

PLANNING APPLICATION REPORT

Case Officer: Clare Stewart

Parish: Spreyton **Ward:** Drewsteignton

Application No: 4168/17/FUL

Agent/Applicant:

Mr H Venners
Jppc, Bagley Croft
Hinksey Hill
Oxford
OX1 5BD

Applicant:

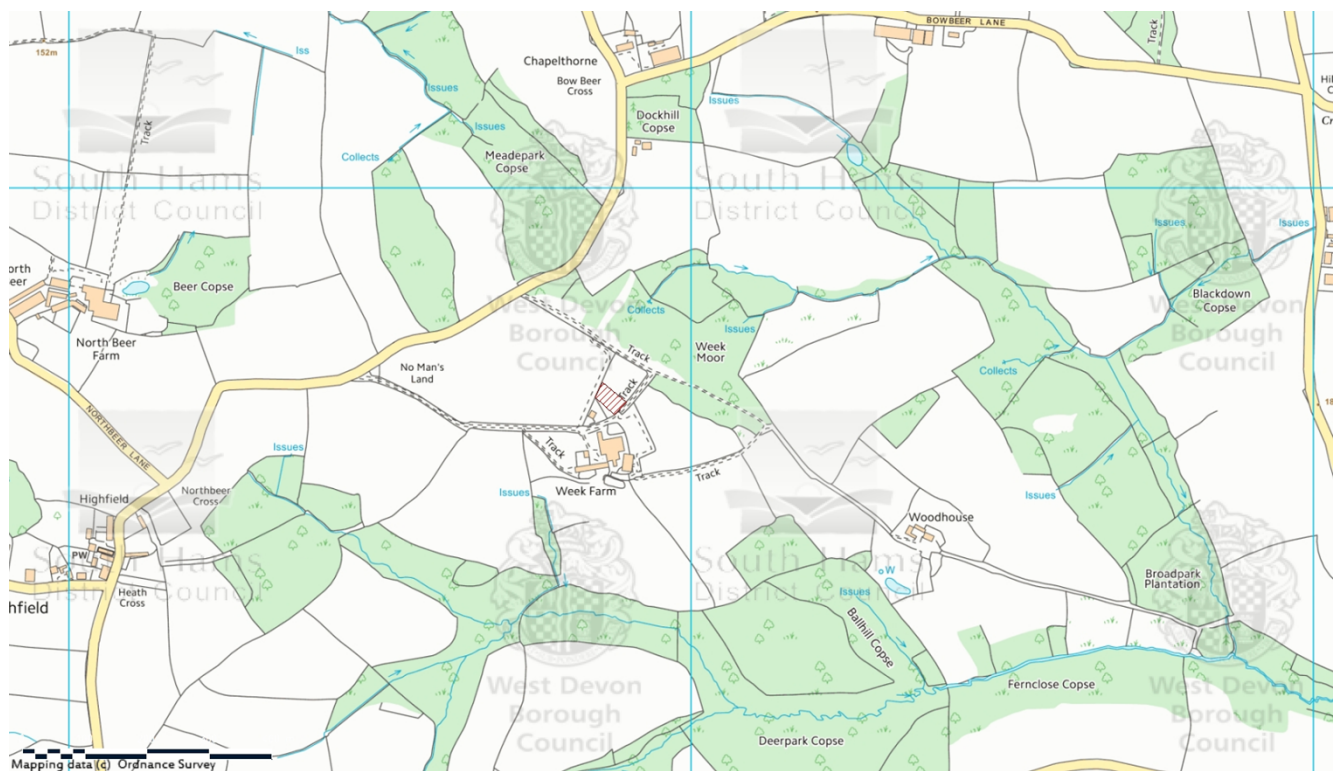
Mr D Bifulco
As Site

Site Address: Skywood, Spreyton, Crediton, EX17 5AF

Development: Retention of existing building, retrospective application for hedge removal and replacement to north of barn to be retained

Reason item is being put before Committee

The application has been brought by the Ward Member (Cllr Ridgers) on the following grounds:
The Building is too large for the site; and
Proximity to a grade 2 listed building and medieval site.



Recommendation:
Conditional approval

Conditions

1. Development deemed to have been brought into use from date of decision notice
2. Accord with plans
3. Agricultural use only and no other purpose
4. Removal of building if no longer required for agricultural purposes for period of more than 3 years
5. Removal of permitted development rights for changes of use
6. External lighting to be removed
7. Implementation of new hedge

Key issues for consideration:

The agricultural related activities functioning at the site to demonstrate there is a need to retain the barn, with reference to previous appeal decision.

Site Description:

The application site comprises of a parcel of land that is 0.2 ha in size that contains an existing barn that measures 28m in length by 12.3m wide and 5.5m in height, constructed of timber cladding, with an aluminium roof. The northern elevation is partially open and there are a number of roof lights visible on the north east and south west elevations.

A small area of hardstanding is located to the south west of the farm. There is an existing access to the barn from the highway in the eastern boundary of the application site. This connects through the application site to provide a through access to the western boundary. A hedgerow is located along the western boundary, which has been partially removed (5m in width) to improve the access out of the site. The track runs round to the south to provide vehicular access to the associated dwelling located in the south western corner.

Land to the north, including the barn subject of this application, is agricultural classification grade 4 – poor quality. Land to the south is agricultural classification grade 3 – good to moderate quality.

There is a parcel of farm land located to the west which is in the same ownership as the barn and appear to be connected. The holding extends to 30 acres.

To the south is Weeke Farm, which has a considerably sized barn, several farm buildings, a dwelling (the farmhouse) and associated farm land. The Weeke Farmhouse is Grade II listed. This farm is located 85m from the application site which is a considerable distance. The listed farm house is partially screened from the application site by the farm buildings.

The Proposal:

Retention of existing barn building (measuring 28m in length by 12.3m wide and 5.5m in height); retrospective application for hedge removal and replacement hedgerow to the north of the barn.

Consultations:

- County Highways Authority - No highways related issues.
- Spreyton Parish Council - *“Spreyton Parish Council objected to the retention of the building in the following instances: Retrospective application for an agricultural building ref. 1645/16/FUL. Retrospective planning application appeal ref. APP/Q1153/W/17/3166440 – Appeal dismissed. It is our opinion that, having been dismissed on appeal, enforcement action should have taken place*

for or the removal of the unauthorised development. The fact that the ownership has changed should not have any bearing on this.

Below is a summary of our Council's reasons for objecting.

- *The barn is unauthorised development.*
- *The barn is far too large for a holding of this size. The applicant's current and future likely use of this barn is also open to question.*
- *The barn is situated within 85 metres of the Grade 2 listed Weeke Farmhouse and adjoining a designated mediaeval settlement.*
- *The barn is a prominent structure in the local environment, being clearly visible, particularly after leaf fall, from the nearby public highway between Bow and Spreyton.*
- *When planning permission was granted previously for a new house (ref. 00408/2014) and renewed recently (1037/17/FUL), there is a condition stating all buildings, chattels and development rights being removed from the area and site of the log cabin which was to be demolished when the new house is built. The unauthorised development of this barn is within this area.*
- *There are floodlights attached to the barn (Wildlife Trigger Part A 1b v).*
- *The applicant has certified that none of the land is, or is part of, an agricultural holding, hence the barn is not required for agricultural use.*

Taking into account the above representations, the Parish Council requests that the application be refused and enforcement action taken to have the unlawful development demolished and the site reinstated."

- Agricultural Consultant - Supports the application for agricultural use and meets all 3 necessary criteria for agricultural use.

Representations:

5 letters of objection have been received (with several from the same third parties, with issues raised summarised as follows:

- Enforcement notice was not issued as it should have been after the dismissed appeal of the retention of the barn.
- Skywood was sold by Ms Fletcher Neal to Mr Bifulco in Nov 17. Mr Bifulco is not farming Skywood, does not have enough acreage, or own any animals, only 8.2 acres will remain once the dwelling is built.
- Discrepancies identified in submitted details, such as: date barn was built, pre-app advice not disclosed, access widened but not declared in application, new parking associated with the barn not declared in the application, barn does not drain to a soakaway as witnessed water piped to a ditch to north east of the barn, 40m of hedge removed and no declare in app form, farm does not support one full time worker, the barn is visible from a public road, site plan is incorrect.
- Increases risk of flooding elsewhere from poor drainage.
- The barn is being used by another farmer to make it appear to be in use.
- Approximately half of the land owned by the applicant, within the blue line on the location plan, is woodland.
- The applicant is selling his farm holding in Somerset.
- The barn is unauthorised development.
- The barn is far too large for a holding of this size and the holding has not changed.
- The barn is a prominent structure in the local environment, being clearly visible, particularly after leaf fall, from the nearby public highway between Bow and Spreyton.
- When planning permission was granted previously for a new house (ref. 00408/2014) and renewed recently (1037/17/FUL), there is a condition stating all buildings, chattels and development rights being removed from the area and site of the log cabin which was to be

demolished when the new house is built. The unauthorised development of this barn is within this area.

- The barn is situated within 85 metres of the Grade 2 listed Weeke Farmhouse and adjoining a designated medieval settlement.
- The applicant has certified that none of the land is, or is part of, an agricultural holding, hence the barn is not required for agricultural use.
- Noise from wood processing and impact on Weeke Farm
- The Agricultural Consultant has not visited the site, no analysis of applicant's business plan, taken everything on face value.
- If applicant genuinely required a barn they would have bought somewhere that had planning permission for one.

Relevant Planning History

- 1645/16/FUL - Retrospective application for an agricultural building. Appeal dismissed Jul 17
- 1037/17/FUL - Renewal of existing consent to replace mobile home with permanent dwelling (previous application 00408/4014, decision notice issued 03/06/2014). Approved Oct 17
- 01331/2014 - Prior Approval application for erection of a general purpose agricultural building. Objection Dec 14
- 00408/2014 - Replacement of mobile home and outbuildings with dwelling and garage. Approval Jun 14
- 8792/2006/OKE - Certificate of Lawful Use application for use of land for siting of mobile home. Consent May 06
- 00797/2015 - Retrospective application for an agricultural building

ANALYSIS

Principle of Development:

The test in relation to the principle of development is whether the barn is required for agricultural purposes. This was tested at appeal which was dismissed in July 2017 (reference APP/Q1153/W/17/31664), as the previous owner of the application site did not have any farming activities taking place, or a business plan showing intent for farming / agricultural activities. The lack of agricultural need was the sole basis on which the appeal was dismissed.

The property has since been sold and the new owner has a business plan which has been submitted with the planning application. This sets out that the barn is required to house a tractor, a forklift, a topper, a mower, rollers and harriers, discs, fencing equipment, post hole augers and so forth. The barn would also accommodate food storage for the livestock, storage of timber and a small workshop area for the timber products and secure storage for hand tools. All of these activities are related to agricultural activity for farming purposes. It is the intention to acquire beef cattle for the farm and to utilise the woodland area to establish a small scale tree nursery. The tree nursery will involve a production and sale of young tree stock. These activities require significant and varied machinery which require accommodation, which will be provided in the barn.

The Agricultural Consultant has provided a response confirming that the 3 criteria which are as follows have been met:

1. Is there an agricultural / forestry need for the building?
2. Is it designed to meet that need?
3. Is it sited to meet the need?

The Agricultural Consultant considers that this application varies considerably to the one presented at appeal to the Inspector, as the appellant had no activity taking place or business case to support the claim that the barn was required for agricultural purposes, and that the Inspector clearly placed great weight on this missing evidence.

Third parties have disputed the information that has been put forward in support of the current application, and in turn the comments of the Council's Agricultural Consultant. The main issue is whether a functional need for the barn has been demonstrated. In accordance with the comments of the Council's professional advisor on such matters Officers consider the current proposal satisfies the relevant criteria.

Design/Landscape:

The structure is relatively sizeable at 28m in length by 12.3m wide and 5.5m in height. The size of the barn has been justified in the application, and it relates to the agricultural use of the farm. The barn has already been constructed and will remain as existing. The materials used are timber cladding, which help to blend the structure in with the surrounding rural landscape. The Council did not seek to argue the design and landscape impact of the building were unacceptable as part of the previous appeal.

Part of the hedge to the access has been removed to improve visibility splays in and out of the site for larger vehicles. The applicant is planting a new hedgerow to the north of the barn, which is to compensate for the loss of the hedge removed. Officers consider this provides acceptable mitigation.

Heritage:

The Inspector concluded in the appeal that the barn would not have any detrimental impact to the Grade II listed building to the south or the significance of Weeke Farm as a medieval farmstead. The current proposal does not raise any new issues in this regard, and as such the setting of Weeke will not be affected.

Neighbour Amenity:

Weeke Farm is to the south, which is a working farm, with a range of agricultural activities taking place. The farm is approximately 85m distance to the south. Concern has been raised regarding the potential noise that would result from timber related activities. The applicant has explained that there would be a small workshop area related to this, and that the majority of the barn is for timber storage. The application has been submitted on the basis that it is for agricultural and not industrial purposes. Should any noise nuisance arise that were not associated with the agricultural use of the building this could be investigated by Environmental Health and Planning Enforcement, with further action taken as necessary.

Highways/Access:

There are existing access arrangements into the application site which are to be maintained. The access width has been enlarged with the removal of hedgerow. This means that the visibility splays in and out of the site are very wide, and improves the ability for larger vehicles to turn in and out of the site. Overall, there are no highway or access issues associated with the proposal. The Council did not seek to argue a highways objection as part of the previous appeal.

Other Matters:

The change in ownership constitutes a material change of circumstances from the previous appeal in this case. Officers consider it would not be expedient for enforcement action to be pursued prior to the determination of the current application.

A condition is recommended requiring the removal of the existing external lighting on the building, with any subsequent installation to be agreed in advance with the LPA (given the potential ecological impact of such lighting in the rural environment which needs to be duly assessed).

The Council did not raise any drainage issues with the previous application, and given the building element is retrospective it is not considered reasonable to raise them at this stage.

Issues regarding compliance with the conditions of permission 1037/17/FUL, which relates to a different development, are separate to the current proposal.

Planning Balance

On balance, and on review of the information submitted, the barn is to be used for agricultural purposes. The Council's Agricultural Consultant has stated a suitable need has been demonstrated, and whilst this view has been disputed by third parties Officers have no planning reasons to go against the recommendation of the professional advisor on such matters. The main issue with in relation the previous appeal in respect of the building has therefore been addressed, and Officers are therefore recommending approval of the current application.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning Policy

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant development plan policies are set out below:

West Devon Borough Council Core Strategy 2011

SP1 – Sustainable Development

SP10 – Supporting the Growth of the Economy

SP24 – Sustainable Rural Communities

West Devon Borough Council Local Plan Review 2005(as amended 2011)

NE10 – Protection of the Countryside and Other Open Spaces

BE3 – Listed Buildings

ED18 – New Farm Buildings in the Countryside

T9 – The Highway Network

PS2 – Sustainable Urban Drainage Systems

PS3 – Sewage Disposal

PS4 – Private Water Supply

National Planning Policy Framework

Emerging Joint Local Plan

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the above as the statutory development plan once it is formally adopted.

Annex 1 of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- For the JLP, which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at a relatively advanced stage of preparation. The precise weight to be given to policies within the JLP will need to be determined on a case by case basis, having regard to all of the material considerations as set out on the analysis above.

PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION (as considered by the Full Councils end Feb/Early March 2017)

SPT1 Delivering sustainable development

SPT2 Sustainable linked neighbourhoods and sustainable rural communities

TTV31 Development in the countryside

DEV1 Protecting amenity and the environment

DEV2 Air, water, soil, noise and land

DEV20 Place shaping and the quality of the built environment

DEV21 Conserving the historic environment

DEV22 Development affecting the historic environment

DEV24 Landscape character

DEV30 Trees, woodlands and hedgerows

DEV31 Specific provisions relating to transport

DEV37 Managing flood risk and water quality impacts

Neighbourhood Plan

N/A

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

Recommended conditions in full:

1. The development hereby approved shall be deemed to have been brought into the use from the date of this decision notice.

Reason: The application is retrospective in nature and clarity is needed on the date of commencement of use for the purposes of other conditions.

2. The development hereby approved shall in all respects accord strictly with drawing numbers BIF/LOC, BIF/SIT, BIF/FLO, Elevations received by the Local Planning Authority on 8th December 2018.

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

3. The development hereby permitted shall be used solely for the purposes of agriculture or horticulture as defined under Section 336 of the Town & Country Planning Act 1990.

Reason: To ensure that the development hereby permitted is used solely for the purposes of agriculture and horticulture.

4. Where the development hereby permitted ceases to be used for the purposes of agriculture (as defined by Section 336 of the Town and Country Planning Act 1990 (as amended)) within ten years from the date of this permission and planning permission has not been granted authorising development for purposes other than those set out above within three years of the permanent cessation of the agricultural use, and there is no outstanding appeal, the development must be removed and the land restored to its former condition.

Reason: The development is considered acceptable for the use proposed in a countryside location, and is permitted on the basis of an established agricultural need without which permission would not have been granted.

5. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting this Order) no development of the types described in Class Q (agricultural buildings to dwellinghouses), Class R (agricultural buildings to a flexible commercial use) and Class S (agricultural buildings to a state-funded school or a registered nursery) of Schedule 2, Part 3 shall be undertaken without the express consent in writing of the Local Planning Authority other than those expressly authorised by this permission.

Reason: The Local Planning Authority consider that the use of the building for the purpose specified is appropriate but that a proposal to use the building for any other purposes would need to be made the subject of a separate application to be considered on its merits.

6. The external lighting installed on the building shall be removed within 3 months of the date of this permission. Details of any proposed new external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to installation. No other external lighting shall be installed on the building.

Reason: In the interests of ecology.

7. The hedgerow reinstatement (as shown on drawing reference BIF/SIT) shall be carried out within the first available planting season following the date of this decision notice. The hedgerow shall thereafter be permanently retained/maintained. Any trees or plants that, within an establishment period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonable, practicable with other species, size and number as originally approved, unless the Local Planning Authority gives consent to any variation.

Reason: To assimilate the development into its surroundings.