

<b>Deadline</b>	<b>17<sup>th</sup> June 2010</b>		
<b>Application Number:</b>	<b>S/2010/0615</b>		
<b>Site Address:</b>	<b>BURTON FARMHOUSE BURTON MERE WARMINSTER BA12 6BR</b>		
<b>Proposal:</b>	<b>CHANGE OF USE OF OUTBUILDING TO RESIDENTIAL ANNEXE ANCILLARY TO BURTON FARMHOUSE</b>		
<b>Applicant/ Agent:</b>	<b>MR STEVEN NEAL</b>		
<b>Parish:</b>	<b>MERE</b>		
<b>Grid Reference:</b>	<b>382498.8 132419.7</b>		
<b>Type of Application:</b>	<b>CU</b>		
<b>Conservation Area:</b>		<b>LB Grade:</b>	
<b>Case Officer:</b>	<b>Mr W Simmonds</b>	<b>Contact Number:</b>	<b>01722 434553</b>

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

The proposal was previously considered by the Southern Area planning Committee on 3 June 2010, and the committee resolved to approve the proposal if, within three months, the applicant and any other relevant parties undertook a deed of variation to the existing legal agreement under section 106 of the principal act to agree to permit overnight sleeping in the annexe only so long as one or other (or both) of the named residents are also in residence (the named residents of the annexe are Mr John Harold Deeker and Mrs Pamela Iris Deeker). The other restrictions and provisos of the existing legal agreement shall remain unaltered.

The application is brought back to Committee to seek an extension of the time limit for undertaking a variation of the existing legal agreement as previously described. The process of undertaking the required deed of variation is well under way, however by reason of circumstances beyond the applicant's control, it may not be possible to comply with the three month time limit.

Members therefore have several options:

Option 1: Agree to the extension of time. Officers are hopeful that the agreement can be finalised and agreed within the next 3 months at the very latest, and hence this option will result in completion of the agreement and the issuing of planning consent.

Option 2: Do not agree the extension of time. The outcome will be that the S106 cannot be completed and as a result, the application will have to be refused. Officers strongly advise against this course of action, particularly as the applicants are willing to sign up the restriction within the legal agreement.

Recommendation: That Option 1 is followed. An extension of the three month time limit is therefore respectfully requested.

The original officer report for Committee (as put before Members on 03.06.10) remains unaltered and is set out below for clarity:

## 1. Purpose of Report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions

## 2. Main Issues

The main issues to consider are :

1. The principle of the proposed development
2. Impact on the surrounding Special Landscape Area
3. Highways considerations
4. Impact on nature conservation interests
5. Impact on neighbour amenity

## 3. Site Description

The application relates to a detached outbuilding on land that is immediately adjacent to Burton Farmhouse, being situated approximately 20 metres to the south of Burton Farmhouse. The outbuilding has been previously converted to an ancillary domestic outbuilding under planning approval S/06/2006, and subsequently occupied as a residential annexe to the main dwelling (Burton Farmhouse). The occupation of the converted outbuilding as a residential annexe is considered to exceed the consent granted under the 2006 approval, and is in contradiction to the section 106 legal agreement dated 24 November 2006 which precludes the use of the annexe for the purpose of sleeping.

## 4. Planning History

02/348	New porch to replace existing awning	AC	28.03.02
05/1097	Proposed replacement barn for hobbies studio	REF	02.08.05
06/2006	C/U of agricultural barn to domestic use ancillary to main house	AC	27.11.06
07/1728	Proposed grain store.	AC	18.10.07
10/0399	Deed of variation to section 106 agreement pursuant to planning permission S/2006/2006	WD	16.04.10

## 5. The Proposal

The application is retrospective and proposes the change of use of the outbuilding to allow its use as a residential annexe ancillary to Burton Farmhouse.

## **6. Planning Policy**

- adopted (saved) local plan policy G2 (General Criteria for Development)
- adopted (saved) local plan policy H33 (Accommodation for Dependent Persons)
- adopted (saved) local plan policy C2 (Development in the Countryside)
- adopted (saved) local plan policy C6 (Landscape Conservation)

## **7. Consultations**

### ***WCC Highways***

No response received at time of writing

### ***Environmental Health***

No response received at time of writing

### ***Mere Parish Council***

No response received at time of writing

## **8. Publicity**

The application was advertised by site notice and neighbour notification letters  
Expiry date 27.05.10

No third party representations had been received at the time of writing

## **9. Planning Considerations**

### ***9.1 The principle of the proposed development***

The application is retrospective and proposes the change of use of the outbuilding to allow its use as a residential annexe ancillary to Burton Farmhouse.

The application relates to a detached outbuilding on land that is immediately adjacent to Burton Farmhouse, being situated approximately 20 metres to the south of Burton Farmhouse. The outbuilding has been previously converted to an ancillary domestic 'hobby use' outbuilding under planning approval S/06/2006, but has subsequently become occupied as a residential annexe to the main dwelling (Burton Farmhouse). The occupation of the converted outbuilding as a residential annexe is considered to exceed the consent granted under the 2006 approval, and is in contradiction to the section 106 legal agreement dated 24 November 2006 which precludes the use of the annexe for the purpose of sleeping.

The annexe is understood to be occupied by the elderly parents of the occupants of the main dwellinghouse.

The main policy consideration in respect of the provision of accommodation for dependent persons is set out within policy H33 which states:

Proposals to create separate units of accommodation for dependent persons will be permitted provided that either:

(i) the accommodation is created wholly or partly within the existing dwelling or takes the form of an extension to that dwelling;

(ii) the design and internal arrangement of the proposed unit of accommodation would allow it to be re-absorbed into the main dwelling when it is no longer required to house a dependent person; and

(iii) where an extension is proposed, its siting and design is acceptable and the remaining external space around the building is adequate

or,

(iv) the accommodation is created as a result of a conversion of an existing building within the curtilage of the main dwelling; and

(v) is subject to a restrictive occupancy condition or, if outside a Housing Policy Boundary, Housing Restraint Area, Special Restraint Area or New Forest Housing Policy Area, is subject to the applicant entering into a legal agreement with the Local Planning Authority that the ancillary accommodation will not be let or sold separately from the main dwelling.

As the annexe is not within the residential curtilage of the main dwelling, the proposal is discordant with policy H33, however the application is retrospective and is in current occupation by dependent relatives of the occupants of the main dwelling. As such, consideration of the interests of the occupants of the annexe constitutes a material consideration.

No physical alterations or enlargements are proposed to the annexe building.

Whilst the use of the annexe for residential accommodation for dependent persons is considered contrary to policy H33, the 2006 planning approval would allow all other activities by dependent relatives that were ancillary to the occupation of the main dwelling, with the exception of sleeping.

The reason for the 'no sleeping' clause in the section 106 schedule is to guard against the use of the annexe as a separate unit of residential accommodation, and to prevent the establishment of a separate dwellinghouse in the countryside. However, by reason of the nature of the existing use, i.e. by dependent relatives of the occupants of the main dwelling, is not considered to constitute the creation of a separate planning unit (separate dwellinghouse) whilst it is occupied on this basis.

Therefore, taking into consideration the interests and circumstances of the existing occupiers of the annexe, the continued use of the annexe for residential purposes by dependent relatives of the main dwelling is considered acceptable on the basis of a personal permission, and to revert to ancillary 'hobby room' at such time as the use of the accommodation by the named dependent relative(s) is no longer required.

### **9.2 Impact on neighbour amenity**

By reason of the distance and relationship between the annexe and the main dwelling, and the distance to the nearest neighbouring residential properties to the north (Hillock, approximately 75 metres from the annexe) and west (Burton Grange, approximately 90 metres from the annexe), it is considered the proposed development would not unduly disturb, interfere, conflict with or overlook adjoining dwellings or uses to the detriment of existing occupiers.

### **9.3 Impact on the surrounding Special Landscape Area**

The application is retrospective and no physical alterations or enlargements are proposed.

On the basis of a personal permission, it is considered that the proposal would have no adverse impact on the landscape of the surrounding Special Landscape Area.

## **10. Conclusion**

Whilst the use of the annexe for residential accommodation for dependent persons is considered contrary to policy H33, the 2006 planning approval would allow all other activities by dependent relatives that were ancillary to the occupation of the main dwelling, with the exception of sleeping.

The reason for the 'no sleeping' clause in the section 106 schedule is to guard against the use of the annexe as a separate unit of residential accommodation, and to prevent the establishment of a separate dwellinghouse in the countryside. However, by reason of the nature of the existing use, i.e. by dependent relatives of the occupants of the main dwelling, is not considered to constitute the creation of a separate planning unit (separate dwellinghouse) whilst it is occupied on this basis.

Therefore, taking into consideration the interests and circumstances of the existing occupiers of the annexe, the continued use of the annexe for residential purposes by dependent relatives of the main dwelling is considered acceptable on the basis of a personal permission, and to revert to ancillary 'hobby room' at such time as the use of the accommodation by the named dependent relative(s) is no longer required.

The proposed development would not adversely affect the amenity of neighbours or visual amenity within the surrounding Special Landscape Area.

## **Recommendation**

### **Subject to:**

- (i) No additional consultation or third party responses being received that would raise material planning issues which would affect the planning decision, and
- (ii) The applicants entering into a Section 106 legal agreement to ensure that the annexe and Burton Farmhouse are not sold separately from the land or each other, not let separately from the land or each other, not leased separately from the land or each other,

not occupied other than in conjunction with the land and each other as ancillary accommodation to Burton Farmhouse or otherwise be dealt with separately from the land or each other, and that the annexe shall not have a separate curtilage formed around it,

**It is recommended that planning permission is GRANTED for the following reason:**

Whilst the use of the annexe for residential accommodation for dependent persons is considered contrary to policy H33, the 2006 planning approval would allow all other activities by dependent relatives that were ancillary to the occupation of the main dwelling, with the exception of sleeping.

The reason for the 'no sleeping' clause in the section 106 schedule is to guard against the use of the annexe as a separate unit of residential accommodation, and to prevent the establishment of a separate dwellinghouse in the countryside. However, by reason of the nature of the existing use, i.e. by dependent relatives of the occupants of the main dwelling, is not considered to constitute the creation of a separate planning unit (separate dwellinghouse) whilst it is occupied on this basis.

Therefore, taking into consideration the interests and circumstances of the existing occupiers of the annexe, the continued use of the annexe for residential purposes by dependent relatives of the main dwelling is considered acceptable on the basis of a personal permission, and to revert to ancillary 'hobby room' at such time as the use of the accommodation by the named dependent relative(s) is no longer required.

The proposed development would not adversely affect the amenity of neighbours or visual amenity within the surrounding Special Landscape Area.

**And subject to the following conditions:**

1. The residential occupation of the ancillary outbuilding/annexe hereby permitted shall only be by the following person(s): Mr John Harold Deeker & Mrs Pamela Iris Deeker

REASON: Permission would not normally be granted for this development, but regard has been paid to the personal circumstances of the applicant which are considered, exceptionally in this case, to be sufficient to outweigh the normal planning policy considerations which would normally lead to a refusal of planning permission.

POLICY – H33 (Accommodation for Dependent Persons)

2. When the ancillary outbuilding/annexe ceases to be residentially occupied by those named in condition 1 above, the use hereby permitted shall revert to ancillary private and domestic purposes incidental to the enjoyment of the associated dwelling (known as Burton Farm House), and shall not be used for any trade, business or industrial purposes whatsoever.

REASON: Permission would not normally be granted for this development, but regard has been paid to the personal circumstances of the applicant which are considered, exceptionally in this case, to be sufficient to outweigh the normal planning policy considerations which would normally lead to a refusal of planning permission.

POLICY – G2 (General Criteria for Development) & C2 (Development in the Countryside)

<b>Appendices:</b>	None
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<b>Background documents used in the preparation of this report:</b>	None
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Site Visit:

