



PLANNING COMMITTEE

YOU ARE REQUESTED TO ATTEND A MEETING OF THE PLANNING COMMITTEE TO BE HELD IN THE JOHN MEIKLE ROOM, THE DEANE HOUSE, BELVEDERE ROAD, TAUNTON ON MONDAY 30TH MARCH 2009 AT 17:00.

AGENDA

1. Apologies
2. Public Question Time
3. Declaration of Interests. To receive declarations of personal or prejudicial interests, in accordance with the Code of Conduct
4. 23/09/0002 - Change of use of ground floor bar (public house) with ancillary accommodation above to residential use for single family occupation at The White Hart, Fore Street, Milverton
5. 49/09/0001 - Erection of 2 dwellings at 16 North Street, Wiveliscombe (resubmission of 49/07/0073)
6. Non-compliance with the requirements of an Enforcement Notice dated 12 April 2007, Sherford Bridge Farm, Sherford Road, Taunton (attached) Enforcement item
7. Review of Parish Delegation Procedures (attached) Miscellaneous item

Tonya Meers
Legal and Democratic Services Manager
23 March 2009

Tea for Councillors will be available from 16.45 onwards in Committee Room 1

Planning Committee Members

Councillor Mrs Hill (Chairman)

Councillor Mrs Allgrove (Vice-Chairman)

Councillor Bishop

Councillor Bowrah

Councillor Mrs Copley

Councillor Critchard

Councillor Denington

Councillor Mrs Floyd

Councillor C Hill

Councillor House

Councillor Miss James

Councillor McMahon

Councillor Mrs Smith

Councillor Watson

Councillor Ms Webber

Councillor D Wedderkopp

Councillor Miss Wood

Councillor Woolley



Members of the public are welcome to attend the meeting and listen to the discussion. Lift access to the main committee room on the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is a time set aside at the beginning of the meeting to allow the public to ask questions



An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact Greg Dyke on:



Tel: 01823 356410
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Website: www.tauntondeane.gov.uk (Council, Executive, Review Board & Review Panel Agenda, Reports and Minutes are available on the Website)

23/09/0002

BISHOPSTON LTD

CHANGE OF USE OF GROUND FLOOR BAR (PUBLIC HOUSE) WITH ANCILLARY ACCOMMODATION ABOVE TO RESIDENTIAL USE FOR SINGLE FAMILY OCCUPATION AT THE WHITE HART, FORE STREET, MILVERTON

312091.125785

Full Planning Permission

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PROPOSAL

Permission is sought for the change of use of the White Hart at Milverton to a single residential dwelling. The submission includes existing and proposed ground floor plans and proposed first floor plans. The plans indicate a two bedroom dwelling with a dressing room, two bathrooms and formal drawing room at first floor level. The ground floor plans show a kitchen, wc, utility room, small drawing room and a garden room.

The supporting information states that permission is sought in its simplest form for a 'change of use application'. The applicant is not seeking permission for any external works. However, an accompanying letter from the applicant set out the following works which he considers are permitted development:-

- Removal of the metal fire escape and the outbuilding which contains the public house toilets.
- The roof will be stripped, decaying roof structure replaced, and newly felted battened and slated in natural slate.
- All timbers windows to be stripped, repaired/replaced and painted.
- All defective gutters and downpipes to be replaced, details to be agreed with the Conservation Officer.
- Removal of the signs and spotlights on the front elevation.
- The applicant notes that the original splitting of the White Hart Hotel provided only single skin construction of the party wall and the intention is to double the thickness of the party wall for sound insulation.

The applicant, at validation stage, was requested by officers' to provide a marketing report for the public house and the final three years of trading accounts. In response the applicant submitted a letter which reiterates that the previous owners went into receivership and is therefore unable to provide trading figures. The applicant states that there has been five different landlords since 2000, all of which failed to achieve a financially viable business. The statement highlights the plight of public houses across the country and the selling off of the rear barn, for which planning permission was granted, has reduced the profitability of the White Hart further.

The applicant has submitted a letter from Greenslade Taylor Hunt Chartered Surveyors who acted as marketing agents prior to and leading up to the sale of the White Hart. The following is an extract from that letter: -

'We were first instructed by Oakes CPS on the 22nd August 2008 to sell the building

following eviction of the previous occupier on 19th August 2008.

Our marketing campaign concentrated on the sale of the property as a public house and we did not undertake any viewing with parties we understood were interested in purchasing with a view to running it for this use. Throughout our campaign we received no serious interest or offers from any party other than those interested in converting the property into residential use and with the particularly depressed state of the public house and restaurant market at present (these types of premises are simply not selling as trade is extremely poor) we were not surprised by this.

In all honesty, had we not sold the property to you we feel we would have had little chance selling to a public house operator. The strong likelihood is that it would have sold to another party interested in residential use'.

SITE DESCRIPTION AND HISTORY

The application site is located in the centre of Milverton, along the main thoroughfare through the village. The site is within the designated Conservation Area and settlement limits of Milverton. The site is also located within an Area of High Archaeological potential. The village of Milverton has a good range of local services including the primary school, general store, post office, village hall and a health centre. The village contains many listed buildings and much of it is included within a conservation area; indeed it is designated in the Somerset Structure Plan as an Outstanding Heritage Settlement. The village core is characterised by buildings of local red sandstone and slate, and stone boundary walls provide a strong sense of enclosure.

The most recent applications for the site relate to a change of use of the public house to residential use, planning reference 23/1999/024, which was refused for the following reason: -

The proposed change of use of the public house to a residential property would result in the unacceptable loss of a village facility to the detriment of the vitality and viability of the local community, contrary to the Policy EC10 of the Taunton Deane Local Plan Deposit Draft.

Planning permission was also refused for the conversion of an outbuilding to the rear of the pub to be used as a dwelling, planning reference 23/1999/023. The application was refused on the basis that the barn and its curtilage were viewed as an integral part of the adjacent public house and contributed to the community facility it provides. It was considered that the conversion of the outbuilding to a dwelling would be likely to be detrimental to the vitality and viability of the public house, possibly leading to the ultimate loss of the pub.

However, permission was subsequently approved for the conversion of the outbuilding, above, to residential use in 2000, planning reference 23/2000/033

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

PARISH COUNCIL – The Parish Council has no further comments to make.

CONSERVATION OFFICER – No objection (remove Permitted Development rights).

Representations

2 Letters of SUPPORT have been received. Summary of Support: - no adverse effect will be felt by the loss of a public house that has been very little patronized for years; there is the Globe to supply meals/drinks and the cricket ground club house has a license for drinking and entertainment; existing pub is dilapidated and run down - proposal should however be in keeping with the conservation nature of the village.

4 Letters of CONCERN have been received. Summary of concerns: - poor quality plans; potted history is full of inaccuracies; planning officer not visited the site; developer only visited neighbour on request; White Hart has been gutted in a week bearing in mind there are no party walls between the site and Red Cottage; sorrow at the loss of another local amenity disappearing – the village needs these places to keep the community alive; as nobody has come forward to purchase the pub and keep it running as a pub the only thing to do is for someone to live in it; concern for the plundering of an ancient building, dating back to 1640, just because it is not listed is worrying – are TDBC officials aware of this? Interior has been gutted destroying anything of any historical interest; there is scaffolding on the roof and the contractors are destroying the rest of the building; little point having a consultation period if developers carry on regardless; is it one rule for developers and one for the rest – is the Council going to let it be bullied by the developer into giving consent retrospectively?.

PLANNING POLICIES

Section 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 imposes a general duty on Local Planning Authorities in the exercise of planning functions within Conservation Areas as follows: 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.

Policy 14, - Archaeological Strategies

PPS1 - Delivering Sustainable Development,

PPS3 - Housing,

PPS7 - Sustainable Development in Rural Areas,

PPG15 - Planning and the Historic Environment,

RPG10 - Regional Planning Guidance for the South West,

EC15 - TDBCCLP - Associated Settlements/Rural Centres/Villages,

EN14 - TDBCCLP - Conservation Areas,

EN15 - TDBCCLP - Demolition Affecting Conservation Areas,

EN23 - TDBCCLP - Areas of High Archaeological Potential,

M4 - TDBCCLP - Residential Parking Provision,

S1 - TDBCCLP - General Requirements,

S2 - TDBCCLP - Design,

S7 - TDBCCLP - Outside Settlement,

S&ENPP9 - S&ENP - The Built Historic Environment,

S&ENPP49 - S&ENP - Transport Requirements of New Development,

STR1 - Sustainable Development,

S&ENPP33 - S&ENP - Provision for Housing,

S&ENPP48 - S&ENP - Access and Parking,

DETERMINING ISSUES AND CONSIDERATIONS

The principal issues for consideration relate to the loss of a community facility in the form of a public house; impact on the Conservation Area; and, sustainability.

Local Plan Policy EC15 is the pertinent policy in relation to the determination of the application.

Policy EC15 states 'The range of shopping and service facilities serving the associated settlements, rural centres and villages will be maintained and enhanced as follows:

- (A) proposals to provide new rural services, including shops, public houses and surgeries will be permitted within the defined settlement limits;
- (B) applications which seek to improve the viability of existing services through refurbishment, conversion or extension will be permitted; and
- (C) proposals which would result in the loss of shops or other community services will not be permitted where this would damage the viability of a settlement or increase car travel by local residents as a result of a significant or total loss of such services to the community.

National and local planning guidance recognises the need to take measures to combat rural service decline. PPS7 emphasises the need to 'facilitate and promote sustainable patterns of development and sustainable communities in rural areas'. The Local Plan recognises that services such as public houses, post offices, village halls and shops provide important facilities in rural areas in their provision of basic goods, their social and community focus, their contribution to the appearance and character of the rural scene and sources of local employment.

The objective of Local Plan Policy EC15 is to halt the continuing trend of the loss of facilities, such as a public house, from small communities where this would damage the viability of a settlement, or increase car travel by local residents as a result of significant or total loss of that type of facility to a settlement. The supporting text to Policy EC15 acknowledges that occasionally a business is economically unviable and will remain so in the longer term. Preventing a reasonable alternative use in this instance would run the risk of leaving an empty property which may suffer from lack of investment and eventual dereliction. Accordingly, if it can be shown that there is little likelihood of a business being viable in a particular location, then the policy may be set aside and an alternative use accepted.

Factors that will be considered when determining whether the business is still viable include assessing what measures have been introduced to increase local support, the number of other pubs in the area, the marketing of the pub and whether the asking price is either overly optimistic or instead realistically reflects its use as a public house such that new occupiers would not face over-large set up cost and letters of support for the retention of the pub from local residents.

The applicant has submitted anecdotal evidence regarding the viability of the public house. It would appear there have been difficulties over recent years, with declining patronage and the selling off of the outbuilding to the rear limiting the viability of the

public house. The White Hart has been closed for a number of months during the marketing exercise although no compelling information has been submitted for scrutiny. The decision as to whether the viability of the public house is an overriding factor will be informed by the strength of public support to the retention of the public house. It is accepted that sometimes a public house may add to the charm of a Conservation Area or appear a tourist attraction in itself. However, the White Hart is in a poor state of repair and it is considered that the village would not be a less vital or attractive place without it. The Conservation Officer does not object to the proposed change of use application.

In order to engage the community and inform the decision-making process the Parish Council were contacted and an advert placed by the Parish Council in their newsletter. The advert sought the views of Milverton residents to the loss of the public house. This action was taken in addition to the statutory publicity provisions for the application. The previous application for the change of use of the White Hart to residential, in 1999, was accompanied by a 227 signature petition and two further letters of objection. However, this application has not resulted in any significant public interest to the loss of the facility. On that basis and the fact that the village would still be provided with alternative facilities nearby which will cater for any demand it is not considered necessary to request further viability or trading account information.

Without strong public support for the retention of the public house there is a distinct likelihood of the building being unused and undermining the character of the conservation area. Moreover, residents in the village do not appear to have been seriously disadvantaged by its closure. The lack of objections to the proposal and the provision of alternatives lead to the conclusion that there is no longer any need for the building as a public house. Furthermore, due to the provision of alternative uses, within the village, it is considered that the loss of the White Hart would result in little difference in terms of traffic generation and therefore the change of use application would not be contrary to sustainability objectives.

Other matters

Despite permission being sought for a 'change of use' of the White Hart – it has been brought to officers' attention that demolition work has been carried out to the rear of the property. The demolition works are considered 'substantial' and require Conservation Area Consent for which no application has been submitted. The rebuilding of the rear elevation and roof structure, among other proposed alterations, would also require express planning permission. The applicant has been issued, on the 18th March 2009, with a temporary Stop Notice (28 days) to cease work on site.

During the consultation process there has been concern raised locally as to the historic interest of the building and implications for archaeology. The building is not listed. With regards to archaeology - the change of use application will not require the submission of an archaeological report. However, the re-building of the rear elevation, due to the requirement for foundations etc, may well impact upon archaeology. A note is therefore advised if Members are minded to approve the change of use application that in addition to the detailed submission of elevation drawings an archaeological report will be required.

The advice in PPG15 (1994) Para 4.27 is that applications for demolition should not be considered unless details of the replacement buildings are available since the

characteristics of what is to follow is an important material consideration in determining whether demolition should occur, the PPG states that the local planning authority will need to have information about what is proposed for the site after demolition. Consent for demolition should not be given unless there are acceptable and detailed plans for any redevelopment. It has been held that the decision maker is entitled to consider the merits of any proposed development in determining whether consent should be given for the demolition of an unlisted building or substantial demolition, in this case, in a conservation area.

Normally, if redevelopment is to be allowed within a designated conservation area one or more of the following circumstances must pertain; a) the buildings to be demolished are of poor visual quality or in an unviable structural condition; b) the character of an area is already irretrievably compromised by other redevelopment; the replacement buildings proposed are such good design and respectful of the amenity of neighbours and the character of the area that, in the balance of decision making, no harm to the character of a conservation area may be identified, or; d) the cohesive character of the conservation area has more to do with its sylvan landscape than with the particular buildings set within it.

The applicant is required to seek retrospective Conservation Area Consent for the demolition works and for any further demolition required. In addition detailed elevation drawings for the rebuilding and any other alterations must accompany the application. Those works will also require planning permission.

Conclusion

Officers' now consider that the loss of a local facility in the form of a public house, whilst regrettable, is now acceptable. It is considered, informed by public consultation, that there is no overriding support for the retention of the use of the building as a public house and there are alternative facilities within the village which would not require residents to be more reliant on the use of the car. The Conservation Officer does not object to the principle of the 'change of use' and as such the proposal would not adversely affect the character or appearance of the Conservation Area. It is recommended that 'Permitted Development Rights' are withdrawn, by condition, in light of the unauthorised works undertaken and to control future development of this building, located in a Conservation Area, and to protect the amenity of adjoining residents. Whilst the unauthorised works require both Conservation Area Consent and Planning Permission it is considered permission should be granted for the 'change of use' application.

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval

The proposal would enhance/maintain the character and appearance of the Conservation Area and would not harm either visual nor residential amenity. Accordingly, the proposal does not conflict with Taunton Deane Local Plan Policies S1 (General Requirements), S2 (Design), S7 (Outside Settlement), EN14 (Conservation Areas) and EC15 (Associated Settlements/Rural Centres/Villages).

RECOMMENDED CONDITION(S) (if applicable)

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (“the 1995 Order”) (or any order revoking and re-enacting the 1995 Order with or without modification), no development of the types described in Schedule 2, Part 1 Class A, B, C, D, E & G of the 1995 Order other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.

Reason: In order for the Local Planning Authority to assess the impact of such development on the character and appearance of the Conservation Area and amenity of local residents in accordance with Policy S1 (D) of the Taunton Deane Local Plan.

Notes for compliance

1. The applicant is advised that Conservation Area Consent is required for the demolition works that have been undertaken and any further works which are required as part of the conversion. In addition Planning Permission is also required for the rebuilding of the rear elevation, changes to windows, rebuilding of the roof structure etc and is requested to submit full elevation drawings of the existing and proposed elevations together with a structural report to demonstrate the requirement to carry out such works. The application should also be accompanied by an archaeological report as the site is located within An Area of High Archaeological Potential and any works may have implications for Archaeology.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1988.

CONTACT OFFICER: Mr A Pick Tel: 01823 356586

49/09/0001

Gadd Homes Ltd

**ERECTION OF 2 DWELLINGS AT 16 NORTH STREET, WIVELISCOMBE
(RESUBMISSION OF 49/07/0073)**

308066.127948

Full Planning Permission

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PROPOSAL

Permission is sought for the erection of No. 2 four bedroom detached dwellings, and associated garaging, to be sited to the north and south of the No. 16 North Street. The proposal also includes the provision of a double garage which would serve both No. 16 and Plot 2. The application site comprising Plot 2 would result in the loss of three lock up garages which would be demolished. The proposed dwellings would be two storeys and of a similar footprint to the existing property No. 16. The proposed materials would be facing brickwork to the ground floor, with off-white through-colour render to the first floor under a tiled roof. Access to the site is proposed via Market Place. A financial appraisal accompanies the application.

SITE DESCRIPTION AND HISTORY

The application site is set well back from North Street and relates, in its context, more to the development in Market Place. The site consists of a linear strip of land incorporating lock up garages and hardstanding, and part of the curtilage, to the north and south, of No. 16 North Street. The site is located within the settlement limits of Wiveliscombe, and lies adjacent to the designated Conservation Area. The site is well related to the facilities and services of Wiveliscombe – designated within the Taunton Deane Local Plan as a Rural Centre.

The following planning history is relevant to the submitted application. Planning permission was refused, planning reference 49/2003/015, for the provision of a single four bedroom detached house to the north of No. 16. The application proposed a new highway access to Market Place. The application was refused on highway safety grounds as the proposal failed to incorporate the necessary visibility splays.

Planning permission was more recently refused, planning reference 49/2007/073 and 49/2008/027, for the erection of two detached four bedroom houses and associated garages (similar to that for which permission is now sought). Permission was refused on the grounds of low housing density resulting in an inefficient use of land. Moreover Policy H9 of the Taunton Deane Local Plan requires, in rural areas, outside of Taunton and Wellington, which are of sufficient size referred to within criterion B, as being sites capable of accommodating three or more dwellings that provision for affordable housing shall be made. Without such provision both previous applications were subsequently refused.

Post decision discussions have taken place between officers' and the developer. The developer asserted that any increase in density requiring the provision of affordable

housing or off site contributions would make the scheme unviable. The developer was required to submit a rigorous viability appraisal for scrutiny. The financial appraisal was assessed by the Council's estate valuer prior to the submission of this application.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

PARISH COUNCIL – Object to the application on the grounds that parking for the existing houses will be adversely affected and access to the site could become blocked.

HISTORIC ENVIRONMENT SERVICE – The site lies within an Area of High Archaeological Potential as defined by Local Plan Policy (Taunton Deane EN23). English Heritage's Extensive Urban Survey places the southern part of the proposal within the town's medieval core and the northern part within the suburb of Golden Hill, which is thought to have been planned and laid out as early as the late medieval period. It is therefore likely that medieval remains will be impacted by the current proposals, but at present the application contains insufficient information regarding these remains.

For this reason it is recommended that the applicant be asked to provide further information on any archaeological remains on the site prior to the determination of this application. This is likely to require a field evaluation.

(Verbal agreement with the County Archaeologist that a condition can be imposed as this requirement was not flagged up on two previous applications).

HOUSING ENABLING MANAGER – No observations to make.

NATURE CONSERVATION OFFICER – The garages to be demolished are not outwardly typical for bat roosts – however, this cannot be ruled out. There are known bat roosts in Wiveliscombe and with anecdotal information on bats in the area it is possible that bats use the garages. I therefore recommend that we do require a wildlife survey. Other species that could be affected are breeding birds and possibly reptiles e.g. slow worms (proximity of established gardens).

I would expect to see recommendations made for enhancement of the site for wildlife (PPS9) e.g. bat boxes in appropriate locations.

CONSERVATION OFFICER – No objection.

DRAINAGE OFFICER – No observations.

HIGHWAY AUTHORITY – Previous comments apply.

This is a resubmission following the refusal of 49/2007/073. The previous issue regarding the ownership of the land the site has now been addressed and is within the Applicant's control.

For the purpose of this application I will reiterate my previous comments. The proposal

is located within the development limit of Wiveliscombe and is in close proximity to services, facilities and a public car park and I have no objection in principle to the proposal.

Market Street is an unclassified highway and a no-through road. I am aware there has been considerable concern raised by local residents in respect of this proposal regarding a number of issues. It is considered that the proposed parking is adequate to serve the existing dwelling and proposed development and in line with the Somerset Parking Strategy. The proposal derives access onto an unclassified highway and whilst turning is desirable I would not insist upon it in this location given the class of highway.

People do not have the right to park on the public highway although the Highway Authority accepts that this does happen, however if adequate parking provision is being provided to serve new development that is in-line with guidance and policy it would be unreasonable to recommend refusal. Market Street was constructed to a suitable adoptable standard and the level of parking allocated to the existing development in Market Street was previously accepted by the Local Planning Authority.

If this provision is now proving to be insufficient, the Highway Authority does not consider this adequate justification to recommend refusal of a development that meets today's parking requirements.

The Highway Officer set out detailed points that need to be addressed prior to proposing appropriate conditions.

Further comments received from the Highway Authority, dated 18th February 2009.

It would appear that whilst the blue line extends to the public highway the red line does not. In the event of permission being granted and suitable conditions imposed, the red line should extend to the public highway.

It would also appear that the issues that have been raised previously by the Highway Authority still have not been addressed and those are set out below.

- Any garage erected shall be at least 6.0m from the highway boundary; this will enable vehicles to park and the garage doors to be opened without vehicles overhanging the public highway. This arrangement should also take into account any boundary gates that may be erected that will open over the driveway area particularly when a vehicle is parked on the driveway. The gates will also need to be set back as not obstruct any required visibility splay.
- A forward visibility splay 22.0m (no obstruction greater than 600mm) should also be provided through the bend, this will need to be clearly shown on any submitted plan.
- At each point of new access with the public highway, there shall be no obstruction to visibility greater than 900mm above adjoining road forward of a line drawn 2.0m back and parallel to the nearside carriageway edge over the entire site frontage.

Amended plans sought.

LANDSCAPE OFFICER – Previous comments apply equally - Subject to suitable planting it should be possible to integrate the proposals into the local street scene.

WESSEX WATER – According to our records, there is a public foul sewer crossing the site. Wessex Water normally requires a minimum, three-metre, easement width on either side of its apparatus, for the purposes of maintenance and repair. Diversion or protection works may need to be agreed.

The developer has proposed to dispose of surface water to mains sewer. As there are no existing public/separate surface water sewers in the vicinity of the site, it is advised that the developer investigate alternative methods for the satisfactory disposal of surface water from the site (e.g. soakaways). Surface water should not be discharged to the foul sewer.

The development is located within a foul sewered area and mains waters supply. Connection can be agreed at the design stage.

Representations

12 LETTERS OF OBJECTION have been received. Summary of Objections: - A recurring theme has been residents strong objection and concerns to the existing lack of parking provision which would be exacerbated as a result of the development; restricted width of the highway results in congestion and limits the availability of parking and access for delivery vehicles and refuse lorry; speed of vehicle users in close proximity to family housing; inadequate access; lack of visibility; is pedestrian and vehicular access to be maintained to North Street?; Current turning area too small and thus vehicles will be forced to reverse down the hill around a blind bend; disruption during construction; in March 2003, reference 49/2003/015, permission was refused for a single dwelling by the Highway Authority due to the proposed access being sited on a bend – current proposal is still close to the bend; rear wall of garages to be demolished not surveyed or mitigation proposed during its demolition/repair; no mitigation measures for removal of asbestos from garage roofing; no wildlife survey submitted - in particular for bats; development type should be affordable homes; overdevelopment; No. 16 will be left with little amenity land; inappropriate use of land; out of character; map inaccurate states Market Street should be Market Place; no revisions to previous refusal; loss of value; loss of light / overshadowing; overlooking and loss of privacy; site where the houses are to be built rises considerably which means the house on plot 1 will overshadow the existing bungalows; No. 1 Market Place will have its light taken away; new dwelling would tower over the existing buildings (alternatively build a bungalow); third application pointing out valid objections and developer has ignored the problems of the residents; garden adjoins public house garden – conflict of use; due to changes in levels and scale of property the development would adversely affect residential amenities of adjoining residents; plans do not reflect the existing situation omits dwellings No. 8, 9 and 10; land ownership boundary shown on plan is incorrect and therefore encroaches on my property – conflict with right of way and prevention of access to property/garage and parking; as a registered childminder part of the requirements is to provide a safe outside activity area, concern at the risk from plot 2 being sited in such close proximity to my property and access, also concern during construction work; suggest developer is leaving an area to the north of No. 16 North St to provide access for future development in Spring Gardens; why not redevelop the

orchard site, also under the same ownership, to the west, and develop both sites to their full potential (plus potentially include land forming part of North Street Garage).

PLANNING POLICIES

Regional Planning Guidance for the South West (RPG 10)

VIS 1 – Expressing the Vision

VIS2 – Principles for Future Development

SS 2 - Regional Development Strategy

SS 3 - The Sub-Regional Strategy

SS 7 - Meeting Local Needs

TRAN 1 - Reducing the Need to Travel

EN23 - TDBCLP - Areas of High Archaeological Potential,

PPS1 - Delivering Sustainable Development,

PPS3 - Housing,

PPS7 - Sustainable Development in Rural Areas,

PPG13 - Transport,

RPG10 - Regional Planning Guidance for the South West,

STR5 - Development in Rural Centres and Villages,

S&ENPP33 - S&ENP - Provision for Housing,

S&ENPP35 - S&ENP - Affordable Housing,

S&ENPP48 - S&ENP - Access and Parking,

S1 - TDBCLP - General Requirements,

S2 - TDBCLP - Design,

H9 - TDBCLP - Affordable Housing within General Market Housing,

M4 - TDBCLP - Residential Parking Provision,

DETERMINING ISSUES AND CONSIDERATIONS

The principal planning issues in this case are residential density and affordable housing, design and layout, impact on living conditions of neighbours and highways.

Density

With respect to density Planning Policy Statement 3 (para 47) states that “Local Planning Authorities may wish to set out a range of densities across the plan area rather than one broad density range although 30 dwellings per hectare net should be used as a national indicative minimum to guide policy development and decision making, until local density policies are in place. Where local planning authorities wish to plan for, or agree to, densities below this minimum, this will need to be justified, having regard to paragraph 46.”

Paragraph 46 refers to provision of a housing strategy having regard to such matters as need, infrastructure, services, accessibility, site characteristics and good design.

The site area is 0.058 hectares and provides a density of approximately 34 dwellings per hectare. It has previously been considered that due to the pattern of development and its location close to the town centre that the site could accommodate a higher level of density. It is accepted that there are some local potential constraints (topography, highway visibility and separation from neighbours) that might make higher densities

inappropriate here. However, government guidance in the form of PPS3 seeks to promote the efficient use of land. The two previous applications have been refused on such basis.

This leads on to the issue of affordable housing provision. The Borough Council is strongly committed to the provision of affordable housing as a corporate priority. The Local Plan policies reflect this commitment by seeking to meet as much of the housing need as feasible through the planning role. Policy H9 requires, in rural areas, outside of Taunton and Wellington, which are of sufficient size, referred to within criterion B as being sites capable of accommodating three or more dwellings. It is therefore important to be assessing whether the size of the plot could accommodate more efficient use of the land. As previously referred to it has previously been considered that the scheme did not make the most efficient use of the land. The application has been submitted with the red line divided, drawn around the two plots, however the site is linked by land under the ownership of the applicant and it is considered in light of the previous refusal the site must be treated in its entirety.

The developer and the Council's estate valuer have been in discussions following the previous refusal to discuss the viability of the scheme and agree what information was required in order to compare alternative schemes for the site. An alternative comparison of six units on the site was provided. The Council's estate value has expressed the view that he would endorse the view that it is not financially viable to develop the site with anything other than two detached dwellings, with there being no requirement to make a contribution towards affordable housing.

In light of the above, and in order to see development come forward, it is accepted that it would be unreasonable to withhold planning permission in order to seek an increase in density which would necessitate affordable housing provision on the basis that to do so would render the development unviable. The views of the Council's estate valuer have been given substantial weight in informing the decision-making process.

Design

The character of the housing in this area is of a varied mixture of ages, design styles and materials with chalet bungalows, terraced properties and staggered two and a half storey dwellings in the locality. The proposed dwellings take a rather simple form with a split level of materials to draw upon the existing properties on the east of Market Place. Nevertheless, it is considered the proposed appearance in the context of the locality would not adversely affect the appearance of the street scene.

Amenity

The concerns of local residents in respect of privacy and loss of amenity are noted. However, it is considered that given the proposed siting of the dwellings and the existing separation distances between elevations the proposal would not give rise to any undue loss of privacy, outlook, or daylight or appear out of character with the wider residential layout of the area as to warrant a refusal.

Highways

There has been a considerable strength of objection from local residents on highway safety grounds and parking issues associated with Market Place. However, the

Highway Authority, who are aware of the local issues raised, do not raise an objection in principle to the development or its impact upon residents in respect of highway related issues, subject to appropriate visibility splays being provided.

To conclude, careful consideration has been given to the nature of the site, amenities of local residents and the character and appearance of the area. The development of this site within settlement limits is promoted by national guidance and the development plan commensurate with environmental considerations. Officers have taken on board the viability of the scheme, in light of the financial appraisal, and it is therefore considered that the proposed development has addressed the previous reason for refusal and as such it is recommended that permission be granted.

RECOMMENDATION AND REASON(S)

Subject to the receipt of clarification from the applicant to address the contents of the planning officer's letter dated 25th February 2009 and the submission of amended plans to satisfy the requirements of the Highway Authority and the imposition of highway related conditions together with the submission of a wildlife report and any further views of the Council's Nature Conservation Officer - The DEVELOPMENT MANAGEMENT MANAGER & CHAIR be authorised to grant PERMISSION subject to the following conditions.

Recommended Decision: Conditional Approval

The proposal, for residential development, is located within defined settlement limits where the principle of new housing is considered acceptable and the development would not have a detrimental impact upon visual or residential amenity and is therefore considered acceptable. Therefore, the scheme accords with Taunton Deane Local Plan Policies S1 (General Requirements), S2 (Design), and M4 (Residential Parking Provision).

RECOMMENDED CONDITION(S) (if applicable)

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out and thereafter retained as such, in accordance with the approved details as above, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the existing building in accordance with Policy S2 of the Taunton Deane Local Plan.

3.
 - (i) Before any part of the permitted development is commenced, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority.
 - (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority.
 - (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policy S2.

4. Before any part of the development hereby permitted is commenced, a scheme of hard landscaping showing the layout of areas with stones, paving, walls, cobbles or other materials shall be submitted to and approved in writing by the Local Planning Authority. Such scheme shall be completely implemented before the development hereby permitted is occupied.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Deposit Policy S2.

5. No development shall commence until details of the proposed means of surface water disposal have been submitted to, and approved by, the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the site is satisfactorily drained in accordance with PPS1 – Delivering Sustainable Development and Planning Policy 25 – Development and Flood Risk.

6. Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (“the 1995 Order”) (or any order revoking and re-enacting the 1995 Order) (with or without modification), no window/dormer windows, other than those shown on the plan(s) hereby approved, shall be installed in the north west elevation of the development hereby permitted without the further grant of planning permission.

Reason: To protect the amenities of adjoining residents in accordance with Policy S1(E) of the Taunton Deane Local Plan.

7. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the agreed scheme or some other scheme that may otherwise be agreed in writing by the Local Planning Authority.

Reason: To ensure the preservation of archaeological remains in accordance with Policy 11 of the Somerset and Exmoor National Park Joint Structure Plan Review, Policy EN23 of the Taunton Deane Local Plan and advice contained in Planning Policy Guidance note 16.

Notes for compliance

1.

Condition 5 of this planning permission requires the submission of proposals for a scheme of surface water drainage. The details which form part of the submission, refer to surface water being disposed to the main sewer. Wessex Water state that there is no existing public/separate surface water sewers within the vicinity of the site. Surface water should not be discharged to the foul sewer. The developer is there required to investigate alternative methods for the disposal of surface water. The Local Planning Authority would expect to see the provision of sustainable urban drainage system (SUDS) utilised to deal with surface water drainage.

Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management (SUDS). SUDS are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water on or near the site as opposed to traditional drainage approaches which involve piping water off site as quickly as possible. SUDS involve a range of techniques including soakaways, infiltration trenches, permeable pavements, grassed swales, ponds and wetlands. SUDS offer significant advantages over conventional piped drainage systems in reducing flood risk by attenuating the rate and quantity of surface water run-off from a site, promoting groundwater recharge, and improving water quality and amenity.

Further information on SUDS can be found in Planning Policy Statement PPS 25.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1988.

CONTACT OFFICER: Mr A Pick Tel: 01823 356586

Planning Committee – Monday 30 March 2009

Report of the Head of Legal and Democratic Services

Enforcement Item

1. **File/Complaint Number** E/0283/38/06
2. **Location of Site** Land at Sherford Bridge Farm, Sherford Road, Taunton
3. **Names of Owners** Mr Alan Parris, Mr Richard Parris and Mrs Sylvia Parris
4. **Nature of Contravention** Non-Compliance with the requirements of an Enforcement Notice dated 12 April 2007

Background

On 14 February 2007 the Planning Committee resolved that enforcement action be taken to secure the removal of an unauthorised workshop and concrete yard and secure cessation of a vehicle valeting business at the Site and institute legal proceedings should the enforcement action not be complied with.

An Enforcement Notice dated 12 April 2007 was issued on the owners with 2 requirements:- 1. for cessation of the use of the unauthorised building as an agricultural workshop and machinery repair/store shed, together with a commercial vehicle valeting business (which the owners have complied with) and 2. to **“dismantle the steel framed, profile sheeted building, remove all the dismantled materials from the land and restore the land to the condition it was in before the breach of planning control occurred”**.

The owners appealed against the Enforcement Notice and the Planning Inspector dismissed the Appeal on 28 January 2008. In the reasons for his decision to dismiss the Appeal the Inspector noted that the determinative issue concerned flood risk because the unauthorised development was within the functional floodplain of Sherford Stream.

During the Appeal the Planning Inspector’s concerns regarding flood risk were pertinent to when the unauthorised workshop building was in existence. At that time there was no reason to require the Planning Inspector to comment on what detrimental impact with regard to flooding the area of concrete hardstanding accommodating the unauthorised workshop building would have on the floodplain should the building be removed.

The Council has issued legal proceedings in the Taunton Magistrates’ Court for non-compliance with the Enforcement Notice. Since issuing the legal proceedings the owners have dismantled the unauthorised workshop building

however an area of concrete hardstanding (“the Remaining Concrete”) that accommodated the unauthorised workshop building still exists at the Site.

The Current Position

The owners consider that the requirement on the Enforcement Notice to remove the unauthorised workshop building and reinstate the land to its former state has been complied with. They argue there has been a concreted impermeable area in the same position as the Remaining Concrete for over 50 years. In addition, the owners comment they have made improvements to relieve flooding issues by removing a length of banking (approx 4 yrs ago) to make a gateway into the Site which has improved water flow.

The owners also argue if they had laid the Remaining Concrete without the building it would be permitted development under Schedule 2, Part 6, Class A, A.(b) [*Permitted development on agricultural units of 5 hectares or more*] subject to conditions A2(1)(c) and A2(2)(c) [*no waste materials*].

The matter has recently been discussed between officers in the Development Control department and the Legal Services department and they accept the Remaining Concrete could be constructed under permitted development rights. The area of the Remaining Concrete has been measured and it is 400.9 square metres. The prescribed area limit under Permitted Development rights is 465 square metres and so the Remaining Concrete does not exceed the permitted development limitation in respect of area. It is therefore not considered to be in the public interest to continue with the prosecution.

The Environment Agency may have powers to prosecute if it considers there are issues of flooding resulting from the existence of the Remaining Concrete.

RECOMMENDATION

It is therefore RECOMMENDED that the Solicitor to the Council be authorised to apply to the Magistrates to withdraw the legal proceedings against the owners because it is not in the public interest to continue with the prosecution.

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JOINT REPORT BY DEVELOPMENT MANAGER AND LEGAL AND DEMOCRATIC SERVICES MANAGER

REVIEW OF PARISH DELEGATION PROCEDURES

EXECUTIVE SUMMARY: This report sets out the background to concerns raised in respect of both the administration and decision making procedures associated with the Parish Delegation scheme that Members need to take into account in advising the Executive Member in relation to the renewal of the agreements.

This matter is the responsibility of Executive Councillor Simon Coles.

1. BACKGROUND

- 1.1 The Parish delegation scheme whereby eight parish councils determine minor planning applications was introduced in the mid 1990s. It remains the only scheme of its type in the country.
- 1.2 Parishes are responsible for notifying neighbours and displaying site notices (with the exception of North Curry) as well as acting as a Planning Committee determining those applications.
- 1.3 In light of concerns relating to time taken targets and the resource implications of sending planning officers to all the Parish and Town Council meetings the scheme was revised in 2002 to allow decision making to be passed back to Taunton Deane for a decision in cases where the views of the Parish Council were in accord with those of the Planning Officer.
- 1.4 More recently concerns have been raised in relation to the implications of those 2002 changes in that it can lead to Parish Councillors considering proposals twice and therefore potentially fettering their discretion this approach has left the Parish Councils open to challenge on these determinations.
- 1.5 The Council has recently introduced a new IT back-office system (ACOLAID). One of the aims of its development has been to place the Council in a position where it could respond to the e-government agenda, and in particular explore on-line consultation. Keeping records of consultations on ACOLAID when the Parishes are carrying out the consultations already results in double handling of information and will ultimately become more difficult if the consultation process is to be carried out electronically.

- 1.6 In addition the Householder appeal system is to change shortly and the Inspectorate will not be asking for full written statements, but will rely on Committee Reports and minutes. The quality of minutes of meetings taken by some Parish Councils does give cause for concern in these circumstances.
- 1.7 The agreements with the eight parishes have now lapsed and it is essential that the issues outlined above are fully considered before they are renewed.

2. DECISION MAKING PROCEDURES

- 2.1 In light of the concerns raised in terms of potential fettering of discretion the Head of Legal and Democratic Services wrote to the relevant Parish Councils in December to introduce a temporary solution whereby the Parish Councils have to identify within 14 days of receipt whether they wish to determine the applications or not. This was felt necessary in order to give further time to review the processes but not to leave the Parish Councils open to challenge on decisions made.
- 2.2 The result of this temporary change has been that the Councils now have to make the decision as to whether they wish to determine the application or not prior to knowing what the public response to it is. Early experience has shown that this has resulted in a number of Parish Councils asking to determine all applications.
- 2.3 If this is formalised and we return to the original arrangements, the benefits in terms of performance and resource which were considered necessary when the scheme changed in 2002 will therefore be lost once more.
- 2.4 Performance against national indicators varies considerably between Councils. Whilst Milverton determined 100% of applications in 2008 within 8 weeks and North Curry 88%, Ruishton's performance was only 29%.
- 2.5 In 2008 there were 153 applications in the eight Parishes identified within the delegation categories. The cost of servicing the meetings if all of these were to be determined by the Parishes has been estimated at £5,000 (approximately £32 extra per application). This cost does not take into account the travelling cost of sending officers to meetings. The Council's 'Grey Fleet Plan' has resulted in travel budgets being cut across the board by 10%
- 2.6 The Government is committed to freeing up planning authority time to provide necessary resource to respond to the significant levels of growth identified in the coming years. As part of this commitment changes have recently been made to the General Permitted Development Order with the intention of taking of much minor householder development out of the system. Taunton Deane's Parish

delegation scheme inevitably results in resource being more targeted on minor proposals than would otherwise be the case. Whilst this clearly conflicts with this government advice, it must be weighed against the original motivation to introduce the scheme which were to enable decision making at a very local level and to improve communication and understanding between the Borough and Parish Councils.

3. CONSULTATION PROCEDURES

- 3.1 There is general guidance on the level of publicity appropriate to minor proposals. In the majority of cases this is restricted to the display of a site notice and notification of immediate neighbours only. At the time when the delegation scheme was introduced the Council had to rely on often outdated maps to identify neighbouring properties and there was therefore obvious benefits in the Parish Clerk carrying out this task in light of their more intimate local knowledge.
- 3.2 However, with the introduction of sophisticated Geographical Information Systems that are regularly updated, the benefits of the Parish Councils carrying out this task are now less clear cut. In order to keep necessary records the information still has to be fed into the ACOLAID system by Taunton Deane staff. There is therefore no saving to Taunton Deane in the Parishes carrying out this task, and it is an additional duty for the Parish Clerk.

4. RECOMMENDATION

Members are requested to consider the resource and efficiency issues referred to above carefully. These need to be balanced against the positive benefits of local decision making in deciding how to advise the Executive Member in relation to the renewal of the eight Parish delegation agreements.

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