

DCSE2006/3302/F - REMOVAL OF CONDITION 6 OF PERMISSION NE2000/2725/F SO THAT THE PROPERTY CAN BE USED TO ACCOMMODATE AN AGRICULTURAL WORKER AT THE HYDE, WOOLHOPE, HEREFORDSHIRE, HR1 4RD

For: Mr & Mrs J J Windham per Kernon Countryside Consultants, Brook Cottage, Purton Stoke, Swindon, Wiltshire, SN5 4JE

Date Received: 16th October 2006 Ward: Old Gore Grid Ref: 62289, 34457
Expiry Date: 11th December 2006
Local Member: Councillor J Edwards

Introduction

This application was considered by the Southern Area Planning Sub-Committee at its meeting on the 21st March 2007 when Members resolved to grant planning permission contrary to the recommendation of the report. This decision was accordingly referred to the Head of Planning Services to determine if it should be reported to the Planning Committee for further consideration.

The development concerns a chalet type mobile home which is within the grounds of the main farmhouse at The Hyde, a grade II listed building. The mobile home was first granted permission in 2000 to meet the special needs of an elderly person. Condition 6 reads as follows: -

“When the accommodation ceases to be occupied by Lady Kathleen Mary Windham the use hereby permitted shall cease and the mobile home shall be removed and the land reinstated in accordance with details (including timescale) which shall have been submitted to and approved in writing by the local planning authority prior to the siting of the accommodation”

The original need for the mobile home no longer exists. In 2005 an application was made to discharge the condition and, instead, allow the mobile home to be occupied as a part time holiday let and part time for an agricultural worker. That application was refused and that refusal was not appealed.

The current application seeks to remove the condition and, instead, allow the mobile home to be occupied permanently by an agricultural worker. The original farmhouse and the farm holding remain in the ownership of the applicant according to the agricultural appraisal.

The original farmhouse is not subject to an agricultural occupancy condition. The owners/occupiers do not work full time in agriculture (indeed, Mr Windham's principal employment is elsewhere). Consequently, whilst they are prepared to accept an occupancy condition on the mobile home, they would not be prepared to accept the farmhouse itself being made subject to an occupancy condition.

There is no dispute that there is a functional and financial justification for one agricultural worker's dwelling on the site.

The issue is, therefore, whether an additional dwelling is justified given the presence of the original farmhouse on the site and available for unrestricted occupation.

The applicants' case is that the grade II listed farmhouse is expensive to maintain and cannot be supported by the income from the farm. Therefore, it is argued, the occupiers have to have other jobs, and therefore they need another farm worker on site to run the farm. The grade II farmhouse is, in the words of the applicant's statement, "excessively large for the realistic long term potential of the farm. A modest dwelling for a stockman is needed."

The policies in the Unitary Development Plan seek to prevent the proliferation of sporadic residential development in the open countryside. The argument that the existing farmhouse is too big for the farm is novel; this argument accepts that residential accommodation is already available and the real problem is the unwillingness of the owner/occupier to use the farmhouse as a farmhouse. This is a matter of lifestyle choice, not a justification in planning policy terms.

Accordingly, in the light of the planning policy issue at stake the application is referred to Planning Committee on 20th April 2007 for further consideration.

A possible compromise would be to grant planning permission subject to a Section 106 agreement to prevent the disposal of the farmhouse separately from the farm holding. This, along with an occupancy condition on the mobile home, would ensure the continued availability of the farmhouse for agricultural occupation should circumstances change in the future. This suggestion has been put to the applicant and the Committee will receive a further verbal report on whether this principle has been accepted. The Draft Heads of Terms are attached as an appendix to this report and, if they are accepted by the applicant, then the recommendation will change to one of approval subject to an agricultural occupancy condition on the mobile home/chalet (as required by the Southern Area Planning Sub-Committee) and subject to the completion of the planning obligation agreement to prevent the separate disposal of the main farmhouse.

The original committee report to the Southern Area Planning Sub-Committee follows:

1. Site Description and Proposal

1.1 The Hyde comprises a large farmhouse (Listed Grade II) and adjoining farm buildings. Immediately to the house is a mobile home (chalet-type). This was originally granted planning permission in 2000 (NE2000/2725/F) to meet the special needs of an elderly person. Condition no. 6 of that permission required that when she ceased to occupy the mobile home it should be removed and the land reinstated. An application (SE2005/3281/F) to remove condition no. 6 so that the mobile home could be used to support the farm through short-term residential lets and agricultural occupancy was refused in November 2005 for the following reason:

"The Council is not satisfied that the continuation of use of the mobile home is essential to support the farming enterprise. The proposal would conflict therefore with the Council's policies for mobile homes in the countryside and would harm the rural character of the area which is identified as a Great Landscape Value in the Hereford and Worcester County Structure Plan. The policies referred to are RC1, RC2 and H20 of Hereford and Worcester County Structure Plan and Housing 4, 5, 9 and 14, and Landscape 1 & 3 of Malvern Hills District Local Plan."

- 1.2 The current proposal is for removal of condition no. 6 in order to accommodate an agricultural worker. A full agricultural appraisal has been submitted. This depicts a farm of 182 ha. of which 151 ha is arable and pastureland and supports a large sheep enterprise with about 800 ewes. The mobile home is required for the shepherd/arable manager; Mrs Windham who occupies the farmhouse works part-time on the farm.
- 1.3 The Hyde is situated at the south-eastern end of an unclassified road, about 0.75 km from the main road network and is consequently in an isolated, rural location.

2. Policies

2.1 Planning Policy Statements

PPS7 - Sustainable Development in Rural Areas

2.2 Herefordshire Unitary Development Plan 2007

Policy H7 - Housing in the Countryside outside Settlements
 Policy H8 - Agricultural and Forestry Dwellings and Dwellings associated With Rural Businesses
 Policy LA2 - Landscape Character and Areas Least Resilient to Change
 Policy H11 - Residential Caravans
 Policy H13 - Sustainable Residential Design

3. Planning History

- 3.1 NE2000/2725/F Mobile home for elderly relative. - Approved
 6.12.2000
 DCSE2005/3281/F Rescind condition no. 6 of NE2000/2725/F so can be used to support farm through short-term residential lets and agricultural occupancy. - Refused
 28.11.05

4. Consultation Summary

Statutory Consultations

- 4.1 No statutory or non-statutory consultations required.

Internal Council Advice

- 4.2 The Traffic Manager has no objection to the grant of permission.
- 4.3 The Property Services Manager has considered the agricultural case. In his opinion their appears to be a justification for one agricultural dwelling. There is no justification for two dwellings for this farm which is run by one person full time with part-time help. There is already a house on the site, although it does not have an agricultural tie. It is appreciated that it is a large house and possibly unsuitable for an agricultural worker in that it would cost too much to run but presumably it was originally the farm house.

5. Representations

5.1 The applicants' agent has submitted both a Design and Access Statement and an Agricultural Appraisal. The former includes the following:

- (i) it is proposed that a log cabin is retained to provide an essential on-site residential presence in order to ensure the welfare of the livestock at the farm. The dwelling will be occupied by a farm worker and his family.
- (ii) The log cabin is typical of those that are used for agricultural dwellings. Photographic elevations of the property have been provided.
- (iii) The log cabin is a complete structure constructed of morticed logs with a hipped roof over. It has two bedrooms, living/kitchen area and two bathrooms.
- (iv) The access is from an existing farm drive that leads from the lane to the farm buildings. This drive is tarmaced and has adequate visibility splays.

The key sections of the Agricultural Appraisal are included as an appendix to this report.

The full text of these letters can be inspected at The Hereford Centre, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

6.1 The site is in the countryside and residential mobile homes, like permanent dwellinghouses, need special justification (Policies H7 and H11). Policy H7 includes agricultural workers dwellings which are clearly necessary in connexion with agriculture as one of the possible exceptions to the policy not to permit housing in the countryside outside settlements. The criteria to determine whether a dwelling is necessary are set out in Policy H8, which follows the advice in Annex A of PPS7.

6.2 It is accepted that there is a functional need for one but not two dwellings and that this is a financially viable agricultural enterprise (the tests in Policy H8). The issue is therefore whether the existing house would meet that agricultural need. It is a sizeable property built in the seventeenth and eighteenth centuries and a listed building; no doubt therefore there are high maintenance costs. The profits made by the farm would not be sufficient to buy such a property and may not cover maintenance. Clearly if this dwelling was proposed to meet this agricultural need it would not meet the test of being commensurate with the enterprise's profitability. However this is not the proposal. There would be many farms which on the same basis could justify a second dwelling because of the recent decline in agricultural incomes.

6.3 A key section of Annex A requires that "the functional need could not be fulfilled by another existing dwelling on the unit.....which is suitable for occupation by the workers concerned". As the Agricultural Appraisal points out this has been interpreted in two ways:

- (i) that any existing house will meet the need
- (ii) that its suitability and availability must be taken into account.

Legal advice and various planning appeals and High Court case are referred to in the Agricultural Appraisal to show that the latter (ii) is the correct approach (see Appendix, section 4.20-4.33). This interpretation applied to the current case would indicate that

as the farmhouse is too large and costly to acquire and maintain in relation to income it can be discounted and the farm treated as if there was no farmhouse. However in October 2005 Mrs Windham’s input to the farm was clearly critical; in a letter of application seeking removal of condition no. 6 the main reason given was financial support of the farm (farm diversification) with, “as necessary, agricultural occupancy” as an extra to the main use of short-term residential letting [emphasis added]/ “It ishelpful to [Mrs Windham] to have occupiers of the property who will assist as necessary from time to time and provide security”. It is not clear that this has changed only a year later, (the Agricultural Appraisal is dated October 2006). Consequently if permission is granted there would be two dwellings (farmhouse and residential mobile home) occupied by two key workers. In these circumstances referring to the existing dwelling as not suitable or available would conflict with the facts. A further (unintended?) consequence of interpretation (ii) to this case would be that a new dwelling would be justified because of the size and character of the existing farmhouse but that this would not be the case if the existing farmhouse was small and mean.

6.4 Annex A emphasises that it is “the needs of the enterprise and not the personal preferences or circumstances of any of the individuals involved” that is the determining factor regarding whether a new dwelling is essential. The farm owner and occupier of The Hyde has chosen to work part-time. If she worked full-time there would be no case for another dwelling at The Hyde. This is a matter that falls within “personal preferences or circumstances of individuals rather than the needs of the enterprise. A recent appeal case in Herefordshire, albeit related to an equine business, has taken this approach resulting in the appeal being dismissed.

6.5 It is evident that there are two possible interpretations of the Government’s guidance as to when a new dwelling is essential. For the reasons given above I consider that in this case the mobile home is not essential. Although in a relatively secluded location it would have a small but nonetheless significant harmful effect on the rural character of this attractive rural area.

RECOMMENDATION

That planning permission be refused for the following reason:

- 1 The Council is not satisfied that the continuation of use of the mobile home is essential to the farming enterprise. The proposal would conflict therefore with the Council’s policies for mobile homes in the countryside and would harm the rural character of the area. The policies referred to are H7, H8, LA2, H11 and H13 of the Herefordshire Unitary Development Plan 2007.**

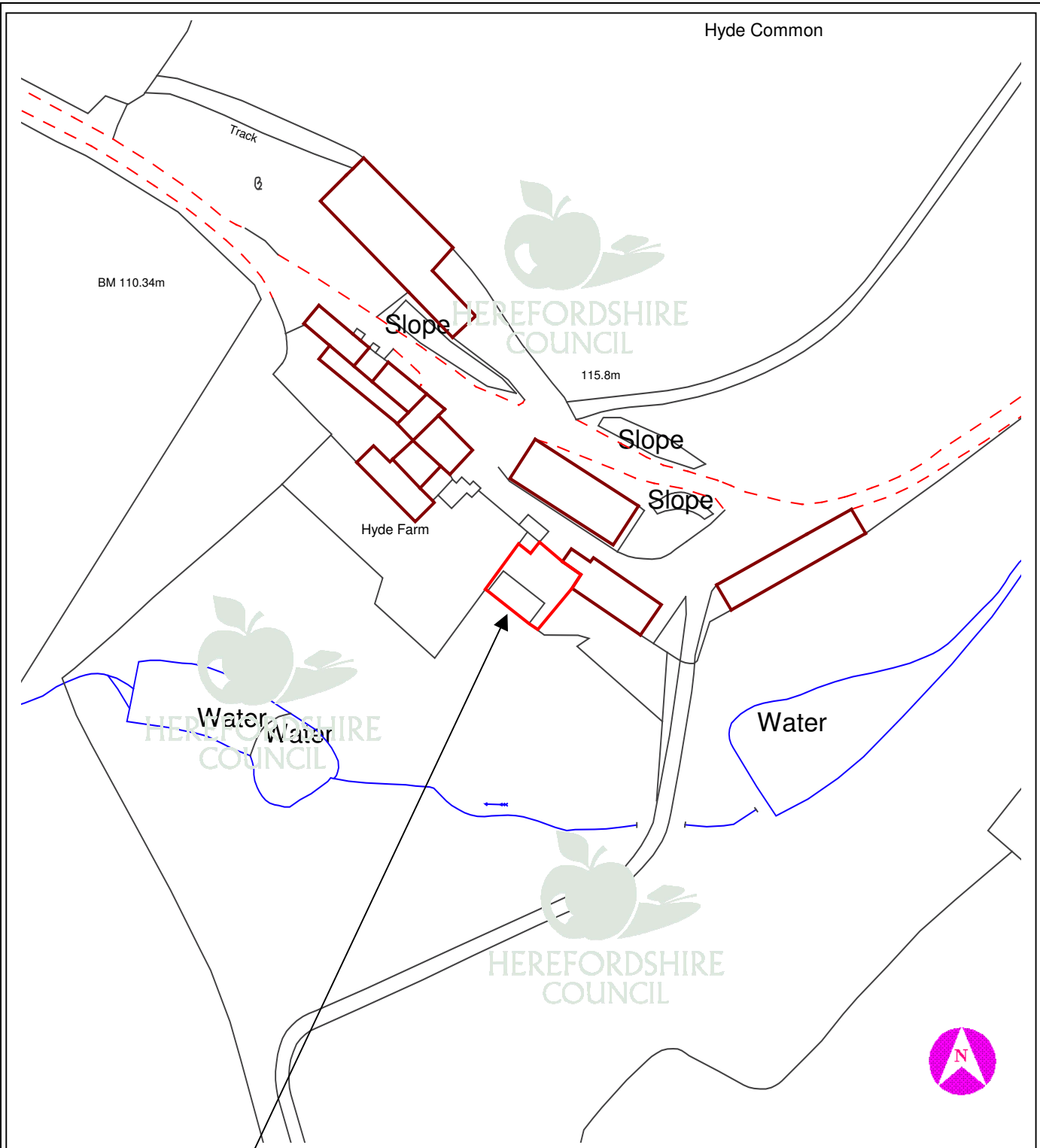
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCSE2006/3302/F

SCALE : 1 : 1250

SITE ADDRESS : The Hyde, Woolhope, Hereford, Herefordshire, HR1 4RD

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