

Application Report

Strategic Development & Planning
Place Services
North Devon Council
Lynton House, Commercial Road,
Barnstaple, EX31 1DG



Application No: 72194
Application Type: Full Application
Parish/Ward: WEST ANSTEY/BISHOPS NYMPTON
Location: Greenwood Farm
West Anstey
South Molton
Devon
EX36 3PE
Proposal: Continued siting of a mobile home to be used as a dwelling beyond temporarily consented period
Agent: Mr Graham Townsend
Applicant: Mr & Mrs P Carr
Planning Case Officer: Mrs D. Butler
Application Expiry: 18 November 2020
Ext Of Time Expiry:
Publicity Expiry: 13 November 2020
Departure: N
EIA Development: N
EIA Conclusion: Development is outside the scope of the Regulations
Decision Level/Reason for Report to Committee: The application has been called to planning committee by to allow for an open discussion regarding the viability of the holding given the planning history of the site.

Site Description

Greenwoods is located to the north of Yeo Mill and is sited in a relatively isolated rural location characterised by sporadic farmsteads. The land rises up from south to north with the property siting in a levelled area consisting of the dwelling private garden, parking area and adjacent agricultural barn.

Recommendation

REFUSED

Legal Agreement Required: No

Planning History

Reference	Proposal	Decision	Decision Date
52233	Siting of 1 temporary agricultural workers dwelling at Near Woods Farm, Yeo Mill, West Anstey, EX36 3PE	Full Planning Approval	22 September 2011

Reference	Proposal	Decision	Decision Date
70442	Application for a Lawful Development Certificate for breach of condition 4 (temporary permission under application 52233) at Greenwood Farm West Anstey South Molton Devon EX36 3PE	Withdrawn Invalid	30 September 2019
70648	Application for a Lawful Development Certificate for existing use as a permanent dwelling in breach of planning condition 4 attached to planning permission 52233 at Greenwood Farm West Anstey South Molton Devon EX36 3PE	Refused	10 January 2020
71475	Retrospective application for the continued siting of one mobile home to be used as a dwelling at Greenwood Farm West Anstey South Molton Devon EX36 3PE	Declined to determine	7 August 2020

Constraints / Planning Policy

Constraint / Local Plan Policy

Advert Control Area Area of Special Advert Control
Class III Road

Landscape Character is: 3D Upland River Valleys

Non Mains Drainage Site: 52233

Unclassified Road

Within Adopted Unesco Biosphere Transition (ST14)

Within:, SSSI 5KM Buffer in North Devon (Exmoor NP),

Within:, SSSI 5KM Buffer in North Devon,

Within:Culm Grasslands, SAC 10KM Buffer if agricultural development consider need for AQIA

Within:Exmoor and Quantock Oakwoods, SAC 10KM

Buffer if agricultural development consider need for AQIA

Within:Exmoor Heaths, SAC 10KM Buffer if agricultural development consider need for AQIA

SSSI Impact Risk Consultation Area

Distance (Metres)

Within constraint

DM01 - Amenity Considerations

DM02 - Environmental Protection

DM04 - Design Principles

DM05 - Highways

DM06 - Parking Provision

DM08 - Biodiversity and Geodiversity

DM08A - Landscape and Seascape Character

DM14 - Rural Economy

DM28 - Rural Worker Accommodation

ST01 - Principles of Sustainable Development

ST07 - Spatial Development Strategy for Northern

Devon's Rural Area

Consultees

Name	Comment
Building Control Manager	No comments received.
Councillor E Ley Reply Received 28 October 2020	Wishes to be kept informed of anything relevant.
Environmental Health Manager Reply Received 22 October 2020	No objections but advisory note is recommended regarding foul drainage.
Sustainability Officer	No comments received.
West Anstey Parish Council Reply Received 5 November 2020	The parish voted to support the application at an extraordinary meeting held on the 4th July 2011. However since that time questions have been raised as to the relevant clauses and conditions not being adhered to which allowed this consent in the original application.

Neighbours

Comments	No Objection	Object	Petition	No. Signatures
0.00	1	0.00	0.00	0.00

Considerations

Proposal Description

This application seeks detailed planning permission for the erection of a permanent rural workers dwelling.

Permission 52233 was granted in 2011 for the siting of one temporary agricultural workers dwelling. This remains on site and the applicants have continued to live in the building.

Most recently a certificate of lawful development was refused due to the lack of there having been a breach of planning for 10 years or more. This lead to the issuing of an Enforcement notice which is still extant.

The current application is seeking to try and regularise the living situation of the applicants.

Planning Considerations Summary

- Principle of the development
- Design
- Amenity
- Landscape and setting
- Ecology
- Highways
- Flood risk and drainage
- Others

Planning Considerations

In the determination of a planning application Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant. It states that for the purpose of any determination to be made under the planning Acts, the determination is to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for this area includes the Devon Waste Plan and North Devon and Torridge Local Plan. The relevant Policies are detailed above.

The National Planning Policy Framework (NPPF) is a material consideration.

Principle of the development

Paragraph 79 of the NPPF and Policy DM28 of the NDTLP States that provision of accommodation in the countryside for a rural worker will be supported where there is an essential operational need for a full time worker to be resident at or near the place of work, the scale is appropriate for the rural enterprise and the needs cannot be met by any other means.

Financial justification:

The Rural Workers Dwelling Supplementary Planning Guidance states that when considering an application for a permanent rural workers dwelling the rural enterprise needs to have been established for at least three years and profitable in at least one of those three years, is currently financially sound and has a clear prospect of remaining so.

The applicants were advised in 2013 that in order to achieve a retention of the dwelling that they would need demonstrate three years or accounts to show that there is a profitable and sustainable business. Following the submission of the application advice from an external consultant was sought by the LPA. Following receipt of that report and assessment of the application documents and history the following conclusions have been made:

Functional justification:

When considering an application for a permanent rural workers dwelling there needs to be a clear functional need for a rural worker to live at or near to the place of work. This is usually justified through a standard man day calculation.

The applicants originally had a dairy herd of 60 cows and followers. It was proposed that the business would be expanded to the following:

60 x 24 month and in calf heifers

30 x 12-24 month dairy replacements

60 x 0-12 month calves

With the aim to rear and sell 60 Friesian heifers per year.

The Applicant has 64 in-calf heifers, 31 dairy replacements (12-24 months) and 63 dairy replacements (under 12 months) which is in keeping with the proposed projections.

The Planning Statement provides very little detail on the 'Functional Need', referring only briefly to a contract rearing enterprise.

The Functional Test should be assessed by reference to a Standard Man Day (SMD) or Standard Man Hour (SMH) calculation, along with a review of the practical processes relating to the farming activities. Labour requirement was shown on the original planning application for temporary permission at 278 SMD however details regarding this have not been included. The calculation carried out has therefore been based on the assumption that the numbers of livestock as set out above are on the holding at any one time.

In referring to the John Nix ('Nix') Pocket Book for Farm Management, this provides a SMH calculation of 2,938, compared against the accepted principle of 2,200 man hours per annum provides a requirement of 1.33 workers. Looking at a SMD calculation also within 'Nix', this provides a requirement of 1.54 workers. There are other methods of calculations which result in a lower labour requirement however for the sake of consistency the LPA is happy to accept the 1.54 worker calculation.

Typically, calving would add considerably to the requirement to be on the holding 24 hours a day, on a year round basis however the LPA has not been provided with any detail relating to availability of farm buildings and general infrastructure on the holding. There is no information as to whether the in-calf heifers are calved at the farm or transported back to their main holding for calving. The main building on the holding adjacent to the site of the dwelling would not be capable of overwintering the entire herd.

It is noted that within the documents for the original temporary permission that the applicants only owned two buildings capable of housing 90 head of reared stock and there is no information regarding any investment into any further buildings since then. This therefore indicates that the livestock is either only summer grazed or a small proportion winter housed.

The other activities alluded to within the Profit & Loss Accounts such as silage and contract work, including shoeing do not add to the 'functional need' since the Applicant could reside anywhere and carry out these activities.

The conclusion therefore relating to the Functional Test is that it is certainly not currently proven, based upon the information supplied by the Applicant, which is insufficient to properly analyse the functional needs of the farm, both by reference to a SMD or SMH calculation and review of the practical processes relating to the farming activities.

Financial justification:

The Planning Statement provides only a very brief comment on financial sustainability, suggesting the business is well established and profitable. The Summarised Trading & Profit & Loss Accounts relate to years ending 30th April 2019, 2018 and 2017

Looking at turnover figures, it is clear the business relies heavily upon income generated from silage (presumably the making and selling of silage) and contract work including shoeing. The contract work, including shoeing, should not be included within the Financial Test assessment as they do not contribute to the functional need. The silage income has been left in for the purposes of the assessment given that on balance it is part of the agricultural business.

The planning statement says that *“the contract rearing element along with the subsidy income received off the back of it generates the majority of the net profit representing the return to unpaid labour.”* The accounts provided however actually show most of the profit arising from the contract work.

Removing the contract work including shoeing, leaves the business in a break even, or loss making position. Therefore, the business cannot be considered to be profitable, as suggested within the Planning Statement and does not fulfil the criteria of one year’s profit in the last three trading years.

Some of the costs are set relatively low. For example expenditure on vet and medicine is shown as £3 per animal, whereas ‘Nix’ suggests at least £13 for the younger stock and up to £28 for in-calf heifers. It might be that the owner of the animals pays towards this cost (as part of the contract rearing arrangement) but the LPA has not been provided with any details around this issue or breakdown of these costs.

Another example is Council Tax shown only as £398 in the last year, which is low compared against even a Band ‘A’ property, albeit there may be some discounts applied due to age/occupation of the Applicant.

The accounts do not appear to be audited accounts and the notes suggest the Applicant relies also upon other forms of income, including state and private pensions. Should an accountant forensically examine the cost of sales and expenditure, then these figures could potentially be increased by a significant sum, further confirming that the business cannot be considered to be well established and profitable. It is therefore considered that the Financial Test has not been fulfilled.

Following the receipt of the consultant’s response the applicants have provided some further accounts which show a net profit. The LPA are not questioning the profit or level of profit, the issue is still discerning the functional need for a dwelling. The agent has said that he sees no value in “desegregating each part of the business” but this still doesn’t change the fact that the majority of the profit relates to elements that do not generate a functional need such as farriering/contracting.

Whilst the agent has had another agricultural consultant looked at the enterprise and concluded that living on site is necessary due to the way the holding functions and that this is not always possible to demonstrate from a handbook they have not provided this

in writing or in the form of an updated agricultural statement so we are still no clearer on how it functions.

Again they have advised they would like a personal permission but the LPA have made it clear that this is not supported and should not be used in this circumstance.

Design

Policy DMO4 of the NDTLP supports good design and the integration of new development into the natural, built and historic environment. There would not be any changes to the existing single storey dwelling which is of a modest size (12.2 m x 6.1 m) representing a floor area less than 75 square metres. It is of an appropriate size to meet the needs of the present agricultural enterprise and would be in accordance with the size limitations set out in the rural workers accommodation SPD.

Amenity

Policies DM01 and DM27 of the NDTLP seek to protect the amenity of any neighbouring property. There are no immediate neighbours and no impact on amenity.

Landscape and setting

Policy DM08A states that development should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes. There are long distance views across the landscape to the south however the permanency of the dwelling would not result in any further harm than that already experienced.

Ecology

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017).

Paragraph 175 of the NPPF and policy DM08 of the NDTLP states that adverse impact on protected species should be avoided where possible and sufficient mitigation used. There would not be any changes to the physical structure of the building and as such no impact on wildlife.

Flood Risk and Drainage

Policy ST03 states that development should be located to minimise flood risk.

Highways

Policy DM05 of the NDTLP states that all development must ensure safe vehicular access and protects all users of the highway. The property will utilise the existing access and farm entrance which has adequate visibility onto the lane. There would not

be any significant increase in movements to and from the site that would result in any harm to the functioning and safety of the highway network.

Others

It has been questioned whether a personal permission could be granted however in order to do this the LPA would need to be convinced there are special circumstances which outweigh the harm. The applicants have not successfully demonstrated an exceptional need for a rural worker to live on site and as such the development is contrary to the policies of the Local Plan. There are other more sustainable locations in the vicinity which the applicants could live. The LPA does not consider that a personal permission would be appropriate in this instance.

Conclusion

Having considered all matters raised and assessment of the application documents the LPA remain unconvinced there is sufficient justification for a rural worker to live permanently at the site and the proposal fails to comply with Policy DM28 of the North Devon and Torridge Local Plan and the Rural Workers' Dwellings Supplementary Planning Document and guidance contained within the Framework

Human Rights Act 1998

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

Article 8 – Right to Respect for Private and Family Life
THE FIRST PROTOCOL – Article 1: Protection of Property

Recommendation

REFUSED

Legal Agreement Required: No

Reason(s) For Refusal

1. The LPA consider that there is insufficient information to properly analyse the functional needs of the farm, both by reference to a SMD or SMH calculation and review of the practical processes relating to the farming activities. In light of the above the policy test for a permanent dwelling or continued use of the mobile home beyond the consented period has therefore not been established. The proposed development is therefore considered to be unjustified development in the countryside contrary to Policies ST07 and DM28 of the North Devon and Torridge Local Plan, Rural Workers' Dwelling Supplementary Planning Document and Paragraph 79 of the National Planning Policy Framework.
2. The LPA does not consider that there is sufficient justification to demonstrate a viable business. The business cannot be considered to be profitable and does not

fulfil the criteria of one year's profit in the last three trading years when considering the elements of the business that form the functional requirement to support the delivery of a residential unit. The development is therefore considered an unjustified unit of accommodation in the open countryside contrary to Policies ST07 and DM28 of the North Devon and Torridge Local Plan, Rural Workers' Dwelling Supplementary Planning Document and Paragraph 79 of the National Planning Policy Framework.

Informatives

1. INFORMATIVE NOTE: POLICIES AND PROPOSALS RELEVANT TO THE DECISION

Development Plan

North Devon and Torridge Local Plan 2018:

ST01 - Principles of Sustainable Development

ST02 - Mitigating Climate Change

ST03 - Adapting to Climate Change and Strengthening Resilience

ST04 - Improving the Quality of Development

ST07 – Spatial Development Strategy for Northern Devon's Rural Area

ST10 - Transport Strategy

ST11 - Delivering Employment and Economic Development

ST14 - Enhancing Environmental Assets

ST15 - Conserving Heritage Assets

DM01 – Amenity consideration

DM02 - Environmental Protection

DM04 – Design Principles

DM05 – Highways

DM06 – Parking Provision

DM07 - Historic Environment

DM08 – Biodiversity and Geodiversity

DM08A - Landscape and Seascape Character

DM11 - Planning Enforcement

DM14 - Rural Economy

DM28 - Rural Worker Accommodation

2. Statement of Engagement

In accordance with paragraph 38 of the National Planning Policy Framework the Council works in a positive and pro-active way with Applicants and looks for solutions to enable the grant of planning permission. However in this case the proposal is not sustainable development for the reasons set out and the Council was unable to identify a way of securing a development that improves the economic, social and environmental conditions of the area.