratulate Mr Hawkins and the enforcement team.**

**To note the report.**

**To pass on comments about the need for a budget for such direct action on enforcement matters to the Cabinet.**

**65 Urgent Items**

There were no Urgent Items.

(Duration of meeting: 3.00 - 5.00 pm)

The Officer who has produced these minutes is Will Oulton, of Democratic Services,  
direct line 01225 713935, e-mail [william.oulton@wiltshire.gov.uk](mailto:william.oulton@wiltshire.gov.uk)

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## REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No.1

<b>Date of Meeting</b>	01 July 2015
<b>Application Number</b>	14/07623/VAR
<b>Site Address</b>	Weston Nurseries Coomb View Corton Warminster Wiltshire BA12 0SZ
<b>Proposal</b>	Removal of condition 1 (Agricultural Tie) of planning permission W/87/01777/FUL
<b>Applicant</b>	Mr William Harrison-Allan
<b>Town/Parish Council</b>	BOYTON
<b>Ward</b>	WARMINSTER COPHEAP AND WYLYE
<b>Grid Ref</b>	393448 140743
<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 if recommended for Approval for the following reasons:

- To consider whether the removal of the agricultural tie is justified by the information provided to Wiltshire Council

#### 1. Purpose of Report

To consider the application and recommend approval

#### 2. Report Summary

The main issues to consider are:

- Principle

### **3. Site Description**

The property in question is a three bedroomed detached bungalow of traditional brick under a pitched roof which is accessed via a gravel surfaced area that is shared with the nursery/cattery and lies within the village of Corton. The site is located in the open countryside and within an Area of Outstanding Natural Beauty

### **4. Planning History**

W/87/1777 – Construction of a single storey dwelling for occupation by nurseryman –

Approved 16/02/1988

### **5. The Proposal**

This application is to remove condition 1 of Planning Consent W/87/1777 to remove the agricultural tie from the dwelling. Condition 1 states:

*As the site is within an area within which it is the policy of the Local Planning Authority to limit residential development to that which is essential for agricultural or forestry purposes, the occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed before retirement, in the locality of agriculture as defined in Section 290(1) of the Town and Country Planning Act 1971 or in forestry (including any dependents of such person residing with him or her) or a widow or widower of such a person.*

### **6. Planning Policy**

#### Wiltshire Core Strategy

CP1 – Settlement Strategy

CP2 – Delivery Strategy

CP48 – Supporting Rural Life

CP60 – Sustainable Transport

CP61 – Transport and New Development

National Planning Policy Framework 2012

Planning Practice Guidance 2014

### **7. Consultations**

Boyton Parish Council – Object – the property was lived in by a horticultural worker until approximately 2009 and the property is in the middle of a horticultural business.

Wiltshire Council Highways Officer – if the occupation of the dwelling cannot be justified then an objection would be raised as the dwelling is located in the open countryside.

## **8. Publicity**

The application was advertised by a site notice and neighbour notification letters. 2 letters of objection have been received by the Local Planning Authority raising the following concerns (summarised):

- The property is situated within the centre of agricultural land with access through the land not belonging to the said property.
- No attempt has been made to market the house to agricultural workers and the price is not fair to the current economic climate
- The owner bought the property knowing of the agricultural ties and has since been allowing his staff who work at the nearby pub to live there.

## **9. Planning Considerations**

### **9.1 Background**

The applicant bought the property in November 2010 knowing the property had an agricultural tie as a cash sale due to the owners being in dispute with each needing to resolve their personal issues with debt. The property was bought by the applicant some £30,000 under the asking price due to a quick sale required by the previous owners. The applicant then significantly refurbished the property internally (new kitchen, bathroom, boiler redecorating etc) and has since January 2011 let the property to staff employed by him who were not complying with the agricultural tie. There is an ongoing enforcement complaint dealing with the latter issue.

Since January 2013 Davis & Latcham have been marketing the agriculturally tied property for offers in excess of £235,000. The property was advertised in the local media/newspapers and various property search engines such as google which has attracted little interest. Those who have been interested did not take it any further due to the agricultural tie.

This application was submitted in October 2014 and the Councils Agricultural Advisor was of the opinion that the marketing of the property had not targeted the agricultural community and that there was a lack of evidence regarding what price the property has been marketed at.

Davis & Latcham have since confirmed that the above price of the property reflects a 25-30% discount on the market value. The applicant in December 2014 also requested Acorus to advertise the property in Farmers Weekly and the Farmers Guardian. A questionnaire was also sent to agricultural holdings (61 in total) within a 10km radius of the property postcode to further identify the need for agricultural dwellings in the locality. 10km was estimated to be an appropriate travelling time for an agricultural worker. A total of 5 surveys were returned, 1 of which requested further information but no further interest was received. No viewings or subsequent offers have been received.

## 9.2 Principle

The site is located in Corton which is located in the open countryside where under CP1 and CP2, new dwellings are not considered to be appropriate. The nearest large village as identified in the Wiltshire Core Strategy is Heytesbury. It is a material consideration that the existing use of the dwelling is residential and the removal of the tie would not change the vehicular movements associated with the dwelling for education, business and recreational uses. It is therefore considered that the proposal would not result in unsustainable development compared to what is existing.

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:*

- i) 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*
- ii) 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*
- iii) The building can be served by adequate access and infrastructure; and*
- iv) The site has reasonable access to local services or*
- v) 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 – v. The proposal therefore 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.

In assessing whether the removal of a tie is appropriate, the following questions should be asked:

1. Is there still a need for the dwelling on the holding?
2. How has the property been marketed?
3. What evidence of demand has been shown?

The separation of the freehold of the dwelling from Weston Nurseries and the minimal land area/garden now associated with the dwelling means that there is no current or future agricultural need for the dwelling at the holding.

The property has been marketed for approximately 18 months using various communication methods (website, newspapers etc) and more importantly to the rural community. The opinion of the Councils Agricultural Advisor is that the dwelling has been marketed at an appropriate price and the marketing has shown that there is a lack of demand from the local agricultural community.

It is therefore considered that clear evidence has been provided to justify special circumstances for the Local Planning Authority to provide a positive recommendation in line with CP48.

## **10. Conclusion**

It is considered that the lack of demand demonstrated by the marketing of the agriculturally tied dwelling over the 18 month period demonstrates a lack of need of an agriculturally tied dwelling in the wider community. Also removing the tie when compared to the existing use would not result in an unsustainable development. The proposal therefore complies with the relevant policies of the Core Strategy and the NPPF and as such is recommended for Approval.

### **RECOMMENDATION: Approve with the following conditions**

#### **Conditions:**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan received on 6th October 2014

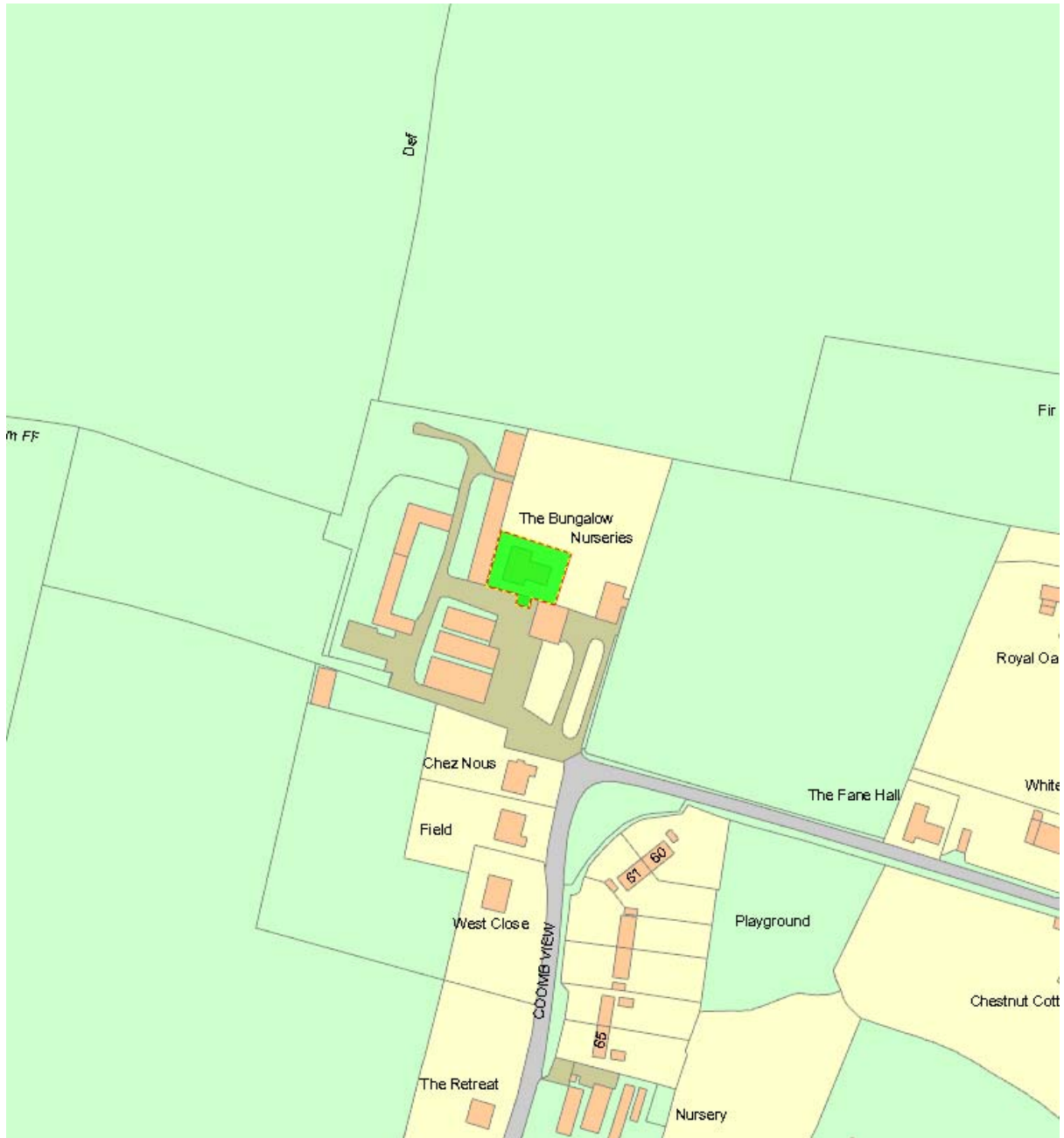
REASON: For the avoidance of doubt and in the interests of proper planning.

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Plans to go with reports for WAPC on 1 July 2015

Item 1 - 14/07623/VAR - Weston Nurseries Coomb View Corton



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**REPORT OUTLINE FOR AREA PLANNING COMMITTEES**

**Report No. 2**

<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**

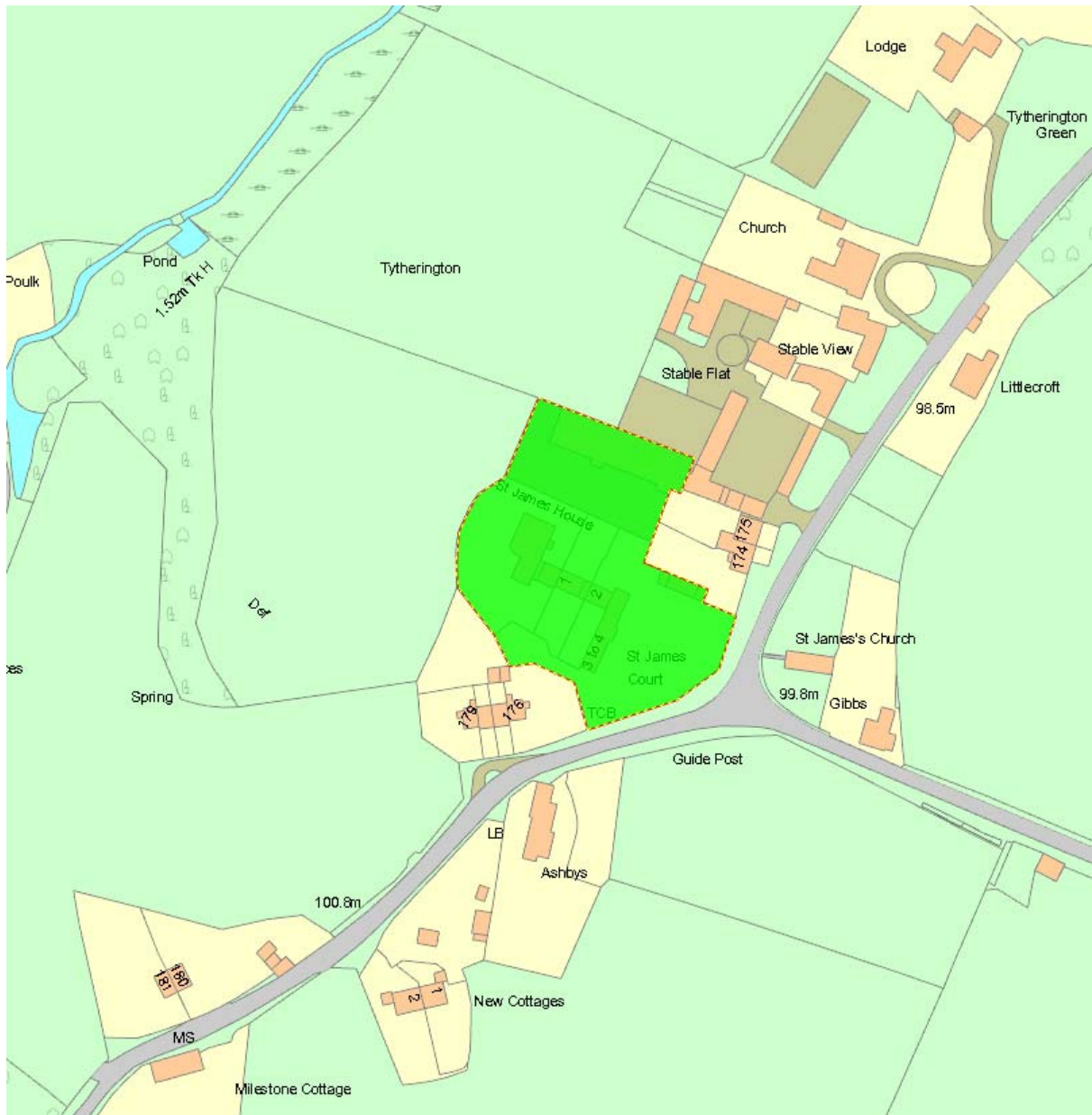
The site is in the open countryside and therefore is located in an unsustainable location where no special circumstances have been put forward to allow new residential dwellings. The proposal conflicts with the plan-led approach to the delivery of new housing sites outside of the identified limits of 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.





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Item 2 - 15/02843/VAR - Church Farm Tytherington



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