

AGENDA

Meeting: Western Area Planning Committee
Place: Council Chamber - County Hall, Trowbridge BA14 8JN
Date: Wednesday 10 June 2015
Time: 3.00 pm

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

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 | |

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 - 8*)

To approve and sign as a correct record the minutes of the meeting held on 20 May 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 **3 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 **14/09500/FUL - Sienna's Valley Farm, Huntenhull Lane, Chapmanslade, BA13 4AS** (Pages 9 - 26)

6b **Proposed Discharge of Section 52 legal agreement - Lewington Close/Longford Road, Melksham** (Pages 27 - 36)

7 Planning Enforcement Update - Crockerton (Pages 37 - 40)

8 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

DRAFT MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 20 MAY 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 Dennis Drewett, Cllr Horace Prickett, Cllr Pip Ridout, Cllr Jonathon Seed and Cllr Gordon King (Substitute)

Also Present:

Cllr Jon Hubbard

49 Apologies for Absence

Apologies for absence were received from Councillors Andrew Davis, Magnus MacDonald (replaced by Cllr Gordon King) and Roy While.

50 Minutes of the Previous Meeting

The minutes of the meeting held on 29 April 2015 were presented.

Resolved:

To approve as a correct record and sign the minutes of the meeting held on 29 April 2015.

51 Chairman's Announcements

The Chairman gave details of the exits to be used in the event of an emergency.

52 Declarations of Interest

There were no declarations of interest made.

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

Mr Francis Morland spoke regarding the agenda supplement, which had provided further information on planning history that had been omitted from the original report; he expressed concern that the current data management system was not as good as that previously used by the West Wilts District Council. He stated that, despite previous assurances to the contrary, he remained concerned that important information had been omitted in error.

Specifically he asked:

How many past case officer reports have had some planning history information omitted due to the errors in the system?

Does anyone in Wiltshire Council have the knowledge to search out the history and have access to the backup files to find the information from the old system?

The Chairman asked that a written answer be provided to Mr Morland and that this be circulated to all members of the Committee for their information.

54 Lewington Close/Longford Road, Melksham

Public participation:

Mr Paul Walsh spoke in support of the application.

The Senior Planning Officer outlined the report that outlined the proposals for the discharge of a Section 52 Agreement.

Councillor Jon Hubbard spoke as the local member.

Issues discussed in the course of the debate included: that the agreement currently restricts development on the land in question until discharged; the planning history on the site and extant permissions; the procedure and guidance for dealing with discharge of agreements; the now built developments near the site; the possible reasons for the agreement; the views of the consultees to the original application; the relevance of the Local Plan policies; the covenant only coming to light during research as part of the preparation of the s106 agreement linked to the current approved application; whether the s52 agreement was material to the consideration of the current application; how many other similar situations there are in the County; and that the s52 agreement remains binding on the land until it is formally discharged.

Councillor Ernie Clarke proposed that the agreement should not be discharged. There was no seconder to his proposal, so the proposal was not put to the vote.

Councillor Trevor Carbin proposed, subsequently seconded by Councillor Tony Knight, that the Committee should raise no objection to the discharge of the agreement as per the officer's recommendation. This proposal, upon being put to the vote, was lost.

Councillor Ernie Clarke proposed, subsequently seconded by Councillor Gordon King, that the matter be deferred to find more information.

At the end of the debate the meeting, upon being put to the vote;

Resolved

To defer consideration of the matter, pending the provision of additional information.

55 **15/01668/FUL - 221 Melksham Road, Holt, Trowbridge, Wiltshire, BA14 6QW**

Public participation:

Mr Martyn Williams spoke in objection to the application.
Mr Paul Langley spoke in support of the application.

Councillor Trevor Carbin spoke as the local member.

The Area Team Leader outlined the report which recommended the application for approval subject to conditions. The meeting's attention was drawn to the late observations including additional information on the planning history.

Members of the public were invited to speak on the application as listed above.

Issues discussed in the course of the debate included: the planning history of the site; the location of the site and the proximity to other buildings; the design and layout of the proposals; how the current proposal differed from a proposal refused previously by the Committee; the position of the windows in the proposal; the existing boundary treatments; the impact of the proposals on the privacy and amenity of neighbouring properties; the views of the consultees;

Councillor Trevor Carbin proposed, subsequently seconded by Councillor Gordon King, that the application be refused.

At the end of the debate the meeting, upon being put to the vote;

Resolved to refuse permission for the following reason:

That the rear extension by reason of its size, mass, bulk and height would result in a substantial addition to the dwellinghouse which accommodates a narrow plot; and it would lead to an unacceptable level of overbearing and overlooking to the immediate neighbours at No 220 and No 222 Melksham Road which would result in loss of amenity and privacy contrary to the requirements of Adopted Wiltshire Core Strategy Core Policy 57.

56 **Urgent Items**

There were no Urgent Items.

(Duration of meeting: 3.00 - 4.29 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

Press enquiries to Communications, direct line (01225) 713114/713115

REPORT TO THE AREA PLANNING COMMITTEE NO.1

| | |
|----------------------------|----------------------------------------------------------------------------------------|
| Date of Meeting | 10 th June 2015 |
| Application Number | 14/09500/FUL |
| Site Address | Sienna's Valley Farm, Huntenhull Lane, Chapmanslade BA13 4AS |
| Proposal | Siting of a mobile home for use as a rural workers dwelling and alterations to access. |
| Applicant | Ms Sharon Snook |
| Town/Parish Council | CHAPMANSLADE |
| Division | WARMINSTER WITHOUT |
| Grid Ref | 382562 147569 |
| Type of application | Full Planning |
| Case Officer | Jemma Foster |

Reason for the application being considered by Committee

This application was deferred by the Western Area Planning Committee on 17th December 2014 to allow the Local Planning Authority to gather more information to aid the Committee in their consideration of the matter. Since the deferral of planning application the Wiltshire Core Strategy has been adopted and therefore the policies in this report have been updated.

Previously Councillor Rhe-Philippe has requested that the application be considered by the Planning Committee for the following reasons:

- Visual impact upon the surrounding area
- Relationship to adjoining properties
- Design – bulk, height, general appearance
- Environmental/highway impact

1. Purpose of Report

To assess the merits of the proposal and to recommend approval of the application.

2. Report Summary

The main issues to consider are:

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

3. Site Description

Siennas Valley is located in the village of Chapmanslade on Huntenhull Lane but outside the limits of development and within the special landscape character area. A public footpath runs to the rear of the site (CHAP 8).

The site measures approximately 4.7 hectares and the applicant has a further 0.75 hectares of rented land at Frome which is cropped for hay production. It is the applicant's intention to develop a farming enterprise primarily involving alpacas but also pigs and hens. The enterprise will be developed over the years to become a viable and sustainable agricultural business.

The site is surrounded by mature hedgerows which will remain and additional planting has already been undertaken on the land. 17 breeding female alpacas are currently on the land. Over the next three years it is anticipated that the herd will be increased to approximately 30 breeding females with male and female breeding stock being sold. Fleeces will also be processed and wool sold. From year three onwards, a total of 200 hens, 50 quail and 20 ducks are planned and eggs will be sold.

4. Planning History

14/03770/FUL – Extension to Barn– Refused 11/06/14 for the following reason:

The proposed extension would exceed the justified need and have an adverse impact upon the special landscape character area contrary to Saved Policies C3 and C31a of the West Wiltshire District Local Plan (Adopted 2004)

This reason was upheld at appeal 30th April 2015 with the Inspector stating:

I appreciate that the proposal would generate some employment opportunities and that much of the agricultural enterprise is carbon neutral. The site appeared to me to be quite secure through the existing fences and gates to the site and by dismissing this appeal the equipment that cannot currently be stored within the barn would not be at an unreasonable risk of theft. I have taken into account the previous appeals relating to the site however, although they confirm that the appeal site and that at Spring Gardens can be regarded as comprising one agricultural unit, in other respects these do not relate closely the circumstances relating to the current appeal scheme before me and therefore I have not attached any significant weight to them in my decision. I therefore consider that the positive aspects of these other matters do not outweigh the significant harm I have identified in respect of each of the main issues. Therefore for the above reasons, and having taken all matters before me into consideration, the appeal is dismissed.

14/00987/FUL – Erection of a Barn – Approved with conditions 31/03/14

13/06809/FUL – Extension to Barn – Withdrawn 29/01/14

12/02185/FUL - Agricultural Barn and retrospective hardstanding – Approved with conditions 24/01/13

W/12/01833/FUL – Erection of an agricultural barn – Refused 06/11/2012 for the following reason:

The proposed development, by reason of its siting and size in this location would be visually intrusive and would cause unacceptable harm to the character and appearance of the landscape in this part of the Special Landscape Area. This would conflict with policies C1, C3 and C31a of the West Wiltshire District Plan 1st Alteration 2004 and advice contained within the National Planning Policy Framework.

W/12/00639/AGD – Erection of a barn – Prior Approval Required 01/05/2012 with the following reason:

A Prior Approval application will be required to determine the siting, design and external appearance of the building as under the conditions of Part 6 Class A of the Town and Country Planning (General Permitted Development) Order 1995.

W/11/00040/FUL – Erection of an agricultural building and retention of hardstanding – Refused 03/08/2011 for the following reasons:

The proposed development, which is not justified by the agricultural needs of the land, would be contrary to policy C1 of the West Wiltshire District Plan 1st Alteration 2004 and the principles of PPS7 (Sustainable Development in Rural Areas) as amended.

The proposed development, by reason of the size, scale, form and siting of the building, would be visually intrusive in the open landscape and harmful to the character and appearance of the surrounding Special Landscape Area, contrary to policy C3 of the West Wiltshire District Plan 1st Alteration 2004 and the principles of PPS7 (Sustainable Development in Rural Areas) as amended.

Appeal was dismissed on 13th March 2012 as the *proposed agricultural building would not be justified by the needs of agriculture and would cause unacceptable harm to the landscape, conflicting as a result with relevant policies of the LP.*

W/11/00220/CLP – Erection of a general purpose agricultural building as permitted development – Refused 01/07/2011

It is the Council's view that the applicant has not adequately demonstrated that the proposed building is on agricultural land comprised in an agricultural unit of 5 hectares or more, or that it is reasonable required for the purpose of agriculture within that unit. The development, therefore does not fall within the framework of Schedule 2 Part 6 of the Town and Country Planning (General Permitted Development) Order 1995 and requires planning permission.

Appeal was dismissed on 14th March 2012 on the basis that the Inspector was *not satisfied on balance that a building of the size proposed is "reasonably necessary" for this unit.*

5. The Proposal

The application is for the retrospective erection of a mobile home to be used as a temporary agricultural workers dwelling for three years.

The wall and gate have been removed from the application proposal.

It is important to understand that policies for temporary agricultural workers dwellings allow businesses to develop and grow to allow people to develop an economically viable business before applying for a permanent agricultural workers dwelling.

At a recent appeal site visit (13/04/2015), 17 Alpacas were recorded on site alongside 18 sheep, 2 shetland ponies, 2 horses, 2 pigs and some chickens and geese. These were agreed with the Agent.

6. Planning Policy

Wiltshire Core Strategy (WCS)

Core Policy 48 (Supporting Rural Life), Core Policy 51 (Landscape), Core policy 57 (Ensuring High Quality Design and Place Shaping)

West Wiltshire District Local Plan 1st Alteration (WWDLP) Saved policy C3 (Special Landscape Area)

National Planning Policy Framework 2012

Planning Practice Guidance 2014

7. Consultations

Chapmanslade Parish Council – Object due to the following:

- Insufficient evidence to support residential accommodation
- No planning permission has been given for equestrian uses
- Does the site have a long term future?
- The siting of a caravan causes harm to residents living in the immediate vicinity and also to a sensitive and cherished part of the parish's rural heritage

Wessex Water – New water and waste water connections will be required

Wiltshire Council Agricultural Advisor – Supports the application - The proposed business is likely to generate an essential requirement for a presence on site. The business plan indicates that the proposed business can attain viability.

8. Publicity

The application was advertised by a site notice and neighbour notification letters. The deadline for any correspondence was 10th November 2014

18 letters of support have been received with the following comments (summarised):

- It is creating jobs in a recession and generates income into the village
- The site was a farm long before the neighbours moved into their converted properties
- You don't see many female farmers
- The applicant has made better use of a once neglected farm
- You need to have houses in the countryside, the neighbours are living in converted

buildings?

- It accords with the NPPF and local and former national local policy (H19)
- Why is it a crime for farmers to live on the land where they work
- You cant see the caravan from the road or the footpath
- I buy my eggs from the applicant and look forward to buying alpaca clothing for my children
- The footpath is much improved and love seeing the alpacas on my walk
- Appeal after appeal supports the functional test that with alpacas you have to live on site
- A friend told me that a letter went round asking everyone to object but there is no real opposition
- The press coverage in the Frome paper is wrong
- Derek Tanswell has broken no law, done nothing wrong in planning terms and faces no enforcement action
- The applicant is allowed to move a caravan on the site whilst engaging in building the barn, the wall is not over 2 metres so does not require planning permission, no enforcement action has ever been issued against the applicant, the containers were moved a week early in line with planning permission, this is not a retrospective application – if people understood planning law which is complex they would see that the applicant has broken no law or done anything wrong
- Alpacas need round the clock monitoring when birthing as there are often complications
- It is not a permanent feature so not sure what all the fuss is about
- Wiltshire does not have a 5 year housing land supply and Chapmanslade does not have a neighbourhood plan – neither can they demonstrate rural economic growth, provide sufficient employment land, demonstrate a duty to cooperate with others including Mendip District Council as required in the NPPF, have an up to date local transport plan

24 letters of objection have been received with the following comments (summarised):

- The applicant is a Councillor at Mendip on the planning committee and shows a property in Frome as her home address and her partner has written in to support the application. This site is not her only home. She and her partner are also fully aware of the planning regulations
- The way alpacas are being bred is different, alpacas should have as little contact with humans as possible
- Applicant runs his own plumbing firm – this is not agriculture
- Alpacas can be assessed overnight by CCTV and the applicants property is less than a 6 minute drive away
- No landscaping proposals. The landscape impact of this proposal is likely to be significant as viewed from nearby public rights of way
- A temporary building in a special landscape area should be of high quality materials and therefore the proposal is contrary to Policy C31a
- The appraisal submitted with the application does not demonstrate special circumstances to allow a dwelling – applicant is not qualified or experienced in farming alpacas, unclear whether her partner is part of the business plan, the applicant did not have to buy so many alpacas from the outset suggesting that the applicant has extended the livestock in order to create the case to live on site, alpacas are more robust than sheep and therefore a farmer does not have to live on site, the applicant has previously kept livestock on the site without any reports of apparent distress, welfare or security issues and is in close proximity to a number of residential properties so it is not remote or isolated in terms of vulnerability from theft,

labour requirement has been exaggerated.

- The proposal is deliberately vague and should have been supported with a far more detailed business plan
- Static Caravan arrived in August together with the attendant paraphernalia, childrens climbing frame and a two metre high wall which has caused great harm to the landscape and neighbouring properties with house values being considerably reduced
- The applicant will press ahead with the construction of permanent accommodation whether or not the current application is granted – the applicants have shown scant regard for the planning system in the past
- An independent agricultural report needs to be commissioned
- In the RAC report, the labour requirement does not support the need for a full time worker until the enterprise has reached 60 alpacas. Years 3 and 4 figures are highly optimistic
- Neighbours have been subject to significant increase in noise both from construction and the operation of Siennas Valley and car radios being left on
- Mobile Home has affected our privacy
- The mobile home does not enhance the countryside and sited too close to neighbouring boundaries
- It is now an untidy and unsightly site
- Visible from CHAP34 and CHAP10, CHAP8 and CHAP27
- The increase in traffic raises concerns over highway safety as I cycle along Huntenhall Lane with my children
- Is there a market need for all the things they are going to sell
- Breeze block wall is horrendous in the special landscape area
- The Council proves that it has no hold on the planning process and an inability of funding has spurred them into having their leg pulled time and time again
- 5 years ago the applicant placed containers, hardstanding and a barn on the site which required planning permission and special dispensation was given to the applicant because he is a Somerset county councillor. This dubious method throws into question the probity of the local planning authority and a dangerous precedent will be set if it is allowed
- Application should be refused because they have not obtained the relevant planning permission
- There are badgers on the site which are known to carry TB – isn't this an issue to the alpacas
- The site is within a conservation area
- The design, appearance and layout is not in keeping with the local area
- Increase in traffic on a lane
- Noise and smell will be an issue to neighbouring properties
- Alpacas do not need someone living on site

The Chairman of the Western Area Planning Committee requested further letters from the neighbours to be submitted to the Local Planning Authority. Four were received and raised the following concerns:

- No evidence has been received by the Local Planning Authority that the applicant owns the other site in Frome. I have researched and no Farm Business Tenancy Agreement exists in the applicant's name. The Committee should be informed of its status following a full investigation
- The applicants main residence is in Frome which is 2.8 miles away from the site

- The applicants have a history of doing what they want without applying for planning permission
- The business plan does not include any protection against TB and the site is close to known badger setts
- It is clear from scientific literature that alpacas are no more difficult and possibly easier to look after than other livestock and are highly tolerant of cold weather. Their biology means that births tend to happen during the day relatively trouble free and twinning is rare. Alpacas show little sign of illness and therefore it is difficult to see why the applicant needs to be onsite.

The concerns above were forwarded onto the Councils Agricultural Advisor who has responded with the following comments

- There is no evidence in the business plan to indicate or verify ownership of the breeding stock and the agent stated that this was only able to view in paper copy at the site
- Based on my experience of the holding and the applicants, it is clear to me that the current proposal has only emerged in the last six months and that it represents a very significant shift from the farming policy identified as recently as May 2014
- There is no evidence that the applicant has attended courses

The Local Planning Authority put several questions to the Agent who was also made aware of the additional information received and has made the following points:

- I do not consider that the questions put forward properly reflect the views of the Western Area Planning Committee which was resolved to allow questions from the objectors to be put to Mr Coke. The Committee did not ask for questions to be put to the applicant.
- There is no requirement in national or local planning policy for the applicant to justify the timing of the submission or the timing of any change in farming practice. The NPPF encourages new enterprises, including new rural enterprises. I have never been asked by a Local Planning Authority to provide invoices for stock.
- The applicant has worked professionally with horses for 20 years and has kept sheep and pigs for 6 years while building up her knowledge and experience over the last 2 years.
- The BAS website (British Alpaca Society) states "Pregnant females with young will need a much higher level of supervision". It is clear from the BAS website that there is a difference between breeding livestock and breeding females as checking on breeding females and their young once or twice a day would be wholly contrary to the advice of the BAS.
- I would ask that the three year time limit should run from the date of determination rather than its submission. This is not the normal practice of any Council
- The applicant has strict bio-security measures in place
- I would respectfully point out that in the event of a refusal and an appeal there are several potential grounds for a successful application for costs having regard to the PPG including
 - Preventing or delaying development
 - Not accepting the advice of its specialist agricultural advisor

- Acting contrary to well established case law
- Persisting in objections to elements of the scheme found acceptable by other Inspectors
- Imposing an unreasonable condition
- Attaching too much importance to the view of third parties.

9. Planning Considerations

9.1 Principle

When assessing the application Paragraph 55 of the NPPF states: *Local planning authorities should avoid isolated new 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.*

Core Policy 48 of the WCS states: *Outside the defined limits of development..... proposals for residential workers to live at or in the immediate vicinity of their place of work in the interests of agriculture or forestry or other employment essential to the countryside. Proposals for accommodation to meet the needs of employment essential to the countryside should be supported by functional and financial evidence.*

The Agricultural Advisor employed by the Local Planning Authority has stated that *It is important to recognise that the majority of day to day tasks associated with good husbandry of the livestock, including alpacas, can be undertaken without a dwelling on site. The important exceptions to this recognition are the care of sick animals and calving. It is accepted that animals which are sick or close to, during or immediately after calving may well require essential care at short notice. It is noted that calving dates are variable, as the animals run with the stud and are not artificially inseminated and the animal shows few external signs of birthing.*

The applicants agricultural advisor states that with regards to alpacas *it is generally accepted that in order to farm alpacas properly – at a commercial scale- it is necessary to live close to the animals to ensure their well-being due to malting, abortions and still births, birth, rearing, theft, day to day management.* Due to the number of alpacas the applicants agricultural advisor is of the opinion that *there must be someone on site at most times to ensure the proper functioning of the enterprise and once up and running will require one full time worker plus a limited amount of casual assistance at peak periods.*

It is considered by that there is a firm intention and ability to develop the enterprise concerned as the alpacas are already on site and are being cared for. When assessing the functional need, the Wiltshire Councils Agricultural Advisor has stated with regards to the need for a dwelling on site that *the Planning Inspectorate in many appeal decisions has paid close attention to the variability of calving dates and the need for quick intervention at calving and as such has concluded on many occasions that the functional test is met by enterprises of equivalent size such as the application site.* The Agricultural Advisor has also stated when looking at whether the proposed enterprise and the submitted information, the business has been planned on a sound financial basis that if fully implemented and achieves the costs and returns set out, will demonstrate a viable business. The advisor also states that Planning

Inspectors have also taken into consideration in previous appeal decisions that it would be premature to reach a decision on viability at this early stage of a new business.

The applicant has stated that the functional need cannot be fulfilled by another dwelling in the immediate area due to the nature of the requirement which is that someone needs to be on site.

It is important to note that if planning permission is granted for the erection of a mobile home, permission will be granted for three years. Taking this into consideration, if approved conditions can be attached to ensure that it is for a temporary period of three years, that after three years it has to be removed and the land returned to its former use. It is important to note that no further time will be agreed for a temporary dwelling to remain on site after the three year period. It will be for the applicant to prove that a permanent dwelling meets the required tests within the next three years. Council Tax records show that the applicant moved onto the site on 3rd August. The Agent has stated that the 3 years should run from decision making, however it is clear from several site visits that the applicants business has started (pregnant alpacas, selling eggs, inviting people onto the site) and therefore it is considered appropriate to start the three years from 1st January 2015.

Several appeal decisions have been raised by third parties demonstrating why a dwelling should not be approved on the site which were already known to the Local Planning Authority. It is important to note that although there are a few appeal decisions refusing agricultural workers dwellings, there are equal amounts approving them.

Letters of objection and support raise issues such as five year housing land supply, rural, economic growth and neighbourhood plans which are not matters to be taken into consideration when making a recommendation on this application.

In principle, taking into consideration national and local policy, the agricultural advisors opinion and the wealth of appeal decision available, it is considered that the proposal should be supported. It will then be for the applicant to prove during the time period of the temporary permission that a viable business has been developed.

During the previous Western Area Planning Committee, a question was raised regarding whether the applicant – Miss Snook would be able to comply with the proposed agricultural condition requiring the occupant of the mobile home to be solely or mainly employed in agriculture. Planning Permissions are not personal, they run with the land and therefore it is not a matter for the Local Planning Authority to determine whether the proposed occupant would comply with the condition but for the owner of the land to ensure that the occupier complies with the condition. If concerns are raised during the three years regarding compliance with this condition, the Planning Enforcement Team would look into the matter and take appropriate action if necessary.

9.2 Impact upon the character and appearance of the area

The site lies within the Special Landscape Area where Saved Policy C3 states: *the landscape character of Special Landscape Areas will be conserved and enhanced and development will not be permitted which is considered to be detrimental to the high quality of these landscapes.*

The design of the mobile home and its associated paraphernalia is not considered to be appropriate to the Special Landscape Area. However, limited views of the development can be seen from Huntenhull Lane and glimpses of it through existing trees can be seen from the public footpath that runs to the rear of the site. It is important to note that when walking the public footpath to the rear of the site the existing barn does provide a backdrop to the mobile home and as such screens it to some extent. As this is for a temporary dwelling, the impact upon the wider landscape will be temporary and therefore the mobile home is considered to be appropriate. It is acknowledged that the proposal includes a day room, decking and fencing but all of these elements can be removed and are therefore considered to be temporary.

It is important to note that temporary dwellings do not have permitted development rights and therefore the applicant will not be able to extend the development subject of this proposal.

9.3 Impact upon neighbouring amenity

The mobile home is to the rear of existing residential properties. The mobile home is single storey and as such would not overshadow or overlook neighbouring dwellings. The levels and type of traffic generation and smells associated with the lawful agricultural use is not considered to be sufficient to warrant a refusal reason. The proposal is therefore considered to comply with the relevant requirements of Core Policy 57, insofar as these relate to temporary buildings.

Concerns have been raised regarding car engines and car radios being left on but neither of these can be controlled through planning legislation and as such are not material planning considerations.

9.4 Highway Impact

The proposal would not affect any public rights of way and the highways authority has raised no issues.

9.5 Other

Agricultural workers dwellings are not personal permissions and therefore the occupant of the mobile home is not a material planning consideration. Any person or persons living in the mobile home will have to comply with the planning conditions attached to any approval. It is important to note that in this particular instance there is only to be one occupant which is the applicant herself (Miss Snook) alongside her children.

Other issues raised that are not material planning considerations are the applicant being a female farmer, stock being sold from the site, press coverage, the applicants knowledge of planning legislation, the future use of the site, whether there is a need for such a use or items that are to be sold from the site. Previous planning history is a material planning consideration but the way development has happened on a site is not. It is also not possible to refuse a planning application just because it is retrospective. One person stated that the applicants could have a caravan on site whilst building the barn – this is not the case, a caravan can only be on site without planning permission when building a dwelling but in this particular case, the barn was completed before the mobile home was brought onto the site.

An objector made reference at the previous Western Area Planning Committee that they had sought advice from an Alpaca specialist who has confirmed that alpacas do not need 24 hour surveillance, – however the specialist in question has been unwilling to co-operate with the Local Planning Authority in this matter and wish to remain anonymous. Therefore the weight that can be given to their response is extremely limited.

The Local Planning Authority has been criticised for the delay in bringing this application back to the Western Area Planning Committee both by the applicant and objectors. The application was taken to the 17th December Western Area Planning Committee. An internal meeting with the Agricultural Consultant which took place on 9th January 2015 who then followed up with a written response on 29th January. On the 3rd February the Local Planning Authority emailed the Agent with a series of questions which were responded to on 20th March 2015. The response was forwarded onto the Agricultural Advisor who wrote a further written response on 30th April 2015. Unfortunately the advisor was on annual leave and therefore this missed the deadline for the May Committee. The next available meeting was the June Western Area Planning Committee Meeting. It is therefore considered that there has not been any unreasonable delay by the Local Planning Authority in processing this application.

10. Conclusion

The retrospective temporary agricultural workers dwelling complies with national and local policy and as such is recommended for approval.

It is important to re-iterate at this point that this recommendation is for temporary permission to allow the applicant to build the business. If the applicant can prove that it is sustainable within the time period allowed, she can apply to the Local Planning Authority for a permanent dwelling which will need to provide financial and functional justification in line with Core Policy 48. If the applicant is unable to prove/justify a permanent dwelling then they will need to remove the mobile home from the site as a further temporary permission would not be acceptable.

RECOMMENDATION

- 1 The development hereby permitted shall be removed and the residential use discontinued and the land restored to its former condition on or before 1st January 2018 in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of amenity, in order to secure the restoration of the land upon removal of the building/use for which permission can be justified only on the basis of a special temporary need.

- 2 The occupation of the development hereby approved shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.

REASON: The site is in an area where residential development for purposes other than the essential needs of agriculture or forestry is not normally permitted and this permission is only granted on the basis of an essential need for a new

dwelling/residential accommodation in this location having been demonstrated.

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

Drawing Number 2561/02 received by the Local Planning Authority on 7th October 2014

Drawing Number 2561/01A received by the Local Planning Authority on 2nd December 2014

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

AGRICULTURAL ASSESSMENT OF PLANNING APPLICATION FOR AN AGRICULTURAL DWELLING

| | | |
|------------|--------------------------|-----------------------------------------------------------------|
| 1.0 | REFERENCE | APA/003/106 |
| 1.1 | Proposed Development | Stationing of a rural worker's dwelling for a temporary period. |
| 1.2 | Planning Authority | Wiltshire Council Development Management West |
| 1.3 | Planning Application No. | 14/09500/FUL |
| 1.4 | Applicant | Ms S.Snook |
| 1.5 | Site Address | Sienna's Valley, Huttenhall Lane, Chapmanslade |

2.0 DESCRIPTION

2.1 Location

The site lies immediately west of Huttenhall Lane and approximately quarter of a mile south west of Chapmanslade. The site is in a valley, in open countryside.

2.2 Land area and tenure

The applicant's freehold land extends to 4.7 ha (11.6 acres) in a single block at the application site. In addition to the freehold land, the applicant also holds 0.7 ha (1.77 acres) of land near Frome, some five miles distant from the site. I understand the applicant's occupation of the away land is under a Farm Business Tenancy.

3.0 FARMING PRACTICE

Proposed

- 3.1 The land is in use as a smallholding; the applicant proposes the development of a herd of breeding alpacas, together with a herd of breeding Kune Kune pigs and egg production from a flock of hens, ducks and quail.
- 3.2 The alpacas will be kept as a breeding herd. I understand that 19 breeding females have been purchased, with the intention to develop the herd to 30 breeding females by year four of the proposed business. Progeny will be reared for sale as breeding stock (females and males) along with halter trained pets. The animals will also be kept for fibre production. The fibre will be processed and wool and garments sold.
- 3.3 Kune Kune is a breed of "micro" pig. There are two sows on site and the applicant's intention is to breed them to produce weaner pigs for sale.
- 3.4 The proposal is to introduce the poultry enterprise at year 3 of the proposed business. At this stage it is proposed to produce and retail eggs from 200 hens, 50 quail and 20 ducks.
- 3.5 The applicant keeps two Clydesdales horses and two Shetland ponies on the unit.
- 3.6 The holding is all in grass. The applicant states that the away land is also in grass. I understand the applicant is to mow and bale her own hay.

Buildings

3.7 The structures at the holding comprise:

- A three bay shed, constructed with a steel portal frame, profile sheet cladding to the upper elevations with the lower elevations open. The overall dimensions of the building are approximately 9m x 12m with 4.2m eaves.
- Two mobile timber field shelters
- Three lorry containers

4.0 EXISTING ACCOMMODATION

Dwellings owned by applicant

4.1 The applicant and her family occupy the temporary dwelling on site. The dwelling is the subject of the planning application.

5.0 LABOUR REQUIREMENTS

Existing

5.1 One unit part time

Anticipated if Proposals Undertaken

5.2 From the agricultural statement provided by the applicants the alpaca unit will generate a labour requirement of just over one and a half full time units of labour.

6.0 NPPF – ESSENTIAL REQUIREMENT

6.1 The planning application for the dwelling is associated with the proposed alpaca business. The National Planning Policy Framework (NPPF) was introduced in 2012 and replaces all previous Planning Policy Statements (PPS). In the context of the application for the proposed dwelling, paragraph 55 of the NPPF states:

“Local planning authorities should avoid new 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”

6.2 Under the NPPF it is therefore relevant to consider the requirements of the current enterprise and whether those requirements present an essential need for a worker to live at or near the enterprises.

6.3 It is important to recognise that the majority of day to day tasks associated with good husbandry of the livestock, including alpacas, can be undertaken without a dwelling on site. The important exceptions to this recognition are the care of sick animals and calving. It is accepted that animals which are sick or close to, during or immediately after calving may well require essential care at short notice. It is noted that calving dates are variable, as the animals run with the stud and are not artificially inseminated. Additionally, calving dates can be very variable, with the animal showing few external signs of birthing.

6.4 Cria, when first born are weak and require attention to ensure they receive colostrum, also that their navel is sprayed with antibacterial/antiseptic spray to prevent infection. In this regard they are no different to other domesticated stock.

6.5 It is my experience that in applying the functional test the Planning Inspectorate has paid close attention to the variability of calving dates and the need for quick intervention at calving. Accordingly there are a number of appeal decisions in which Inspectors have formed the view that the functional test is met by enterprises of an equivalent size to that set out by the applicant.

7.0 BUSINESS ASSESSMENT

- 7.1 There is no express reference in the NPPF to an assessment of either an existing or proposed business which will operate in association with the proposed rural dwelling. It is my opinion that such an assessment is critical to forming an opinion on the continuation of the “essential need”. In this case the essential need described and recognised above will only continue through the operation of the business. If the business does not operate on a profitable and viable basis then it will fail and the authority would be left with a dwelling but no “essential need” for its presence.
- 7.2 I have had sight of the applicants’ business plan for the first five years of operation. The plan sets out the projected costs and returns for the business over period. Source data for the plan is largely from published agricultural management data. The identified sale values for the alpaca appear to be in line with the current average prices indicated on the “Alpaca Seller” website.
- 7.3 Overall, it is my view that the proposed plan, if fully implemented and achieving the costs and returns set out, will demonstrate viability. In this context however it is important to note that the business is largely reliant on the sales revenue from alpacas. In recent years reported sale values for female alpacas have fallen by some 35%, however, values appear to have stabilised over the last twelve months. The whole issue of viability for a new alpaca unit was considered by the inspector in his decision letter for land at Ashley, Box (ref APP/Y3940/A/13/2200283). In his decision (20 November 2013) the inspector’s viewpoint was that the proposed business should be given a trial period on the basis that it would be premature to reach a decision on viability (paragraph 20). A copy of the decision letter is attached.

8.0 CONCLUSION AND OPINION

The proposed business is likely to generate an essential requirement for a presence on site. The business plan indicates that the proposed business can attain viability.

I trust the above provides you with the information required. If you require any further information, or clarification on the any aspect of the above, please do not hesitate to contact the writer.

A.M Coke BSc (Hons) MRICS, FAAV

Note: *This Report has been prepared on information provided by the Applicant and or the Applicant’s Agent.*

APA/001/0106/AMC

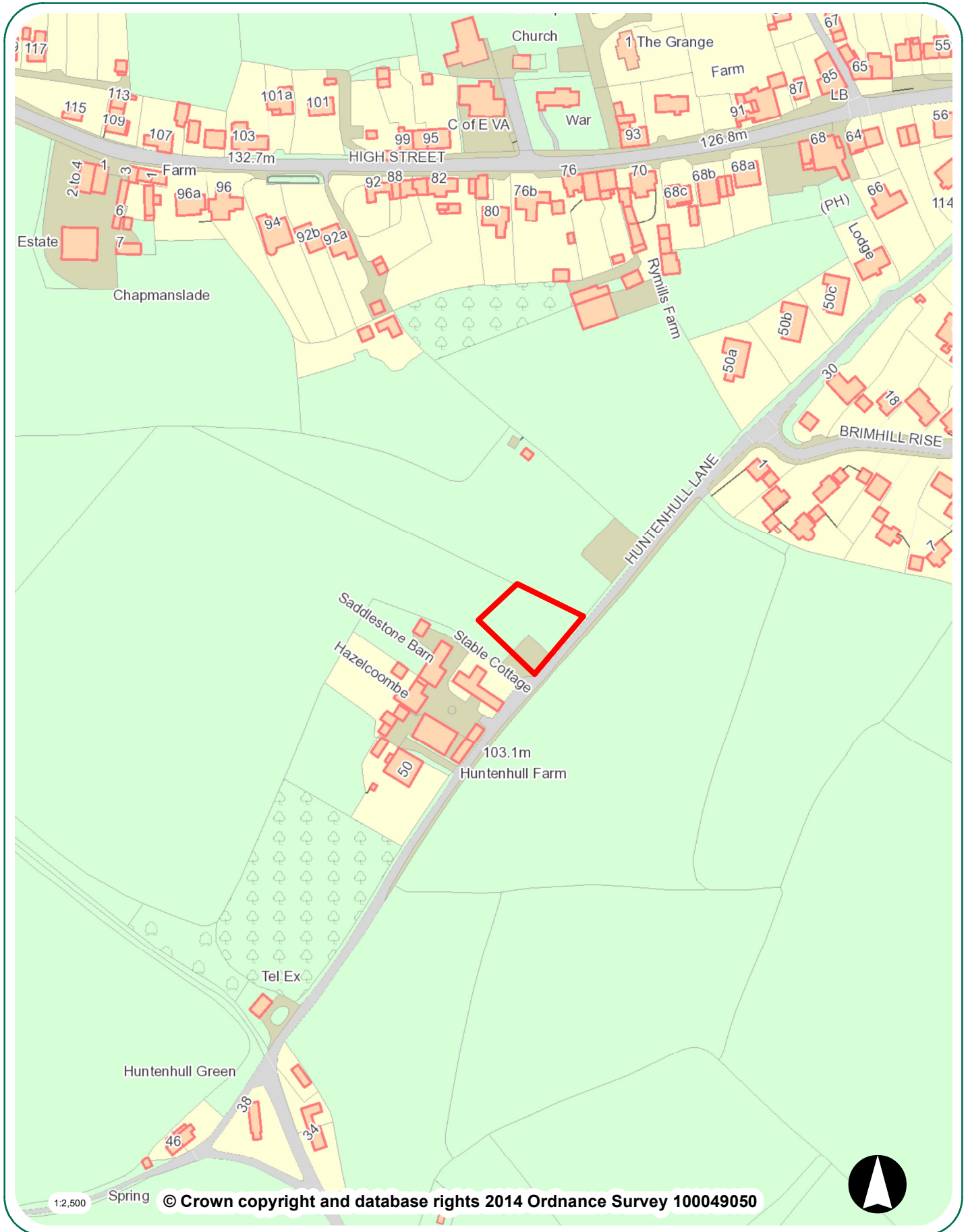
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Date 9th November 2014

APA Consultants Ltd
Halstead Farm
47 High Street
Easterton
Devizes,
SN10 4PE

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Sienna's Valley Farm
Huntenhull Lane
Chapmanslade



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REPORT FOR WESTERN AREA PLANNING COMMITTEE

Report No. 2

| | |
|----------------------------|---------------------------------------------------------------------------------|
| Date of Meeting | 10 th June 2015 |
| Site Address | Lewington Close/Longford Road, Melksham |
| Proposal | Discharge of Section 52 legal agreement under Town and County Planning Act 1971 |
| Applicant | Selwood Housing Association |
| Town/Parish Council | MELKSHAM |
| Ward | MELKSHAM SOUTH |
| Case Officer | Matthew Perks |

Members considered a report on the discharge of a Section S52 Agreement under the Town and Country Planning Act 1971 at the meeting of 20 May 2015 and resolved that:

- i) Officers should research the land charge records to ascertain whether there is an associated restrictive covenant in place; and
- ii) Officers should further clarify from researching the old microfiche records again, the reasoning for imposing the s.52 in the first place; and what the views of the current owner of the site are (in relation to discharging the s.52).

Restrictive Covenant

Whilst there is a reference at clause 2 of the S52 Agreement to an obligation to enter the necessary restrictive covenant as a Land Charge in the event of sale of the land, the Council's Local Land Charges do not have any record of any such covenant being registered,. In any case, a restrictive covenant of this nature would not itself normally be entered as a Local Land Charge but would be a matter for the Land Registry to record against the property title (see next paragraph).

From the Sale Contract document submitted by the solicitors separately representing both Mrs Hawkins and Selwood Homes it is clear that a portion of the original land containing the bungalow has been sold, with Mrs Hawkins retaining a remaining portion to the rear of No 11 Longford Road. That Sale Contract includes an extract from the Land Registry confirming that a covenant was placed on the land in 1980 in accordance with the S52 requirements. That covenant restricts development to a maximum of one dwelling the removal of which is a matter to be resolved between the seller and the buyer and is not a material planning consideration.

Mrs Hawkins

Where Mrs Hawkins still owns one of the portions of land that would form part of the development under Planning application 14/04399/FUL, i.e. land to the rear of 11 Longford Road, the solicitors acting on behalf of Mrs Hawkins have confirmed that she has agreed to allow disclosure of the content of the Sale Contract of her property to Selwood Housing Society for the purposes of resolving the issue on the S52 obligations raised by the members. That transfer document reveals clearly that, on completion of the sale, Mrs Hawkins will release the property covenants affecting 17A Longford Road that she has had registered by virtue of her obligation at Clause 2 of the S52 Agreement.

The transferring Attorneys state: *“Therefore, I hope it is clear that it was always contemplated that Mrs Hawkins would also release the property covenants of which she is a direct beneficiary (provided the Council first released the S52 Covenants themselves). Therefore, upon completion of the sale of 11 Longford Road, the S52 covenants and the corresponding property covenants will be released and extinguished.*

This confirms that from Mrs Hawkins' perspective her intention as the only remaining party to the S52 Agreement apart from the Council of agreeing to termination of the S52 Agreement. .

Microfiche Research

The original application that led to the S52 was referenced 75/01031/OUT. This was an Outline application for one dwelling. There is no officer report on the microfiche recording the deliberations of the old District Council planning committee are therefore not known. However a copy of a letter is on the film, indicating that there were discussions between the Council and the Applicant (Mr. Hawkins). In the letter the Council official states that the Planning Sub-Committee resolved to grant permission subject to the completion of the S52 Agreement to restrict the use of the site permanently to one dwelling. A further letter from Mr Hawkins confirms that he is agreeable to the restriction to one dwelling. It is noted in the Council's letter that the Committee had been informed of Mr Hawkins' willingness to enter into such an agreement and that Council's legal officer had been instructed to draw up the agreement and, that, upon completion the permission would be granted.

It is reasonable therefore to come to an informed view that the discussions with the applicant were a response to the neighbour objections at the time, but also the Committee would presumably have considered the context of the un-developed or lower density character of the immediately surrounding area. (None of the developments on adjacent land at Lewington Close [2005 and 2007] and Peel Court [2002] were in existence).

Further relevant considerations

In evaluating whether or not to discharge the S52 Agreement in the light of the above, the following considerations, repeated largely from the previous report, are also of relevance:-

Section 52 agreements were the Town and County Planning Act 1971 predecessor to what are now Section 106 agreements under the Town and Country Planning Act 1990. The enforcement/discharge/modification therefore of such Agreements are governed by general contract/planning law considerations which do not fall to be considered as Planning Applications.

Whilst Section 106A of the Town and Country Planning Act 1990 allows applicants to modify or a discharge a legal agreement those provisions do not extend to Section 52 Agreements. Planning case law indicates that as a matter of law a Section 52 Agreement can be discharged/modified by the parties that entered into that agreement (or the successor(s) in title to the original owner(s)) on a consensual basis. If there is no mutual agreement, then the matter by law needs to be referred to the Upper Lands Tribunal for a decision. In other words, unlike Section 106 agreements, there is no provision for an appeal to the Planning Inspectorate where the local planning authority is not in agreement with the discharge/modification of the S52 Agreement.

Whilst the strict provisions of S106A do not apply, the relevant case law demonstrates that the tests that the Local Planning Authority must apply where an application is submitted to discharge/modify a Section 52 Agreement are essentially the same. In this respect, it is necessary for the Local Planning Authority to consider whether the obligation continues to serve a useful purpose. In the event that it is concluded on an objective basis that the obligation no longer serves a useful purpose then the obligation is required to be discharged. Alternatively, if it is considered by the Local Planning Authority that the obligation does continue to serve a useful purpose then the planning obligation should continue to remain in force with or without modification.

When considering if a useful purpose is being served by the obligation, case law indicates that issues to be taken into account include current planning policies and whether the overall planning circumstances of an area have changed since the obligations were first imposed.

The NPPF in addition states in Para. 205: *“Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.”* As a result, the applicant’s request to discharge the Section 52 Agreement should be considered against the tests referred to above, that is whether the obligation(s) continue to serve a useful purpose.

Subsequent to the 1976 agreement and under the old West Wiltshire District Council the site was included within the development limits for Melksham under two Development Plans, being the 1996 District Wide Local Plan and the West Wiltshire District Plan, 1st Alteration 2004. These development limits are carried through to the now adopted Core Strategy. The only constraint ever placed to development under the West Wilts plans at least from 1996 was a Policy aimed at protecting the old route of the Wilts & Berks Canal through Melksham, with a possible view to re-instating it. This was in turn captured in the old West Wiltshire Leisure and Recreation DPD.

The Core Strategy has now abandoned the concept of re-instating the old route of the canal under Core Policy 53, where the supporting text states that “The historic alignment of the Wilts and Berks canal through Melksham is no longer suitable for reinstatement as a canal, and an alternative route has been identified (see Core Policy 16: Melksham Link Project).” The canal route thus no longer comprises a reason to limit development on the site.

The site has been within Melksham development limits, i.e. by definition in a sustainable locality in terms of Local Policy since at least 1996 and in particular in terms of the NPPF. On surrounding land there has been a significant extent of infill of residential housing, to the west with the Peel Court cul-de-sac replacing the old Police Station and its grounds in 2002, and to the north the Lewington Close developments in 2005 and 2007.

Although the discharge of the S52 Agreement and the Planning Application under 14/04399/FUL are separate matters to be considered, it is relevant that, in respect of the latter, a development was negotiated so to be reasonable and feasible on the site without unacceptable harm to neighbouring properties, and Melksham Town Council supported the application, albeit recording neighbour concerns. Neighbour objections were recorded in the 14/04399/FUL report and issues such as ecology, tree planting, privacy, overshadowing and highways that were raised were addressed either by condition or by negotiation to provide a layout that adheres to acceptable planning standards.

The site is not in an area subject to a special designation such as a Conservation Area so there is no heritage reason for maintaining the open space. The space is not accessible to public use, being private property. The issue of preserving a view is not a planning consideration and appropriate separation distances between buildings were achieved. The restriction to one dwelling unit in those respects no longer serves a useful purpose such that not discharging the S52 Agreement would effectively stall development of the site (without any Planning Policy in place to justify it) in perpetuity, or until it was agreed to discharge the obligation some time in the future.

For the reasons previously mentioned, it is not possible to know exactly what the considerations were when the S52 Agreement was originally proposed, but if it is taken that it was the result of members at the time considering neighbour objections in the context of the then less dense level of development immediately surrounding the site, then it is clear that subsequent changes to Policy and surrounding circumstances have rendered the need for such a restriction wholly redundant.

In terms of Local Development plan policy the site has long been within development limits and no policy was ever adopted to reflect the constraints inherent to the S52 restrictions on the site. It is therefore considered that the S52 Agreement no longer serves a useful purpose

RECOMMENDATION

That the obligation, the subject of this application, no longer serves a useful purpose and therefore that no objection be raised by members in Committee to the Discharge of

the Section 52 Agreement by virtue of which officers are authorised to proceed with the necessary actions.

Appendices

A Copy of Section 52 Agreement

Appendix A : Copy of Section 52 Agreement

1975 DC
27/5/75
THIS AGREEMENT is made the *twenty second* day of *June*
One thousand nine hundred and seventy-six BETWEEN THE WEST WILTSHIRE
DISTRICT COUNCIL (hereinafter called "the Council") of Bradley Road
Trowbridge in the County of Wilts of the one part and ARTHUR HAWKINS
AND VIOLET JOAN HAWKINS
(hereinafter called "the Owner") of 11 Longford Road Melksham in the
said County of Wilts of the other part



WHEREAS:-

- (1) The Council is empowered by Section 52 of the Town and Country Planning Act 1971 to enter into an agreement with any person interested in land in their area for the purpose of restricting or regulating the development or use of the land
- (2) The Owner is seized in unincumbered fee simple in possession of an area of land (hereinafter called "the said land") 0.30 hectares in extent situate adjoining No. 11 Longford Road Melksham in the District of West Wiltshire in the County of Wilts the said land being shown for the purposes of identification only edged blue on the plan annexed hereto
- (3) On the tenth day of November One thousand nine hundred and seventy-five the Owner submitted to the Council an application (hereinafter called "the said application") under the Council's Reference W75 1031 for planning permission for the erection of a dwelling on the said land
- (4) The Council have resolved to grant planning permission (hereinafter called "the said permission") to the Owner (subject to conditions) in pursuance of the said application subject to the Owner by this Agreement agreeing to restrict the development of the said land permanently to one dwelling
- (5) The Council and the Owner have agreed to enter into this Agreement

for the purposes of Section 52 of the Town and Country Planning Act
1971 for the purpose of restricting and regulating the development
use of the said land _____

NOW THIS DEED WITNESSETH as follows:7

1. The Owner for the purposes of Section 52 of the Town and Country
Planning Act 1971 and with the intention of binding himself and all
persons deriving title under him to the said land or any part thereof
hereby agrees with the Council that he the Owner will restrict the
development of the said land permanently to one dwelling _____
2. The Owner shall on effecting any sale of the said land impose the
necessary restrictive covenant which shall be duly registered as a
Land Charge entry having done so the Owner shall not be personally
liable for any breach of the provisions of this Agreement after he
shall have parted with the legal estate in the said land _____
3. The expression "the Council" and "the Owner" shall include their
respective successors in title and assigns _____

IN WITNESS whereof the Council has caused its Common Seal to be
hereunto affixed and the Owner has set his hand and seal the day and
year first before written _____

THE COMMON SEAL of the COUNCIL was)
:)
hereunto affixed in the presence of:-)



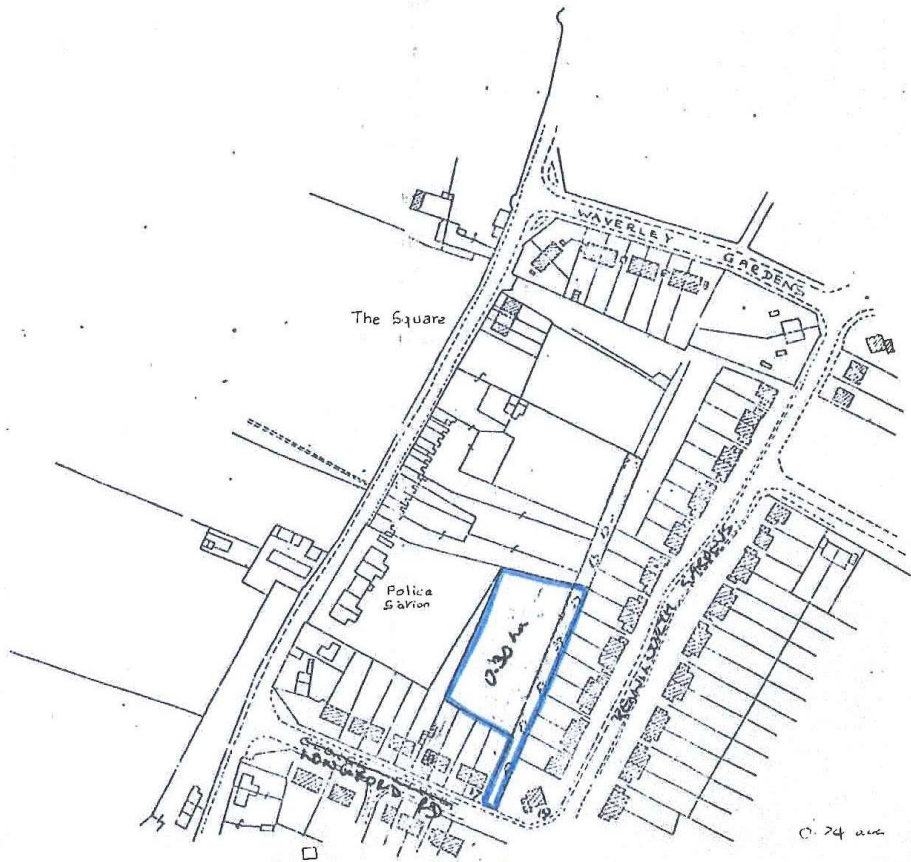
Douglas Wogan
Member

Alan Caspary
Director of Administrative Services

05208

WPT031

Plan referred to



0.74 acres

ole *ke*

Scale 1/2500

WEST WILTSHIRE
DISTRICT COUNCIL
DEVELOPMENT
SERVICES

SIGNED SEALED AND DELIVERED by the)
OWNER in the presence of:-)

Witness Name:

Arthur Hawkins

Address

W. Bannell
10 West End
Melksham
Wilts

Occupation:

Retired Town Clerk

V. J. Hawkins

Witness Name:

W. Bannell

Address:

10 West End
Melksham
Wilts

Occupation:

Retired Town Clerk

MEMORANDUM

BY CONVEYANCE dated the 4th day of March 1980 and made between Arthur Stanley Hawkins and Violet Joan Hawkins of the one part and Leslie Clark and Carol Anne Clark of the other part a piece or parcel of land forming the larger part of the piece or parcel of land referred to as delineated and coloured pink in the plan drawn on the Conveyance of 28th November 1947 referred to in the within deed and being situate at the rear of Number 11 (formerly 28) Longford Road Melksham in the County of Wilts was conveyed to the said Leslie Clark and Carol Anne Clark for an estate in fee simple and inter alia their right to production and delivery of copies of the within deed was thereby acknowledged and the said Leslie Clark and Carol Anne Clark duly entered into a restrictive covenant limiting development of the said piece or parcel of land to one dwellinghouse.

DATED 22nd June 1976

WEST WILTSHIRE DISTRICT COUNCIL

and

ARTHUR HAWKINS

A G R E E M E N T

under S.52, Town and Country
Planning Act 1971

A.D.Sawyer,
Chief Legal Officer,
West Wiltshire District Council,
Bradley Road,
Trowbridge, Wilts.

WILTSHIRE COUNCIL

WESTERN AREA PLANNING COMMITTEE

Date: 10th June 2015

Subject: Hollow Hill Farm, Sutton End, Crockerton, Wiltshire

Purpose of Report

1. To update/inform members of the outcome in respect of this planning enforcement case.

Background

2. The site is in open countryside south of Warminster. In January 2013, the Council received a complaint regarding persons living on the site in two caravans. At a subsequent site visit, it was established that two individuals were living on the site, which was also being used to store building rubble, bricks, stone, wood, plastic sheeting, plastic containers, scrap metal and aluminium beer kegs and which was also strewn with rubbish and detritus.
3. Officers negotiated with the persons occupying the caravans and persons representing the absent owners over several months. However negotiations did not remedy the breaches of planning control and an Enforcement Notice was issued on 1st April 2014 requiring residential occupancy to cease, removal of the caravans and the stored items.
4. No appeal was made against the Notice. When the period for compliance ended and after the site was revisited in November 2014, it was established that whilst occupation of the site had ceased, the caravans were still present and none of the other steps required by the Notice had been taken.
5. At this stage, the Council either had the option of prosecuting the owner of the site or carrying out the works itself in default of compliance.
6. For various reasons, including the difficulties in locating the owners, together with the primary role of enforcement being one of achieving compliance, it was considered that direct action was expedient in this case and a contractor was approached regarding the undertaking of the work required by the Notice.

Appearance of the site prior to direct action:



Appearance after direct action:



7. Clearance works on the site were undertaken on 14th April. A charge (£3, 570) will now be placed on the site, in order to recover the

expenditure incurred in instructing a contractor to carry out the work. The charge will be payable to the Council in the eventuality that the site changes ownership in the future.

8. Unlike some nearby authorities, the Council has no specific budget for undertaking direct action of this nature and had to rely in this instance on another source of funding which may not always be available. Undertaking direct action sends a strong signal to persons in breach of formal Notices and who may, for whatever reason, not be deterred by a fine and criminal conviction, that the Council is determined to resolve such breaches. It may also be regarded as a relatively cost effective way of resolving planning breaches, involving commitment of a relatively small sum of money in most cases, with the prospect of the expenditure being recovered in the medium to long term.

Recommendation:

That Members note the report.

Report Authors: Stephen Hawkins, Enforcement Team Leader.

Date of report: 22nd May 2015.

Background Papers

The following unpublished documents have been relied on in the preparation of this report: None.

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