

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.