

Officer Report On Planning Application: 20/02114/S73

Proposal :	The removal of conditions 3 and 4 from approval 13/00400FUL to allow the residential Stable Block at Higher Farm Barn to become independent from the main house, remaining residential in use, and not restricted to holiday lets.
Site Address:	Annexe Higher Farm Barn Wick Road
Parish:	Milborne Port
MILBORNE PORT Ward (SSDC Member)	Cllr S Dyke
Recommending Case Officer:	Trudy Gallagher Tel: 01935 462462 Email: trudy.gallagher@southsomerset.gov.uk
Target date :	23rd September 2020
Applicant :	Mr Paul Langford
Agent: (no agent if blank)	Mr Tom Roberts Tom Roberts Associates 1 Greenhill Court Greenhill Sherborne DT9 4EP
Application Type :	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL TO COMMITTEE

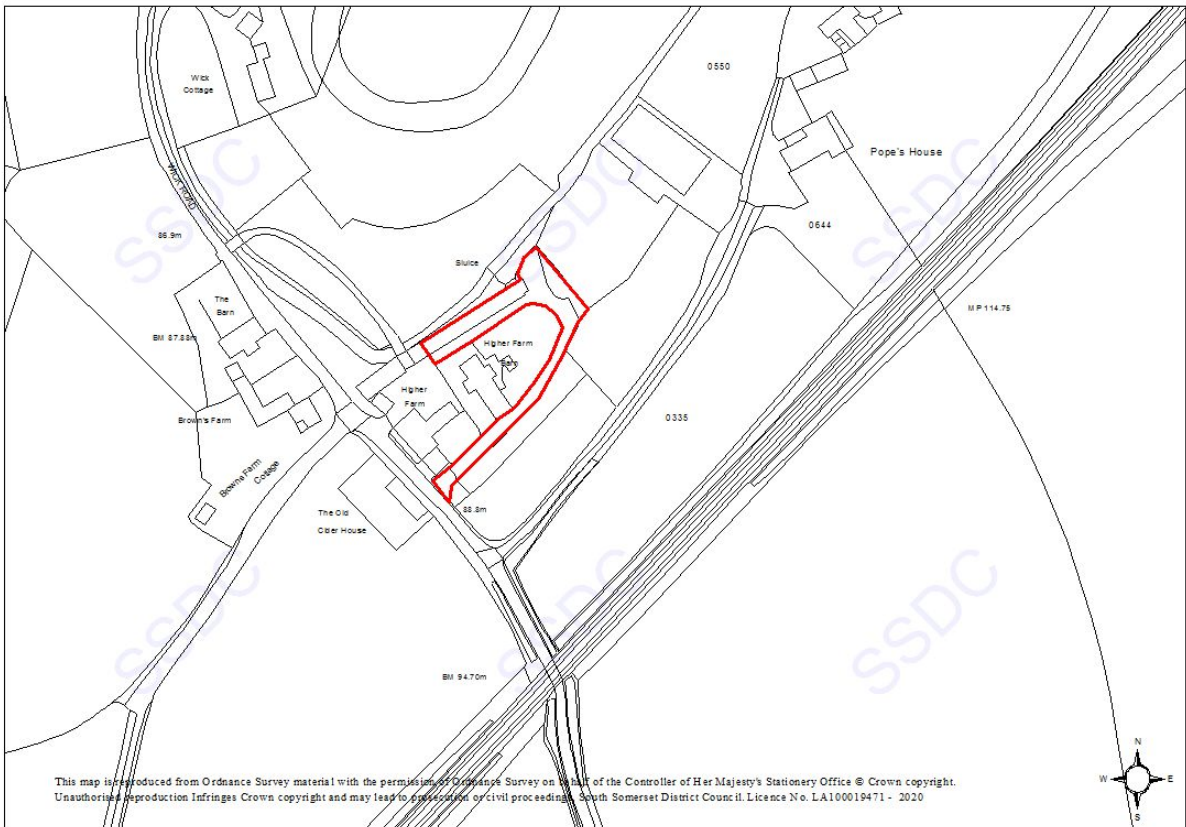
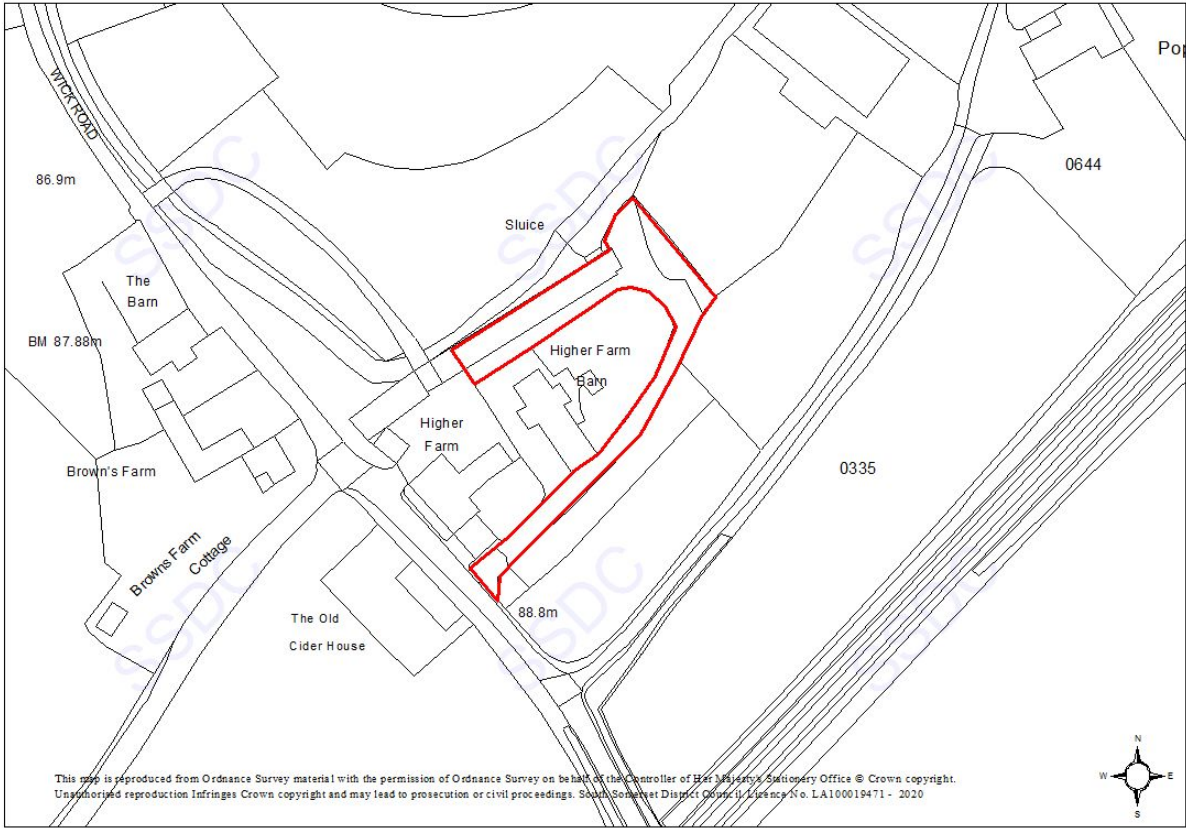
This application has been referred to Area East Committee by the ward member and the Chair, following support from the Parish Council to the contrary of the officer recommendation.

SITE DESCRIPTION AND PROPOSAL

The site is located immediately south of the village, within a group of former farm buildings on the east side of Wick Road. The subject building forms part of a range of farm outbuildings which were originally converted for use as offices and warehousing, falling within the curtilage of the dwelling house known as Higher Farm Barn, and currently used as a holiday let/annexe. The northern edge of the site is formed by a stream, and the site is identified as being within Flood Zone 3. The site is close to, but outside of, the Milborne Wick conservation area.

Permission is sought for a change of use of the barn from a holiday let/residential annex, to a separate independent residential dwelling.

This application follows a previous refusal in 2018 for the same proposal but was incorrectly made as a FULL application rather than a variation of condition.



HISTORY

18/01428/FUL Change of use of holiday let/annexe to become an independent self-contained dwelling.

13/00400/FUL - Change of use of the barn for use as a holiday let/ residential annexe, as well as some residential storage space (partially retrospective - revised application 12/04223/FUL) - Application permitted with conditions 26/03/2013

12/04223/FUL - Conversion of barn/office to provide holiday accommodation - Application withdrawn 21/12/2012

10/04791/FUL - Conversion of outbuildings into live/work unit - Application refused 12/01/2011

09/01661/FUL - Conversion of outbuildings into 2 no. dwellings - Application refused 31/07/2009

09/01108/FUL - Conversion of outbuildings into 2 no. dwellings and 1 no. holiday let - Application withdrawn 27/04/2009

89/01398/FUL - The use of outbuildings as offices and warehouse - Application permitted with conditions 15/11/1989

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the NPPF state that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

For the purposes of determining current applications the local planning authority considers that the adopted development plan comprises the policies of the South Somerset Local Plan 2006 2028 (adopted March 2015).

Policies of the South Somerset Local Plan (2006-2028)

Policy SD1 - Sustainable Development

Policy SS1 - Settlement Strategy

Policy EQ1 - Addressing Climate Change in South Somerset

Policy EQ2 - General Development

Policy EQ3 - Historic Environment

Policy TA5 - Transport Impact of New Development

Policy TA6 - Parking Standards

National Planning Policy Framework

Chapter 5 Delivering a sufficient supply of homes

Chapter 7 - Requiring Good Design

Chapter 14 -Meeting the challenge of climate change, flooding and coastal change

CONSULTATIONS

Milborne Port Parish Council - Members resolved to stand by its previous response from 2019, i.e. to support the proposal to remove the conditions subject to the applicant completing the proposed preparatory works.

County Highway Authority - Refers to standing advice

SSDC Highways Consultant -

SCC comment: see road record plan. SSDC Highways Consultant's comments: In addition to the SCC comment, I note that one of the reasons for imposing the restriction on use was on the grounds of sustainable development. From viewing the highway authority's response it does

not appear that there were any highway safety implications in respect of the original scheme. Therefore, the acceptance of the current proposal must largely be a planning matter to determine in terms of whether or not lifting the restriction would constitute unsustainable development. If the decision is to grant planning permission for the current scheme, it needs to be ensured that sufficient on site car parking and turning is provided in line with the standards set out in the Somerset Parking Strategy which appears to be the case.

Environment Agency

We have no objection but have the following flood risk advice.

Flood Risk

The site is located in Flood Zone 3 (High Risk), and is considered as Flood Zones 3b (functional floodplain) by your Authority Strategic Flood Risk Assessment, as defined under the National Planning Policy Framework Planning Practice Guidance.

We acknowledge that the building has an existing more vulnerable use, as ancillary accommodation to the main dwelling, and has first floor sleeping accommodation as safe refuge for any future occupants. The FRA confirms that the finished floor level of the ground floor is significantly below the current 1 in 100 year flood level. Therefore, we can offer the following flood risk advice for your consideration

Flood Zone Compatibility

The Planning Practice Guidance classifies development types according to their vulnerability to flood risk and provides guidance on which developments are appropriate within each Flood Zone. This site is considered to lie within Flood Zone 3b (functional floodplain), which is land defined by the Local Authority Strategic Flood Risk Assessment as having a high probability of flooding.

The proposed development falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application could therefore be considered contrary to the National Planning Policy Framework and its associated planning practice guidance. However, given that it is a change of use within the same vulnerability classification, 'more vulnerable', we recommend that you consider whether this change is acceptable to your Authority.

Further information can be found at

<https://www.gov.uk/guidance/flood-risk-and-coastal-change#flood-zone-and-flood-risk-tables>

Flood Resistance

We note the anticipate flood depth for the design flood events, including climate change, will result in significant flood depth at the site.

The finished floor level is not much higher than the existing ground level, but was raised 150mm when originally converted. Under our National Flood Risk Standing Advice for this type of development we would expect finished floor levels to be the higher of 300mm above ground levels or 600 mm above the 1 in 100 year flood level. However, if your Authority determine that the applicant cannot raise floor levels further, then the applicant will need to make the building flood resilience to the design flood level, including climate change.

Given the anticipated depth we would recommend that you consider the information at: <https://www.gov.uk/guidance/flood-risk-assessment-standing-advice#extra-flood-resistance-and-resilience-measures>. Additional guidance can be found at

<http://www.planningportal.gov.uk/uploads/odpm/400000009282.pdf> as well as the communities and local Government publication 'Improving the flood performance of new buildings' which can be viewed at

<http://www.communities.gov.uk/publications/planningandbuilding/improvingflood>

We recommend that consideration be given to use of flood proofing measures to reduce the impact of flooding when it occurs. Flood proofing measures include barriers on ground floor doors, windows and access points and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels.

Please note that consultation with the building control department is recommended when determining if flood proofing measures are effective.

Safe Access / Egress

The National Planning Policy Framework Planning Practice Guidance states that Access considerations should include the voluntary and free movement of people during a 'design flood', as well as the potential for evacuation before a more extreme flood. Access and egress must be designed to be operational for changing circumstances over the lifetime of the development. Therefore, your Authority must consider how the flood depths impact on the access to this site, as the FRA confirms that it could be dangerous to future occupants.

Please note that the Council's Emergency Planners should also be consulted in relation to flood emergency response and evacuation arrangements for the site. We recommend that the applicant prepare a Flood Warning and Evacuation Plan for future occupants. We do not normally comment on or approve the adequacy of flood emergency response and evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood event. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users registered for this service further information can be found at: <https://fwd.environment-agency.gov.uk/app/olr/home>.

Please note that the site is not located in a flood warning area, however they are in a flood alert area which is more generalized alert rather than targeted for this precise location.

We note that there is safe refuge within the building as there are no bedrooms on the ground floor, as agreed in the original application.

REPRESENTATIONS

None received

CONSIDERATIONS

History

The building in question has a relatively complicated planning history, but currently has permission to be used as a holiday let or as an annexe. The existing permission is subject to the following conditions (amongst others):

"03. The use of the unit of accommodation hereby permitted shall be limited to holiday accommodation or use as ancillary residential accommodation (i.e. as an Annex) to the principal dwellinghouse known as Higher Farm Barn. Other than for short-term holiday lets, the unit shall not at any time be used as a separate, self-contained unit of residential accommodation.

Reason: In the interests of sustainable development and to ensure that the unit remains available for holiday letting purposes, in accordance with the aims of the NPPF and Policies ST3, ST5 and ME10 of the South Somerset Local Plan, 2006.

04. The permission hereby granted shall enure and the use hereby permitted shall continue only for so long as the use of the barn as an annex or for letting purposes shall comprise an integral part of the mixed use of the whole site comprising Higher Farm Barn (the main

dwellinghouse) and the barn, within the single planning unit shown on the submitted plan ref. 3233/03B. There shall be no fragmentation of this planning unit to facilitate the barn being sold off separately from Higher Farm Barn (i.e. the main house) and separating the uses comprised in the mixed use.

Reason: In the interests of residential amenity and sustainable development, and to accord with the NPPF and Policies ST5 and ST6 of the South Somerset Local Plan, 2006.

In 2018 planning application 18/01428/FUL for the change of use of holiday let/annexe to become an independent self-contained dwelling was refused.

It was considered that the building was already in C3 use, albeit a version of that use restricted by condition. It is therefore considered that the submitted application to change the use of the building was inappropriate as it consisted of a 'change of use' from C3 to C3. A more appropriate application would have been to vary the above conditions. The scheme was refused for two reasons:

- o It is not possible to change the use of the dwelling from a C3 dwelling house (albeit with use restricted by planning condition) to a C3 dwelling house (with no restrictive conditions). As such the application submitted is the incorrect mechanism to achieve the stated aim of the applicant to achieve two unrestricted self-contained dwellings on site.

- o Notwithstanding the above, the proposed use of the dwelling as a self-contained dwelling with unrestricted occupancy would be tantamount to the formation of new open market dwelling in an unsustainable location and, by way of overlooking, would lead to an unacceptable adverse impact on the residential amenity of the occupiers of Higher Farm Barn, contrary to the aims and objectives of the NPPF and policies EQ2, SD1 and SS1 of the South Somerset Local Plan.

Considerations

The submitted application seeks to remove the conditions attached to application 13/00400/FUL to allow the unrestricted use of the building as a market dwelling. Although the most recent application was refused, the applicants have submitted additional information outlining the personal reasons to remove the condition, additional landscaping information and additional flood risk assessment information.

It is considered that the application has now been submitted in the correct form. The main considerations therefore relate to whether the additional information makes a material difference in planning terms to the reasons for the previous refusal.

Principle of Development

The site is located in the open countryside in an area remote from basic services and facilities. As such, development is strictly controlled by national and local plan policies. It is not an area where unrestricted residential properties would normally be allowed, because of the inherent unsustainability of the location. The proposal would effectively remove the unit from the pool of available tourist accommodation, for which the economic benefits generally outweigh the harm arising from the unsustainability of the location. As such, the principle of a separate dwelling in dwelling in this location, with no economic benefits, is considered to be unacceptable as it would foster growth in the need to travel and such harm would not be outweighed by any benefits. The proposal would be contrary to policies SD1 and SS1 of the South Somerset Local Plan.

The applicants have cited personal reasons for the removal of the condition. Given the sensitive nature of the health information supplied it would not be appropriate for the immediate details to be outlined, however suffice to say there is a requirement for the applicant to be of assistance to a family member elsewhere.

Whilst there is every sympathy with the situation, and reasons requested to remove the condition, it is considered that this is a personal circumstance which would be of benefit to the applicant. Whilst the circumstances are acknowledged it is likely that the additional dwelling would remain long after the current personal circumstances cease to be material. In consideration of this, due regard has been given to the Human Rights Act. In this case it is considered a refusal would be proportionate and legitimate in ensuring that significant harm is not caused to the aims of ensuring that development is located in areas which promote sustainable development.

It is further considered that there is little support for the proposal in terms of National Policy. The National Planning Policy Framework at Paragraph 79 identifies that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential dwelling; or
- e) the design is of exceptional quality, in that it:
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design

The proposal is considered to be in an isolated location. The most relevant to this proposal are parts (c) and (d), but it is not considered these would apply; with regards to (c) the building is not redundant or disused, and since the building has already been converted, is not considered the alternate use would enhance its immediate setting.

With regards to part (d) the proposal is not a subdivision of the existing residential dwelling as clarified in *R (Wiltshire Council) v Secretary of State for Housing, Communities and Local Government and anor* [2020]. In that case the Judge had to consider the term "dwelling" on paragraph 79(d) and approached this by examining the individual words and what their meaning aimed to achieve in line with overarching policy objective. It was held that the exception outlined in paragraph 79 was intended to encompass an individual building rather than multiple units. As this is for the use of a separate building, it does not therefore represent subdivision and part (d) would not apply.

Given the foregoing, it is considered on balance that the proposal is still unacceptable and cannot be supported in this regard.

Highways

The highway authority was consulted and referred to their standing advice. As such the SSDC Highway Consultant considered the scheme in detail, and raised no objections to the proposal subject to the imposition of certain conditions on any permission issued. As such, it is not considered that there would be any adverse impact on highway safety in accordance with the aims and objectives local plan policies TA5 and TA6, and the NPPF.

Visual Amenity

The site is relatively close to a conservation area. However, no physical alterations are proposed and as such there would be no impact on the setting of the conservation area or the character of the area. As such, there be no visual amenity harm arising from the proposal in accordance with policies EQ2 and EQ3 of the South Somerset Local Plan.

Residential Amenity

The building question is located in close proximity to the host dwelling. The building has very few openings in the rear elevation, which is an essential part of its agricultural character. As a result the main outlook of the building, particularly from the first floor, is from the front elevation of the building, which faces directly, and in close proximity, to the main garden of the host dwelling, Higher Farm Barn. Whilst the application building is in use as an annexe or for short term holiday lets, this relationship is considered to be reasonable and unlikely to have any significant demonstrable adverse impact on the living conditions of either. However, it is considered that if the two properties were in separate permanent occupation, the relationship would be unacceptable by way of direct overlooking and unacceptable intrusion into the privacy of the occupiers of Higher Farm Barn.

The applicants have attempted to overcome this aspect of concern by proposing pleached evergreen trees planted in a double row to obscure views from the first floor windows. It is considered that, even if the trees did offer some screening, it would be difficult to ensure their retention because effectively the trees would be outside of the red line application site. Although within the blue line, the trees would then, once the property is sold, be within separate ownership. It is considered that the planting acknowledges that there is an issue regarding overlooking and if anything it is considered it would also have an impact on the outlook from the dwelling itself, given their distance from the windows of around 4-5 metres. It is considered that this relationship would represent poor planning and as such the proposal would be contrary to policy EQ2 of the South Somerset Local Plan and the aims and objectives of the NPPF.

Flooding

Whilst not assessed under the previous application, the site is within a flood zone 3(b) - functional floodplain. The National Planning policy guidance states that:

A change in use may involve an increase in flood risk if the vulnerability classification of the development is changed. For example, changing from industrial use to residential use will increase the vulnerability classification from 'less' to 'more' vulnerable. As changes of use are not subject to the Sequential or Exception tests, the local planning authority should consider when formulating policy what changes of use will be acceptable, having regard to the National Planning Policy Framework and taking into account the Strategic Flood Risk Assessment. This is likely to depend on whether developments can be designed to be safe and that there is safe access and egress.

Given that the application is still within the same use class as C3 (albeit one is restricted by condition) and same vulnerability, it is considered that an objection on flooding grounds would not be sustainable.

The Environment Agency raises no objections but comments on issues of flood resistance that should be included in the design. The finished floor level is not much higher than the existing ground level, but was raised 150mm when originally converted. Under National Flood Risk Standing Advice for this type of development it is expected that finished floor levels should be the higher of 300mm above ground levels or 600 mm above the 1 in 100 year flood level.

It is stated within the planning statement submitted with the application that the applicants are willing to raise all sockets and electric points above the 450mm required at the time of the original planning consent. It is recommended that consideration be given to use of flood proofing measures to reduce the impact of flooding when it occurs. Flood proofing measures

include barriers on ground floor doors, windows and access points and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels. The applicants are also willing to sign up to a flood warning system. These elements could be secured by condition, if necessary. In terms of access and egress from the building it is noted that a condition placed on the 2013 planning application which stated that "no bedrooms or sleeping accommodation shall be located on the ground floor of the development hereby approved at any time. Reason: To prevent increased flood risk to the development by introducing more vulnerable accommodation in the higher flood risk area". Given that these are located on the upper floor, on balance the application is considered to be acceptable in this regard.

Conclusion

Whilst the impacts of the development, are considered to be acceptable in relation to visual amenity and highway safety, the impacts on residential amenity are not considered to be acceptable. Furthermore the proposal would be tantamount to the formation of new open market dwelling in an unsustainable location against the rural restraint policies of the local plan and the NPPF. As such, the scheme should be refused.

RECOMMENDATION

Refuse for the following reasons:

01. The proposed use of the dwelling as a self-contained dwelling with unrestricted occupancy would be tantamount to the formation of new open market dwelling in an unsustainable location and, by virtue of the close relationship between two properties would lead to a poor relationship between properties and in particular the occupiers of the proposed new dwelling contrary to the aims and objectives of the NPPF and policies EQ2, SD1, SS1 and SS2 of the South Somerset Local Plan.