



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, TA1 1HE ON WEDNESDAY 2ND SEPTEMBER 2009 AT 17:00.

(RESERVE DATE : MONDAY 7TH SEPTEMBER 2009 AT 17:00)

AGENDA

1. Apologies
2. Minutes of the meeting of the Committee held on 12 August 2009 (attached)
3. Public Question Time
4. Declaration of Interests. To receive declarations of personal or prejudicial interests, in accordance with the Code of Conduct
5. 24/09/0011 - Erection of a terrace of housing comprising of six two bedroom houses, two one bedroom flats and thirteen car parking spaces at the site of the former White Hart Inn, Knapp Lane, North Curry (resubmission of 24/08/0021)
6. 41/09/0001 - Erection of two stable blocks, one feed building and one stock shed to support farm business at Sunnyside Farm, Tolland Down, Tolland as amended by letter dated 11 August 2009 and Plan Nos 165/A/G1A and 165/A/L2B and further amended by Plan No 165/A/G1A and 165/A/G2A received 24 August 2009.
7. 41/09/0002 - Change of use of land to site temporary mobile home for an agricultural worker at Sunnyside Farm, Tolland Down, Tolland as amended by letter dated 11 August 2009 and Plan 165/A/L2B and Plan 165/A/G1A
8. 48/09/0027 - Erection of a single storey extension to the rear and side to include conservatory and porch to front at Little Oaks, 16 Sylvan Way, Monkton Heathfield
9. Revocation of Certificate of Proposed Lawful Use of development relating to development works to outbuildings at Higher Mill, Hatch Beauchamp. Report of the Head of Legal and Democratic Services (attached) Miscellaneous item
10. E0269/36/2008 & 36/08/0021 - Formation of access for domestic purposes at Cedar Moor, Meare Green, Stoke St Gregory (attached) Enforcement item
11. Planning Appeals - Appeals lodged and the latest appeal decisions received (details attached) Appeals

Tonya Meers
Legal and Democratic Services Manager
26 August 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 Brooks

Councillor Mrs Copley

Councillor Critchard

Councillor Denington

Councillor Ms Durdan

Councillor Farbahi

Councillor Mrs Floyd

Councillor C Hill

Councillor House

Councillor Miss James

Councillor McMahon

Councillor Watson

Councillor D Wedderkopp



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:



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

Planning Committee – 12 August 2009

Present:- Councillor Mrs Hill (Chairman)
Councillor Mrs Allgrove (Vice-Chairman)
Councillors Bishop, Bowrah, Brooks, Denington, Ms Durdan, Farbahi,
Mrs Floyd, Horsley, House, Miss James, McMahon, Mrs Stock-
Williams, Stuart-Thorn, Watson and D Wedderkopp

Officers:- Mr J Hamer (Development Control Area Manager West), Mr B Kitching
(Area Planning Manager), Mrs J Jackson (Legal Services Manager),
Ms M Casey (Planning and Litigation Solicitor) and Mrs G Croucher
(Democratic Services Officer)

Also Present: Mr P Malim (Independent Member, Standards Committee) and
Councillor Coles

(The meeting commenced at 5.00 pm)

82. Apologies/Substitutions

Apologies: Councillors Mrs Copley, Critchard, C Hill, McMahon and Woolley
Substitutions: Councillor Mrs Stock-Williams for Councillor Mrs Copley
Councillor Horsley for Councillor Critchard
Councillor Stuart-Thorn for Councillor C Hill

83. Minutes

The minutes of the meetings held on 1 July and 22 July 2009 were taken as
read and were signed.

84. Declarations of Interest

Councillor Watson declared a personal interest in application No 45/09/0008.
Although he had spoken on this item he felt he had not “fettered his
discretion”. Councillor Watson also declared a personal interest in application
No 45/09/0010 and left the meeting during its consideration; Councillor Mrs
Allgrove declared a personal interest in application No 52/09/0024; and
Councillor House declared a prejudicial interest in Minute No 87 and left the
meeting during consideration of this item.

85. Applications for Planning Permission

The Committee received the report of the Place Development Manager on
applications for planning permission and it was **resolved** that they be dealt
with as follows:-

That **planning permission be granted** for the under-mentioned
developments:-

25/09/0015

Erection of detached single garage to front of 1 Leaffield Close, Norton Fitzwarren

Conditions

- (a) The development hereby permitted shall be begun within three years of the date of this permission;
- (b) Only those materials specified in the application shall be used in carrying out the development hereby permitted unless otherwise agreed in writing with the Local Planning Authority;
- (c) (i) The plum tree shall be replaced with another in accordance with a site plan which shall be submitted to, and approved in writing by, the Local Planning Authority before development commences; (ii) The planting shall be 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 planting the tree shall be protected and maintained in a healthy, weed free condition and if the tree should cease to grow it shall be replaced by a tree of similar size and species, or an appropriate tree as may be approved in writing by the Local Planning Authority.

Reason for granting planning permission:-

The proposal would not have a detrimental impact upon visual amenity, residential amenity, or road safety, and was therefore considered acceptable. Accordingly, it did not conflict with Taunton Deane Local Plan Policies S1 (General Requirements) and S2 (Design).

38/09/201

Erection of single storey extension to form ancillary accommodation to the side of 29 Ashley Road, Taunton

Conditions

- (a) The development hereby permitted shall be begun within three years of the date of this permission;
- (b) Only those materials specified in the application shall be used in carrying out the development hereby permitted unless otherwise agreed in writing with the Local Planning Authority;
- (c) The extension building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 29 Ashley Road, Taunton.

Reason for granting planning permission:-

The proposed development would not harm either visual or residential amenity, and it would not be damaging to the character of the main dwelling. Accordingly, the proposal did not conflict with Taunton Deane Local Plan Policies S1 (General Requirements), S2 (Design) and H17 (Extensions to Dwellings).

44/09/0008

Removal of Condition 5 (personal permission) of Planning Application 44/06/0021 at Two Acres, Ford Street, Wellington

Reason for granting planning permission:-

The remaining conditions would ensure that the site would only be occupied by bona fide gypsies in this open countryside location, in accordance with Taunton Deane Local Plan Policy H14 (Gypsy and Traveller Sites).

45/09/0008

Alterations of access and erection of double garage and agricultural building with yard area and silage pit on land adjacent to Stockham Cottages, West Bagborough

Conditions

- (a) The development hereby permitted shall be begun within three years of the date of this permission;
- (b) (i) The landscaping/planting scheme shown on the submitted plan shall be completely carried out within the first available planting season from the date of commencement of the development; (ii) For a period of five years after the completion of the 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 other appropriate trees or shrubs as may be approved in writing by the Local Planning Authority;
- (c) No development relating to the agricultural building hereby permitted (including ground works) shall take place until a drainage strategy dealing with foul and surface water run-off had been submitted to, and approved in writing by, the Local Planning Authority. The agreed details shall be installed and fully operational prior to the agricultural building hereby permitted being brought into use and shall thereafter be maintained as such;
- (d) 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;
- (e) Before the building hereby permitted is brought into use, the access/parking/turning area over the first 10m of its length shall be surfaced in a properly consolidated surface (not loose stone or gravel) in accordance with details which shall previously have been submitted to, and approved in writing by, the Local Planning Authority;
- (f) The turning space shown on the submitted plan shall be kept clear of obstruction at all times;
- (g) At the proposed access there shall be no obstruction to visibility greater than 900mm above the adjoining road level within the visibility splays shown on the submitted plan, Such visibility splays shall be constructed

prior to the commencement of the development hereby permitted and shall thereafter be maintained as such;

- (h) Any entrance gates erected shall be hung to open inwards and shall be set back a minimum distance of 10m from the carriageway edge.

(Note to applicant:- Applicant was advised that the surface water drainage scheme required by condition (c) should include measures to prevent the discharge of surface water onto the highway).

Reason for granting planning permission:-

It was considered that any visual impact would be satisfactorily mitigated against by the proposed extensive landscaping and would be outweighed by the agricultural need for the development. It was not considered that any unacceptable harm would result to the Area of Outstanding Natural Beauty specifically or the wider open countryside in general, the amenities of neighbouring property, wildlife interests or the highway network. The proposal was, therefore considered to comply with Policies S1, S2, S7, EN3 and EN10 of the Taunton Deane Local Plan, Policies STR1, STR6, 3 and 49 of the Somerset and Exmoor National Park Joint Structure Plan Review or advice contained in Planning Policy Statements 7 and 9.

46/09/0019

Erection of stable building on land between Manleys Farm and Calway Cottages, West Buckland

Conditions

- (a) The development hereby permitted shall be begun within three years of the date of this permission;
- (b) Only those materials specified in the application shall be used in carrying out the development hereby permitted unless otherwise agreed in writing with the Local Planning Authority;
- (c) (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;
- (d) There shall be no obstruction to visibility greater than 900mm above adjoining road forward of a line drawn 2m back from the carriageway edge on the centreline of the access and extending to point on the nearside carriageway edge 43m to the west of the access and a 2m back and parallel splay over the site frontage to the east of the access. Such visibility shall be fully provided before works commence on the

- development hereby permitted and shall thereafter be maintained at all times or unless otherwise agreed with the said Authority;
- (e) The access over the first 5m of its length shall be properly consolidated and surfaced (not loose stone or gravel) in accordance with details which shall have been submitted to, and approved in writing by, the Local Planning Authority or unless otherwise agreed with the said Authority;
 - (f) Any existing or proposed entrance gates shall be hung to open inwards and shall be set back a minimum distance of 5m from the carriageway edge;
 - (g) Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway details of which shall have been submitted to, and approved in writing by, the Local Planning Authority;
 - (h) The use of the stables hereby permitted shall be limited to private use only and shall not be used for any business or commercial use.
- (Note to applicant:- Applicant was advised that a Section 184 Permit under the Highways Act 1980 must be obtained and application for such a Permit should be made at least three weeks before access works are intended to commence. Where works are to be undertaken on or adjoining the publicly maintainable highway a licence under Section 171 of the Highways Act 1980 must be obtained from the Highway Authority. Applications should be submitted at least four weeks before works are proposed to commence in order for statutory undertakers to be consulted concerning their services).

Reason for granting planning permission:-

The proposal was considered not to have a detrimental impact upon visual amenity, road safety, or the character and appearance of the Landscape Character Area and it was therefore considered acceptable. Accordingly, it did not conflict with Taunton Deane Local Plan Policies S1 (General Requirements), S2 (Design), and EN12 (Landscape Character Area).

52/09/0024

Erection of 2 storey extension at Hillcroft, 2 Jeffreys Way, Comeytrowe

Conditions

- (a) The development hereby permitted shall be begun within three years of the date of this permission;
- (b) Only those materials specified in the application shall be used in carrying out the development hereby permitted unless otherwise agreed in writing with the Local Planning Authority.

Reason for granting planning permission:-

The proposal was considered not to have a detrimental impact upon visual or residential amenity and was therefore considered acceptable and, accordingly, did not conflict with Taunton Deane Local Plan Policies S1 (General Requirements) and S2 (Design).

86. Alterations to agricultural access at land opposite Vale View Cottages, West Bagborough (45/09/0010)

Reported this application.

Resolved that subject to no new issues being raised by representations made before 13 August 2009, the Place Development Manager in consultation with the Chairman be authorised to determine the application and, if planning permission was granted, the following conditions be imposed:-

- (a) The development hereby permitted shall be begun within three years of the date of this permission;
- (b) The existing access shall be closed off and the bank reinstated within 6 months of the date of this permission to the satisfaction of the Local Planning Authority;
- (c) (i) The planting of the proposed hedgerow shown on the submitted plan shall be completely carried out within the first available planting season from the date of commencement of the use of new vehicular access, in accordance with a scheme to include details of the species, siting and numbers which shall first be submitted to, and approved in writing by, the Local Planning Authority; (ii) For a period of five years after the completion of the landscaping scheme, the hedgerow shall be protected and maintained in a healthy, weed free condition and any shrubs that cease to grow shall be replaced by shrubs of similar size and species or other appropriate shrubs as may be approved in writing by the Local Planning Authority;
- (d) Within the proposed visibility splay there shall be no obstruction to visibility greater than 900mm above adjoining road level;
- (e) The access between the edge of carriageway and the entrance gates shall be properly consolidated and surfaced (not loose stone or gravel) in accordance with details which shall have been submitted to, and approved in writing by, the Local Planning Authority;
- (f) The gradient of the access shall not be steeper than 1 in 10;
- (g) Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to, and approved in writing by, the Local Planning Authority.

(Notes to applicant:- (1) Applicant was advised that a Section 184 Permit must be obtained and application for such a Permit should be made at least three weeks before access works are intended to commence; (2) Applicant was advised to consult with the Highway Service Manager with regard to the required reinstatement of the verge/bank at the access; (3) Applicant was advised that where works are to be undertaken on or adjoining the publicly maintainable highway a Licence under Section 171 of the Highways Act 1980 must be obtained. Applications should be submitted at least four weeks before works are proposed to commence in order for statutory undertakers to be consulted concerning their services; (4) Applicant was advised that prior to works commencing on site plans sections, specifications and calculations of the proposed retaining wall must be submitted to the Local Planning Authority for the subsequent approval of the Highway Authority in accordance with Section 167 of the Highways Act 1980. This relates to retaining walls

that are wholly or partly within 3.7m of a street and which is at any point of a height greater than 1.37m above the level of the ground at the boundary of the street nearest that point).

87. Change of use of land to domestic curtilage and formation of access and driveway at Myrtle Tree Cottage, Saltmoor, Burrowbridge

Reported that it had come to the Council's attention that a new access and part of a driveway had been formed at Myrtle Tree Cottage, Saltmoor, Burrowbridge without the necessary planning permission being obtained.

The owner of the property had been contacted and an application for planning permission had been made but this had been refused under delegated powers.

Resolved that:-

- 1) Enforcement action be taken to remove the access and driveway formed at Myrtle Tree Cottage, Saltmoor, Burrowbridge; and
- 2) Subject to being satisfied with the evidence, the Solicitor to the Council institute legal proceedings should the enforcement notice not be complied with.

88. Appeals

Reported that four appeal decisions had recently been received, details of which were submitted. All four appeals had been dismissed.

Also reported that two new appeals had been lodged, details of which were submitted.

Resolved that the report be noted.

(The meeting ended at 6.55 pm)

Declaration of Interests

Planning Committee

- Members of Somerset County Council – Councillors Brooks, McMahon and Wedderkopp
- Employee of Somerset County Council – Councillor Mrs Hill
- Employee of Viridor – Councillor Miss James
- Director of Southwest One – Councillor Coles

ERECTION OF A TERRACE OF HOUSING COMPRISING OF SIX TWO BEDROOM HOUSES, TWO ONE BEDROOM FLATS AND THIRTEEN CAR PARKING SPACES AT THE SITE OF THE FORMER WHITE HART INN, KNAPP LANE, NORTH CURRY (RE-SUBMISSION OF 24/08/0021)

331812.125279

Full Planning Permission

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PROPOSAL

It is proposed to erect 8 dwellings comprising 6 no. two bedroom houses and 2 no. one bedroom flats contained within a two-storey terrace on the site of the demolished White Hart Public House. 13 parking spaces are shown provided partially on the existing parking area at the western end of the site which is to be extended towards the southern boundary. Rear access is shown along the south boundary from the gardens of all dwellings to the parking area.

The proposal includes the realignment of the southern kerb along Knapp Lane to provide a consistent road width of 5m wide (at present the narrowest point is 4.35m) with a new footway partially provided in the existing carriageway.

This is an identical design to a previous application (24/08/0021) which was refused and dismissed on appeal on the grounds of lack of provision of affordable housing.

This application has been submitted with a financial appraisal based on three different estate agent valuations and a quantity surveyor's development cost assessment. This has allowed for the proposed development to be assessed through the use of the 'Three Dragons Toolkit' to establish development costs, profit margins, development income and residual land values. This information can then be used to inform a decision on whether the proposed development can provide for affordable housing.

The applicant has not proposed to provide an affordable housing on this site although a Unilateral Undertaking has been submitted to secure £18,894 financial contribution towards outdoor recreational facilities and children's play provision.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SOMERSET COUNTY COUNCIL - TRANSPORT DEVELOPMENT GROUP - no objections subject to conditions

NORTH CURRY PARISH COUNCIL – object

- It is an overdevelopment in a small area,
- There is a privacy issue over the proposed development for some residents of the Town Farm and neighbouring properties.

- It is felt that certain design features of those houses are incompatible with what is currently in the village, e.g. the design is unimaginative with all four houses in the central terrace being identical; the recycling bins would have to be sited in the front of the properties as there is no available space for them behind the properties, thereby causing damage to the street scene.
- Concern over access onto the highway close to a blind bend

Finally, the Parish Council wished it to be stressed to TDBC that TDBC should uphold its requirements for appropriate levels for low cost housing.

HERITAGE AND LANDSCAPE OFFICER – comment:

"The proposed retaining wall next to the car parking area is likely to damage the roots. To avoid significant root damage a method statement for the wall construction and the root remediation should be provided. The health of the trees should be monitored annually after construction and any necessary tree management works undertaken."

LEISURE DEVELOPMENT MANAGER - no objection subject to contribution of £18,894 for outdoor recreation and children's play.

HOUSING ENABLING MANAGER – comment:

'The need for affordable housing in this Parish remains. Therefore I support my earlier request for two social rented houses plus a commuted sum of £43,139.20'

CONSERVATION OFFICERS – comment:

1. Comment re the historic interest of the existing building as per previous application.
2. Fenestration and detailing improved to previous scheme.
3. Whilst UPVC windows and doors not considered refusable in this location, detailing will be important. Essential that specific details submitted and approved and thereafter maintained (e.g. plots 7 & 8 need to have vertically sliding sash is not top hung).
4. Good to see chimneys incorporated, sad that these are not functional.
5. Palette of materials appropriate -- condition submission of sample Slate (natural) clay tile (double roman), ridge tiles, coping stones and cills.
6. Condition sample panel of render and brickwork to be erected on site for approval.
7. Conditions submission of details re venting of roofs, so as to avoid unsightly modern "mushrooms" etc.
8. Conditions submission of specific details of doorcases to plots 8, (to ensure proportional are appropriate), likewise voussoirs to Plots 1 & 2.
9. Condition no bell casts formed in render over window heads to plots 7 & 8.
10. Condition windows to be recessed minimum of 900mm from face of wall

SOMERSET COUNTY COUNCIL - DEVELOPMENT CONTROL
ARCHAEOLOGIST - no objections

DRAINAGE ENGINEER – surface water soakaways should be constructed in accordance with the Building Research Digest 365

PARRETT INTERNAL DRAINAGE BOARD - comment

The site is outside the Board's area of jurisdiction and therefore not adjacent to any Board asset or "viewed rhynes" however potentially the surface water run off from the proposals could discharge into the Board's area. The applicant's agent has indicated within the submitted details that surface water run-off will be disposed of by use of soakaways. The proposed layout limits the area available to locate any soakaways and whilst the Board is unaware of any particular problems at this location the use of soakaways should be established by successful porosity tests results and careful design to locate the soakaways as not to affect the existing or proposed dwellings.

The principal requirements for surface water drainage from developments are set out in PPS 25 annex F and are understood to be '*a material consideration*'. As stated above the Board knows of no known difficulties or flooding issues however the Board would suggest the use of sustainable drainage techniques to mitigate the proposed development's impact on the receiving drainage system or formal a connection to the public sewerage network is made if appropriate which is in line with your Council's policy EN29.

If the relevant committee of the Local Planning Authority were of a mind to approve the application the Board would ask that a drainage condition regarding provision of surface water drainage prior to any works commencing would be included on the decision notice.

The design of the surface water drainage system will need to address the long-term maintenance requirements and I would suggest that a maintenance strategy and regime be required to be approved by the planning authority to ensure the proposals are sustainable and maintainable.

Representations

31 LETTERS OF OBJECTION

- The terrace design is unimaginative and not in keeping with the area.
- More vehicles entering and leaving the site next to a bend would affect road safety.
- The proposed development is too dense.
- Waste/recycling bins on view are not desirable in a conservation area.
- The previous pub was demolished resulting in the loss of a village facility
- The existing pub should be restored.
- Insufficient parking will be provided on site.
- Not enough affordable housing is being proposed.
- The dwellings will be higher than the pub they will replace
- Loss of privacy from overlooking
- Loss of outlook
- The developer bought a successful pub and the price reflected that. If the development figures do not stack up then it is through lack of research and the fact that the market has slowed up is the developers own problem (not TDBC's or the local communities)
- There should only be 2 dwellings on this site.
- This application has not overcome the objections of the previous Planning Inspector.
- Concerns that the latest application is a 'case of attrition' and will be approved

2 LETTERS OF SUPPORT

- The proposed development is in keeping with the area
- It would encourage young families to come to the village making existing facilities more viable.
- The closure of the pub has made the other pub in the village more viable

PLANNING POLICIES

PPS1 - Delivering Sustainable Development,
PPS3 - Housing,
PPG13 - Transport,
RPG10 - Regional Planning Guidance for the South West,
STR1 - Sustainable Development,
STR3 - Rural Centres and Villages,
S&ENPP33 - S&ENP - Provision for Housing,
S&ENPP35 - S&ENP - Affordable Housing,
S&ENPP39 - S&ENP - Transport and Development,
S&ENPP48 - S&ENP - Access and Parking,
S&ENPP49 - S&ENP - Transport Requirements of New Development,
S1 - TDBCLP - General Requirements,
S2 - TDBCLP - Design,
H9 - TDBCLP - Affordable Housing within General Market Housing,
EC15 - TDBCLP - Associated Settlements/Rural Centres/Villages,
M4 - TDBCLP - Residential Parking Provision,
C4 - TDBCLP - Standards of Provision of Recreational Open Space,

DETERMINING ISSUES AND CONSIDERATIONS

This is the third application on this site with the previous two applications being dismissed on appeal. The first was dismissed on the grounds that the proposal would have an adverse effect on the character and appearance of the area and that it did not make adequate provision for affordable housing.

The second application included a revised design and the proposal was refused (and subsequently dismissed on appeal) on the grounds of non-provision of affordable housing.

This application proposes the same design and layout as previous and based on the considerations of that previous application and the single reason for refusal, this current application is essentially a single issue application where the provision (or non-provision) of affordable housing has to be considered.

When determining the previous application at appeal, the Inspector stated that:

“The White Hart Inn has been demolished. Following the conclusion in *Iddenden v SSE and Hants CC 20 (June 1972) 1 WLR 1433*, the use of the land as a public house has been extinguished by its demolition. It follows that the value of the land is now largely contingent on the grant of planning permission.

The proposal is for 8 dwellings with no affordable housing. Local Plan Policy H9 seeks the provision of affordable dwellings outside Taunton or Wellington

where the site is of a sufficient size and value for the incorporation of affordable housing to be feasible. The appellant has argued that, given the current situation with the national economy, and the building sector in particular, the proposal would no longer be viable if it is required to include the provision of affordable housing. Two alternative valuations have been submitted to support this claim.

I note that the appellant purchased the site for £450,000 and incurred additional demolition costs. These costs have been incorporated into the viability calculations. However, as set out above, the use of the site has now been extinguished. Consequently there is now no established use from which to derive a value for the site, which is likely to be considerably reduced.

Following demolition, I am not persuaded that the purchase price used in the appellant's calculations is still representative of its value. If a lower figure is taken for the site value then the proposal appears far more viable and, in my assessment, would be likely to be able to support the provision of affordable housing. I therefore find that the absence of affordable housing provision is contrary to Policy H9."

With the previous use demolished and no alternative planning consent for the site it is very difficult to establish an existing use value. It has been argued as part of the post submission negotiations that the price paid for a site is the existing use value as it was bought with the intention of redevelopment. It is considered that this argument is flawed as it would be possible for a developer to pay any amount for a site and then argue that it wouldn't be possible to provide any affordable housing (or other planning contribution) on the grounds that it would make the scheme unviable. It is considered by the case officer that prior to purchasing a site, a developer should establish what all of the potential development costs are and then decide whether to make an offer for the site and what that offer should be.

The Three Dragons Toolkit is a computer based development appraisal tool which follows the above consideration and calculates residual land values rather than inputting them into the appraisal. This is known as a residual development appraisal approach. It includes developer and contractor returns (profit margins) as a development cost and is the basis for the recommendation.

As the existing use has been extinguished it is considered necessary to look at alternative uses to establish residuals that can be compared with each other to establish whether this proposal can be accepted without any affordable housing. A hypothetical scheme of two larger dwellings on this site has been input into the Three Dragons Toolkit and it established that the residual for such a scheme is very similar to that of the proposed eight smaller dwellings.

Such a scheme for two dwellings would not provide for any affordable housing and the open space and leisure contributions would be significantly reduced. It is therefore concluded that this provides a basis for an alternative use value and when compared to the current scheme, does not provide as many planning benefits as the proposal.

It must be noted that the development appraisals that have been carried out are based on the current housing market which is subject to change. It is considered that one of the principal reasons why this proposal cannot be provided for any affordable housing is

the current housing market. It is therefore proposed that permission be granted with a shortened time limit for implementation to ensure that the proposal could be reassessed should the housing market change in the future and the development has not been carried out.

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval

The proposal is considered not to have a detrimental impact upon visual or residential amenity and is therefore considered acceptable and, accordingly, does not conflict with Taunton Deane Local Plan Policies S1 (General Requirements) and S2 (Design). Due to the state of the current housing market and possible alternative developments on the site it is acknowledged that the current proposal will not provide any affordable housing. Therefore a shorter implementation period is required in order to allow the viability to be reassessed should the development not come forward in the short term. Accordingly it is considered that the proposal complies with the requirements of policy H9 of the Taunton Deane Local Plan

RECOMMENDED CONDITION(S) (if applicable)

1. The development hereby permitted shall be begun within one year 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. Prior to development commencing on site, details of the construction of the retaining wall under the canopy of the existing tree shall be submitted to and approved in writing by the local planning authority. These details shall include a method statement for any root remediation and future monitoring on the health and maintenance of the trees. The development shall thereafter be carried out in accordance with the agreed details.

Reason: To ensure that the existing trees on the site are adequately protected and to preserve the character and appearance of the area in accordance with the provisions of Policy S1 of the Taunton Deane Local Plan

3. No development shall commence until a detailed surface water drainage strategy, including details to prevent the discharge of surface water onto the highway, has been submitted to and agreed in writing by the Local Planning Authority. The agreed strategy shall be implemented prior to the occupation of the first dwelling and shall thereafter be maintained as such.

Reason: To ensure that adequate infrastructure exists for the disposal of surface water, in the interests of preventing off site flooding and highway safety, in accordance with Policy S1 of the Taunton Deane Local Plan, Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review and advice in Planning Policy Statement 25.

4. Details, including samples of the brick, slate, clay tile, ridge tile, coping stones and cills shall be submitted to and approved in writing by the Local Planning Authority prior to wall construction commencing.

Reason: To reinforce the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policies 81(D) and 82(A).
5. The windows to plots 7 and 8 shall be of a vertical sliding sash design only.

Reason: To reinforce the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policies 81(D) and 82(A).
6. A sample panel of the brick and render shall be erected on site and agreed in writing by the Local Planning Authority prior to commencement of wall construction and thereafter carried out as agreed.

Reason: To reinforce the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policies 81(D) and 82(A).
7. Details of venting of the roof areas shall be submitted to and approved in writing by the Local Planning Authority prior to roof construction and thereafter shall be carried out as agreed.

Reason: To ensure details appropriate to the character of the area in accordance with Taunton Deane Local Plan policies 81 (General Requirements) and 82 (Design).
8. Specific details of the design materials and appearance of the doorcase to Plot 7 and voussoirs to Plots 1 and 2 shall be submitted to and approved in writing by the Local Planning Authority and thereafter carried out as agreed.

Reason: To ensure details appropriate to the character of the area in accordance with Taunton Deane Local Plan policies S1 (General Requirements) and S2 (Design).
9. The windows shall be recessed a minimum of 90mm from the face of the wall unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure details appropriate to the character of the area in accordance with Taunton Deane Local Plan Policies S1 (General Requirements) and S2 (Design).
10. No bell casts shall be formed in render over window heads to Plots 7 and 8.

Reason: To ensure details appropriate to the character of the area in accordance with Taunton Deane Local Plan policies S1 (General Requirements) and S2 (Design).
11. The pathway illustrated on drawing 0728/11B shall be provided prior to occupation of any unit.

Reason: In the interest of highway safety, in accordance with Somerset &

Exmoor National Park Joint Structure Plan Review Policy 49.

12. All existing trees on site shall be protected in accordance with BS583:2005 Trees in relation to construction.

Reason: In the interests of the visual amenity of the area in accordance with Taunton Deane Local Plan Policy EN8.

13. The access hereby permitted shall not be brought into use until drop kerbs have been installed at the carriageway edge and a vehicle crossover constructed across the footway fronting the site for the width of the access.

Reason: In the interest of highway safety, in accordance with Somerset & Exmoor National Park Joint Structure Plan Review Policy 49.

14. Before the dwellings and flats hereby permitted are first occupied a properly consolidated and surfaced access shall be constructed (not loose stone or gravel), details of which shall have been submitted to and approved by the Local Planning Authority

Reason: In the interest of highway safety, in accordance with Somerset & Exmoor National Park Joint Structure Plan Review Policy 49.

15. The area allocated for parking on the submitted plan shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: In the interest of highway safety, in accordance with Somerset & Exmoor National Park Joint Structure Plan Review Policy 49.

Notes for compliance

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

CONTACT OFFICER: Mr B Kitching Tel: 01823 358695

41/09/0001

MR F COATE

ERECTION OF TWO STABLE BLOCKS, ONE FEED BUILDING AND ONE STOCK SHED TO SUPPORT FARM BUSINESS AT SUNNYSIDE FARM, TOLLAND DOWN, TOLLAND AS AMENDED BY LETTER DATED 11TH AUGUST 2009 AND PLAN NO.S 165/A/G1A & 165/A/L2B AND FURTHER AMENDED BY PLAN NO.165/A/G1A & 165/A/G2A RECEIVED 24TH AUGUST 2009.

309833.132887

Full Planning Permission

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PROPOSAL

Planning permission is sought for the erection of two stable blocks (mainly for donkeys), and two other barns for cattle and sheep, and other general storage as required. The proposed buildings would feature stained boarding under a green fibre cement sheeting pitched roof. The submitted plans indicate that the buildings would be cut into the hill side to reduce the impact on the landscape. Amended plans have been submitted in response to the landscape officers comments. The amended plans now show that the ridge height of the buildings would be 3.2m for the stable buildings and 5.0 (as opposed to 5.7m) for the larger barns. The land would also be excavated further in order to cut the buildings into the hillside, with the spoil been graded to meet existing levels and grass seeded. The landscape officer has also devised a landscape belt comprising of blackthorn (50%), hawthorn (30%) and field maple (20%) to establish both a windbreak and landscape mitigation function with additional planting either side of the proposed building and reinforcing the existing hedgerow.

The supporting information sets out the background of the applicants business. The applicant has recently set up a donkey stud business to diversify and support the more conventional agricultural farming elements of the holding. This comprises of 140 suckler cows and a bull, 150 ewes and plans for a further 60 calves to be reared upon completion of the buildings. The donkey element comprises a total stock of 27. The application also includes a copy of the contract with Butlins to train and provide donkey rides 7 days a week all year round.

As part of the justification for the proposed buildings the application is accompanied by a letter from a veterinary clinic. The letter states the stabling would be essential for the mares for foaling and the immediate post parturient period.

A concurrent application, planning reference 41/09/0002, has been submitted for a temporary workers dwelling to serve the holding.

SITE DESCRIPTION AND HISTORY

The site comprises agricultural land and is accessed via a field gate from the B3224. To the west is the tree plantation at Willet Hill. The character of the area is of undulating countryside with the application site located on higher ground. The main views towards the site are from the West. The siting of the buildings is set down from the skyline due to the proposal being cut into the hillside. There is also a mature native hedgerow, up to 5 metres in height, along the south west boundary of the application site. There is a

redundant stone agricultural building on the site to the north west of the proposed siting. The site is not subject to any national landscape designation.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

TRANSPORT DEVELOPMENT GROUP, COUNTY HALL - The proposed development site is remote from any urban area and, therefore, distanced from adequate services and facilities, and public transport provision is very limited in this area (Stage Coach South West 606 Service, that operates one service in the morning and one in the afternoon on a Wednesday and Saturday only).

This is an unusual proposal as the stables are required for 26 donkeys that are used in connection with recreational/tourist activities for donkey rides at Butlins/Minehead, local shows, fetes, parties, etc, which will involve them being transported from the site to these various function in various locations. I assume (perhaps the Planning Officer can clarify), the use will not be one which will encourage visitors to the site by private cars in this unsustainable location, for donkey rides, or use like that of a donkey sanctuary.

This is a different type of business to that of a livery, which results in individuals making journeys by private car to tend to their horses, as it is likely that the donkeys will be transported in a larger vehicle that would accommodate several of the animals.

This is a business/commercial venture/use, however it must be a matter for the Local Planning Authority to decide what use class this should be considered under, and whether Taunton Deane has a suitable policy to permit its acceptance and use in what is considered to be an unsustainable location in transport terms.

If the LPA/committee, are minded to grant consent, it may be appropriate to impose a condition to ensure that the enterprise does not expand or is altered in a way that would encourage the use of private vehicles to the site.

LYDEARD ST LAWRENCE & TOLLAND PARISH COUNCIL - Objects to the granting of permission for the following reasons:

- The size of the development is too big; likely to have impact upon the landscape.
- The keeping of donkeys (for the business of donkey rides at Minehead as it is understood) is not considered to be 'agricultural use' of the land.
- Concern expressed over FYM storage in NV2 area.

DRAINAGE ENGINEER - No details of how surface water run off from the buildings is to be treated. Details to be approved prior to any consent being given.

HERITAGE AND LANDSCAPE OFFICER - Original Submission - My main concern is that the proposals will be dominant on the skyline as seen from the west and will be detrimental to the landscape character of the area – EN12. Amended Plans - now satisfied that the amended plans, which show a reduction in ridge height and further cutting into the hillside, supplemented by a comprehensive landscaping scheme are acceptable.

ENVIRONMENT AGENCY - The Environment Agency has no objections, in principle, to

the proposed development but recommends that if planning permission is granted the following informatives and recommendations should be included in the Decision Notice.

These relate to drainage; siting of manure/dung heaps to avoid pollution; disposal of collected wastes to be undertaken in accordance with the MAFF Code of Good Agricultural Practice for Protection of Water; no discharge of foul or contaminated drainage from the site into either ground water or any surface waters.

Representations

FOUR LETTERS OF OBJECTION – making the following points.

- Intrusive and detrimental to the landscape.
- The existing traditional barn on site (no information is given regarding its use) is currently visible through the existing screening (even in summer leaf); the visual impact of the proposed buildings will be even greater during the winter months.
- The siting of the buildings above the 200m contour on the western side of the saddle of Tolland Down would dominate the skyline from the B3188 and Brompton Ralph (Church)
- Submission of photographs to demonstrate the prominence of the site.
- Policy S2 requires the design of all buildings to reinforce the local character and distinctiveness of the area; including the landscape setting.
- Policy S7 requires that the proposed development should be sited and designed in a way that avoids breaking the skyline – no visual impact assessment has been carried out; it is for the applicant to demonstrate that the proposals will not unacceptably impact on the prominent skyline – this has not been done.
- Cutting the proposed buildings into the hill will irreversibly alter the contours of this important landscape feature which will have a significant adverse visual impact on views from a number of public view points; the crude alterations proposed to the topography of the site will result in an alien feature in the landscape.
- Proposed buildings (modern materials) will have the appearance of a quasi-industrial development in a prominent location which is important in both local and distant views.
- Temporary mobile home will inevitably be followed by an application for a permanent residential dwelling.
- Question the logic of siting the development at the end of the track where there are no services other than a derelict barn is not clear; twelve stables, stock shed and a large storage shed appears to be a generous provision for the amount of stock reasonably to be expected on 20ha.
- The siting of an appropriately sized development at the bottom of the track closer to transport and other services would reduce the visual impact, be less costly and provide a satisfactory outcome for all.
- The size of the proposed development seems to be excessively large for this purpose and no justification has been given for the size of the buildings.
- Where is the applicant's clean water coming from? Objection would be raised if a borehole is to be used as this would deplete water supply to my fields further.

The applicant has responded to the submission of photographs of the site on the basis that the pictures were taken with the camera's telescopic function and do not reflect what would be seen from the naked eye. The applicant has submitted further photographs.

ONE LETTER OF CONCERN – making the following comments.

- In response to representations suggesting that the development be sited adjacent to the B3224 I would object as this would site the development directly opposite a residential dwelling increasing noise, disruption and potentially blocking light.

ONE LETTER OF SUPPORT – making the following comments.

- The Royal Agricultural Society of England support the application as the development of the farm enterprise will attract new vibrant agricultural people into the local agricultural industry by expanding their farm and business.
- There is no doubt that the farm is in capable hands.
- Withholding permission would cause the business to plateau.

The agent has also responded to the objections received as part of the consultation process. Summary of main points: - proposed building relates to an existing agricultural holding; use of land is agricultural – the holding includes suckler cows and a bull, 150 breeding ewes, and a further 60 calves upon completion of the buildings – the donkey element does not constitute a material change of use; PPS7, para 32, sets out how equine-related activities should be supported; proposal is a mixed and sustainable agricultural operation; justification for the proposed buildings set against calculation of livestock needs; reference to security of both livestock and machinery; buildings will not be on the skyline as the contours indicate; accords with PPS7 with regards to the need for the buildings and its design and siting.

PLANNING POLICIES

PPS1 - Delivering Sustainable Development,
 PPS7 - Sustainable Development in Rural Areas,
 PPS25 - Development and Flood Risk,
 RPG10 - Regional Planning Guidance for the South West,
 STR1 - Sustainable Development,
 STR6 - Development Outside Towns, Rural Centres and Villages,
 S&ENPP49 - S&ENP - Transport Requirements of New Development,
 S1 - TDBCLP - General Requirements,
 S2 - TDBCLP - Design,
 S7 - TDBCLP - Outside Settlement,
 H13 - TDBCLP - Agricultural of Forestry Workers,
 M1 - TDBCLP - Non-residential Developments,
 EN6 - TDBCLP -Protection of Trees, Woodlands, Orchards & Hedgerows,
 EN12 - TDBCLP - Landscape Character Areas,

DETERMINING ISSUES AND CONSIDERATIONS

The main issues in the consideration of this application relate to the justification for the development, impact on the visual amenities of the landscape, and impact on the highway network.

It is noted that the donkey element (for the intention proposed) does not constitute agriculture within the meaning of the Town and Country Planning Act. However, it is an activity which one would expect to be carried out in a rural area and would be considered ancillary to the agricultural holding in its present form. This application is linked to the concurrent scheme for an agricultural workers dwelling, reference 41/09/0002. The donkey component of the enterprise is a specialist element where

further advice was sought to inform the decision-making process. Acorus Rural Property Services were commissioned to appraise the requirement for a full time agricultural worker to be on site. This included interviewing the applicant and his agent on site. As part of the report Acorus also responded on the justification for the proposed buildings to serve the enterprise.

The Acorus report sets out the history of the applicant's farming business. The farm was purchased in April 2007 and extends to about 20.2 ha (50 acres) which is owner occupied. An adjoining 16.2 ha (40 acres) is rented on an informal basis from the neighbouring landowner. The business comprises both agricultural (beef and sheep) and non-agricultural (breeding donkeys) enterprises. The business plan is to manage the ewe flock to produce early season lamb, maintain the suckler cows and sell stores at about 6-7 months of age, have a contract calf rearing business and develop the donkey enterprise which has various elements, breeding, stud work with the Jacks (male donkeys), donkey rides with Butlins, attending various local shows, fetes and other events.

With regards to existing buildings on the site the Acorus appraisal refers to the existing stone barn on site and suggests that whilst this offers potential storage use it is not suitable for modern livestock accommodation.

The proposed four additional buildings total some 585m² in floor area and comprises two stable blocks, mainly for the donkeys and two other barns for the cattle and sheep, and other general storage as required. Acorus have calculated the required floor areas, based on the stock numbers, totals 868.0m². This total does not allow for any fodder or storage space, or for machinery to be kept under cover.

The appraisal states that in practice however, there would not need to be completely separate 'designated' areas for all the livestock, as the sheep coming in at Christmas will often take over space that had been used for the storage of bedding or fodder. However, the proposal is still modest when judged against these requirements. The appraisal concludes that for the proposed farming enterprises the level and scale of the buildings is justified and proportionate to the existing and proposed activities.

The main issue therefore relates to the impact of the buildings on the landscape. The site is located on higher ground and therefore its impact needs to be assessed carefully. The landscape officer initially raised concern regarding the impact of the development when viewing the site from a distance. The landscape officer has since met the applicant on site to discuss the siting and visual appearance of the development. The landscape officer is now satisfied that amended plans, which show a reduction in ridge height and further cutting into the hillside supplemented by a comprehensive landscaping scheme, are acceptable. This includes the creation of a bund behind the development utilising the spoil to provide additional landscape mitigation. This will help to assimilate the development in its landscape setting.

It is therefore considered that the scale of the proposed buildings would serve an established need and would not adversely affect the rural character and appearance of the area.

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval

The proposed development is considered to be acceptable in its siting, scale and appearance. The development would not adversely affect the landscape qualities of the area, nor impact significantly upon the highway network or neighbouring property. The proposal therefore accords with Local Plan Policies S1, S2, S7 and EN12 of the Taunton Deane Local Plan, Policy STR1 and Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review, and advice contained in Planning Policy Statement 7.

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.
 - (i) The landscaping/planting scheme shown on the submitted plan shall be completely carried out within the first available planting season from the date of commencement of the development.
 - (ii) For a period of five years after the completion of the 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 other 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.

3. No development relating to the agricultural buildings hereby permitted (including ground works) shall take place until a drainage strategy dealing with foul and surface water run-off has been submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be installed and fully operational prior to the agricultural buildings hereby permitted being brought into use and shall thereafter be maintained as such.

Reason: To ensure adequate facilities exist for the disposal of foul and surface water, in the interests of preventing pollution and any increase in off-site flooding, in accordance with Policy S1 of the Taunton Deane Local Plan and Planning Policy Statement 25.

4. 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.

5. The development hereby permitted shall not be open to the general public.

Reason: In the interests of highway safety and to reduce care movements to the site in accordance with Policy 49 of the Somerset & Exmoor National Joint Structure Plan Review.

Notes for compliance

1. The site must be drained on a separate system with all clean roof and surface water being kept separate from foul drainage.
2. Manure/dung heaps must be sited in an area where it/they will not cause pollution of any watercourse or water source by the release of contaminated run-off.
3. The subsequent disposal of collected wastes must be undertaken in accordance with the MAFF Code of Good Agricultural Practice for the Protection of Water.
4. There must be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct to watercourses, ponds or lakes, or via soakaways/ditches.

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

41/09/0002

MR F COATE

CHANGE OF USE OF LAND TO SITE TEMPORARY MOBILE HOME FOR AN AGRICULTURAL WORKER AT SUNNYSIDE FARM, TOLLAND DOWN, TOLLAND AS AMENDED BY LETTER DATED 11TH AUGUST 2009 AND PLAN 165/AL2B AND PLAN 165/AG1A

309833.132887

Full Planning Permission

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PROPOSAL

Planning permission is sought for a temporary workers dwelling to serve the agricultural holding. The supporting information sets out the background to the applicant's business. The applicant has recently set up a donkey stud enterprise to diversify and support the more conventional agricultural farming elements of the holding. This comprises of 140 suckler cows and a bull, 150 ewes and plans for a further 60 calves to be reared upon completion of the buildings. The application also includes a copy of the contract with Butlins to train and provide donkey rides 7 days a week all year round (indoors in the winter). The existing donkey stock comprises of 27.

A concurrent application, planning reference 41/09/0001, has been submitted seeking permission for the erection of two stable blocks (mainly for donkeys), and two other barns for cattle and sheep, and general storage as required. It would normally be expected that the proposed buildings would be included in the same application. However, as they have been submitted separately it is recommended that Members consider the applications together. In other words if Members are minded to refuse the application for the additional buildings referred to above, there would be no requirement for a temporary workers dwelling.

As part of the consultation process the landscape officer has requested the mobile home to be re-sited in order to lessen its impact on the character and appearance of the area. Amended plans have been submitted to re-site the mobile home closer to the proposed agricultural buildings.

SITE DESCRIPTION AND HISTORY

The site comprises agricultural land and is accessed via a field gate from the B3224. To the west is the tree plantation at Willet Hill. The character of the area is of undulating countryside with the application site located on higher ground. The main views towards the site are from the West. The site is not subject to any national landscape designation.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SOMERSET COUNTY COUNCIL - TRANSPORT DEVELOPMENT GROUP - The proposed development site is remote from any urban area and, therefore, distanced from adequate services and facilities, such as education, employment, health, retail and

leisure and, in addition, there is no public transport services in close proximity of the site. As a consequence, occupiers of the new development are likely to be dependant on private vehicles for most of their daily needs. Such fostering of growth in the need to travel would be contrary to the government advice given in PPG13 and RPG10 and to the provisions of policies STR1 and STR6 of the Somerset & Exmoor National Park Joint Structure Plan Review (adopted April 2000).

It must be for the Local Planning Authority to determine if there is need and/or justification for an agricultural/temporary mobile home in this location, which will outweigh the highway sustainability issues raised that seek to reduce the reliance on the private car.

It would appear that the red line of the application site does not extend to any highway and therefore this is an issue that the Planning Officer may need the applicant to address.

If the Local Planning Authority is minded to grant consent it should be ensured that there is sufficient onsite parking and turning provided within the site, in connection with the development being proposed.

LYDEARD ST LAWRENCE & TOLLAND PARISH COUNCIL - The Parish Council objects to the proposal, as it did for application 41/09/0001, because the site is highly visible and because development in this rural area would be out of place.

HERITAGE AND LANDSCAPE OFFICER - Subject to a suitable landscape scheme and clearly defined curtilage it should be possible to erect the mobile home without significant landscape impact.

Revised comments 19 August 2009 – Subject to the additional landscaping and earth mounding the mobile home should have limited landscape impact.

DRAINAGE ENGINEER - It is noted that a septic tank is to be installed to treat foul sewage. Percolation tests should be carried out to ascertain the required length of sub surface irrigation drainage. The Environment Agency's Consent to discharge to underground strata is also required and they should be consulted. No details of how surface water is to be disposed are shown. These details should be provided before any approval is given

ENVIRONMENT AGENCY - The applicant proposes use of non-mains (private) drainage facilities. However, if the site is located within an area served by a public sewer, in accordance with Circular 3/99 (Planning requirement in respect of the Use of Non-mains Sewerage incorporating Septic Tanks in New Development), connection should be made to this sewer. The applicant must provide good reasons why a connection is unfeasible.

If a new septic tank/treatment plant is the only feasible option for the disposal of foul, or if there is an increase in effluent volume into an existing system, Consent to Discharge may be required. This must be obtained from the Environment Agency before any discharge occurs and before any development commences.

Representations

TWO LETTERS OF OBJECTION – making the following points.

- Intrusive and detrimental to the landscape.
- Temporary mobile home will inevitably be followed by an application for a permanent residential dwelling.
- If donkeys are to be regularly transported back and forth to Minehead and sold to allcomers both home and abroad, would it not be altogether more sensible to stable them within easy access of the highway?; it is understood the applicant already has suitable land fronting the B3224.
- The size of the new buildings seems to be excessively large for this purpose.
- Remote location – nearest settlements of Tolland and Willet have little or no services.
- The application fails to accord with the requirements of both Policy H12 and PPS7.
- Proposal fails the Functional Test of PPS7 – the donkey enterprise, which specialises in breeding hardy foragers, represents a wholly different situation to a large intensive pig or cattle enterprise.
- The appraisal sets out the time spent with the donkeys from 9am to 5.30pm (and 8am to 6.30pm off site) – the required activities can be undertaken during normal working hours.
- The off-site work, by definition, cannot create a functional need for a worker to be present on site at most times.
- There is evidence that donkeys are able to (and usually do) give birth unattended.
- If there is a genuine functional need to be resident on site during the birthing period, this need could be satisfied by the presence of a seasonal workers dwelling.
- Applicant has been running the farm enterprise from Milverton and no evidence has been put forward as to when the applicant had to be present on site outside of normal working hours.
- Question the man hours attributed to donkey element of the appraisal.
- The calf rearing business will be phased out over the next 3 years. On the basis that a previous inspector considered labour requirement for breeding donkeys would be similar to other breeding livestock the labour requirement would be reduced to 0.56 standard man hours.
- The decision to submit separate applications must mean the applicant would be satisfied with an approval in respect of the application for the buildings, but a refusal in respect of an agricultural worker's dwelling, it must therefore be assumed the applicant is satisfied that the business can function without the need for someone to be present day and night.
- Security – the security of farm equipment is not a relevant consideration with regard to the functional test.
- The protection of livestock from theft or injury by intruders may contribute on animal welfare grounds, although it will not be sufficient to justify one (para 6, Annex A, PPS7). Accordingly, as the functional test has not been met the fact there have been thefts cannot justify the grant of planning permission in this case.
- Sound Financial Basis – Lack of detail regarding the way in which the enterprise has been financially planned.
- No business plan has been provided or evidence of future financial planning.
- Cost of producing the donkeys would appear artificially low (donkey passport costs when selling, vet fees, breeding costs, insurance, maintenance, depreciation, professional fees etc).
- The budget does not account for the cost of the mobile home or the buildings

subject to application 41/09/0001.

- Other existing accommodation in the area – The applicants currently reside in Milverton (6.5 miles or 25 minutes drive from the site) and there is nothing in the appraisal that suggests the enterprise could not be properly and efficiently operated from the applicant's current home.
- Other normal planning requirements, e.g. siting and access. The site is very remote with no facilities or bus stops within walking distance and the applicants will be dependant upon the motor vehicle.
- The residential use of the site will, therefore generate a significant number of journeys by private motor car and other vehicular movements. This is certainly not a sustainable use of the site.
- Increased danger from intensification of the use of the existing access onto the highway.
- Other Material Considerations – Copy of appeal decision submitted relating to an application for a temporary agricultural workers dwelling in connection with a donkey breeding enterprise. Appeal was dismissed.

FOUR LETTERS OF SUPPORT – making the following comments.

- The Donkey Sanctuary express concern at the number of donkeys stolen across the country and are able to offer advice to the applicant to deal with such risks.
- Support the man hour requirements for training donkeys and dealing with the breeding and care of pregnant mares.
- The Royal Agricultural Society of England support the application as the development of the farm enterprise will attract new vibrant agricultural people into the local agricultural industry by expanding their farm and business.
- There is no doubt that the farm is in capable hands.
- Withholding permission would cause the business to plateau.

PLANNING POLICIES

PPS1 - Delivering Sustainable Development,

PPS7 - Sustainable Development in Rural Areas,

PPG13 - Transport,

PPS25 - Development and Flood Risk,

STR1 - Sustainable Development,

STR6 - Development Outside Towns, Rural Centres and Villages,

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

S1 - TDBCLP - General Requirements,

S2 - TDBCLP - Design,

S7 - TDBCLP - Outside Settlement,

H13 - TDBCLP - Agricultural of Forestry Workers,

M1 - TDBCLP - Non-residential Developments,

EN6 - TDBCLP -Protection of Trees, Woodlands, Orchards & Hedgerows,

EN12 - TDBCLP - Landscape Character Areas,

DETERMINING ISSUES AND CONSIDERATIONS

The main issues in the consideration of this application relate to the principle of the development, impact on the visual amenities of the landscape, and impact on the highway network.

It is noted that the donkey element (as proposed here) does not constitute agriculture

within the meaning of the Town and Country Planning Act. However, it is an activity which one would expect to be carried out in a rural area and would be considered ancillary to the agricultural holding in its present form. This application is linked to the concurrent scheme, reference 41/09/0001 seeking permission for the erection of two stable blocks (mainly for donkeys), and two other barns for cattle and sheep, and general storage as required. The donkey component of the enterprise is a specialist element where further advice was sought to inform the decision-making process. Acorus Rural Property Services were commissioned to appraise the requirement for a full time agricultural worker to be on site. This included interviewing the applicant and his agent on site.

The Acorus report sets out the history of the applicant's farming business. The farm was purchased in April 2007 and extends to about 20.2 ha (50 acres) which is owner occupied. An adjoining 16.2 ha (40 acres) is rented on an informal basis from the neighbouring landowner. The business comprises both agricultural (beef and sheep) and non-agricultural (breeding donkeys) enterprises. The business plan is to manage the ewe flock to produce early season lamb, maintain the suckler cows and sell stores at about 6-7 months of age, have a contract calf rearing business and develop the donkey enterprise which has various elements, breeding, stud work with the Jacks (male donkeys), donkey rides with Butlins, attending various local shows, fetes and other events.

PPS7, Annex A, indicates that residential dwellings for non-agricultural rural land based enterprises may be acceptable in principle, provided that the same stringent tests that would be applied to applications for agricultural worker's dwellings are fulfilled. The current proposal provides a mix of both the donkey enterprise and livestock in the form of sheep and cattle. The tests set out in PPS7, essentially are as follows: - there must be a clear intention to develop the enterprise; there must be a functional need for the dwelling (the functional test) and that the enterprise has been planned on a sound financial basis (the financial test). If these tests are met the provision of a dwelling for a temporary period would be acceptable in principle.

The Acorus appraisal concludes that there is clear evidence of a firm intention and ability to develop the enterprise concerned. In coming to this view the consultant has had mind to the following: - the initial investment in the purchase of the land, expenditure on livestock, a previous planning approval (AGN) granted for improvements to the access track and the current planning application for additional buildings together with the mobile home to support the business development.

The Acorus appraisal also confirms the recommendation of the applicant's agricultural appraisal that there is a functional need for a full time worker to be resident on the application site. This is based on the welfare needs of all the livestock. The basic requirements for the welfare of livestock are a husbandry system appropriate to the health and, so far as practicable, the behavioural needs of the animals and a high standard of stockmanship. The agent has also made further representations as a result of comments received during the publicity period – in particular those disputing the functional need for a full time worker. The agent puts forward the case that there are over 194 animals that will give birth in a year and a high standard of care is required for all classes of livestock and it is necessary that a stockman is on hand for all births. This is not seasonal. The 60 calves being reared on site require essential care and supervision at all times. The agent states that every stockperson is likely to plan what they will try and achieve in normal working hours 9 to 5.30. However, it would not be

correct to assume that all the demands of the livestock will be met between these hours. The agent also disputes the validity of the appeal decision with regards to this case due to the limited size of the holding (1.7 ha) and the fact the enterprise bred miniature donkeys.

The objections to the proposal, specifically relating to the functional and financial tests, received during the consultation process have been forwarded to Acorus to respond. The Acorus response notes the objections were submitted before the Acorus report. Acorus reaffirm the view that the proposal accords with the function and financial test requirements. The objection letter focuses specifically on the donkey element, whereas the business will comprise, the donkeys, calf rearing, sheep and the suckler cows. Acorus set out a range of cases where an emergency situation could arise including: - birthing periods; disease; preventing theft; attention to young animals; supervising sick animals; animals fighting or jostling - particularly if new animals are introduced to the group; making sure animals do get caught up in gates/fences or escape; ensuring dangerous areas are secure (slurry stores etc); maintaining physical security and bio-security of the unit; faults with services such as water; electrical faults that could lead to the outbreak of fire. Acorus also consider the appeal decision accompanying the objection representation for 'miniature donkeys' is not comparable.

The Acorus report also finds that there is clear evidence that the business has been planned on a sound financial basis. The Acorus calculations report a Return to Unpaid labour of £35,000. The current minimum wage for adult agricultural workers for the basic 39 hour week is £12,695.

The Highway Authority has commented that the site is in an unsustainable location in highway terms, being remote from facilities, services and public transport. However agriculture is a rural, land based activity that cannot be located in an urban area, or other settlement. Absence of a residential presence would also result in the need for more commuting to and from site. It is therefore considered that an objection on this basis would be unreasonable. The Highway Authority has not raised any specific technical objections to the proposal.

To conclude, the provision of a temporary mobile home to serve the holding is considered to be acceptable. This is supported by the applicant's agricultural appraisal and the commissioning of Acorus to provide their expertise to the Council in order to inform the decision-making process. In respect of the proposed accommodation, it is considered that there is a functional need for a worker to be resident on site and that the enterprise has been planned on a sound basis. The mobile home would be partially screened and it is the view of the landscape officer that the proposal would not adversely affect the visual amenities of the area subject to the condition requiring further landscape mitigation. With regards to these factors, the development is considered acceptable and it is, therefore, recommended that planning permission be granted.

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval

Subject to Members being minded to grant planning permission for the additional buildings sought under planning application 41/09/0001 - Permission be GRANTED subject to the imposition of conditions.

The proposed mobile home for an agricultural worker has a proven functional need in connection with a potentially viable business and as such provides suitable justification for its location outside the limits of a settlement. The visual and residential amenity of the area would not be detrimentally affected. The scheme therefore accords with Taunton Deane Local Plan Policies S1 (General Requirements), S2 (Design), S7 (Outside Settlement), H13 (Agricultural or Forestry Workers) and M4 (Residential Parking Provision).

Should members be minded to refuse planning permission 41/09/0001, permission be refused for the following reason.

The site is located in the open countryside where presumption is against the development of new dwellings unless an agricultural need can be proven. In light of the refusal for agricultural buildings refused under planning reference 41/09/0001, the Local Planning Authority is not satisfied by the evidence submitted that there is clear evidence of a firm intention and ability to develop the enterprise. Without the provision of the buildings there would be no functional need which requires on-site-presence. The proposal is therefore contrary to Taunton Deane Local Plan Policy H13 and Guidance contained within PPS 7,

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. The occupation of the caravan shall be limited to a person solely or mainly working, or last working in the locality in agriculture or in connection with the commercial donkey business, or a widow or widower of such a person, and to any resident dependants.

Reason: The site lies in area where new development is generally restricted to that for which there is a proven need in accordance with Policy H13 of Taunton Deane Local Plan and Guidance in PPS7.

3. The caravan shall not be stationed on the site until the agricultural buildings, approved under planning reference 41/09/0001, have been built in accordance with the approved plans. Once completed the mobile home shall be sited in accordance with the approved plan and there shall be no material change to the position of the mobile home, or its replacement by another mobile home in a different location.

Reason – Without the erection of the agricultural buildings there would no justification for the provision of a temporary agricultural workers dwelling and, with regards to siting, in

order to protect the visual amenities of the landscape in accordance with Taunton Deane

Local Plan Policies S1, S2, H13 and EN12.

4.
 - (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.

5. No development shall take place until details of the foul water drainage system and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details before the mobile home on the site is occupied.

Reason - To avoid pollution of the environment and/or flooding in accordance with

Taunton Deane Local Plan Policy S1 and EN26 and advice contained within PPS25.

Notes for compliance

1. The application seeks the use of non-mains (private) drainage facilities. The applicant should ascertain if the site is located within an area served by a public sewer and if this is the case connections should be made to this sewer, in accordance with Circular 3/99 (Planning requirement in respect of the Use of Non-Mains Sewage incorporating Septic Tanks in new Development).
2. If new septic tank/treatment plant is the only feasible option for the disposal of foul water, or if there is an increase in effluent volume into an exiting system, Consent to Discharge from the Environment Agency may be required. In the event that Consent to Discharge is required this must be obtained before any discharge occurs and prior to the development commencing. The applicant is advised that this process can take up to four months to complete and should contact the Environment Agency on 08708 5066506 for further details.

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

48/09/0027

MR M MARSHALSEA

ERECTION OF A SINGLE STOREY EXTENSION TO THE REAR AND SIDE TO INCLUDE CONSERVATORY AND PORCH TO FRONT AT LITTLE OAKS, 16 SYLVAN WAY, MONKTON HEATHFIELD

325314.126632

Full Planning Permission

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PROPOSAL

The existing property is a small detached brick and tile bungalow set in a cul-de-sac of similar style properties at Sylvan Way, on the southern side of Monkton Heathfield. A flat roof garage lies at an angle to the front north-west corner of the bungalow.

This application seeks permission for the erection of a single storey “wrap-around” extension to the rear and side, with a further conservatory to the rear, also wrapping around the side. The proposals also include a porch to the front. The extensions would provide a significantly larger kitchen and lounge and the addition of a dining room, utility room and two en-suite bathrooms to the existing accommodation.

An earlier application for a single storey extension to the front and rear of the property and a dormer window on the rear was refused in October 2006 as the size, design and external appearance was considered to detract from the design and external appearance of the dwelling and from the general standard of development in the area; and the rear extension was considered to result in an unneighbourly form of development, which would be overbearing to the adjoining property and result in loss of outlook.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SOMERSET COUNTY COUNCIL - TRANSPORT DEVELOPMENT GROUP - No observations

WEST MONKTON PARISH COUNCIL - In the view of the Parish Council the street scene will remain unchanged because much of the extension will be at the rear. The property is a modern bungalow in a small cul-de-sac and the proposal is for a modern extension. Appropriate materials should be used. The design sympathetically uses the topography of the site, enabling the conservatory to be kept to a low level. The extension is proposed to accommodate the needs of a family with young children who enjoy a sustainable walk to school from this location.

Representations

Six letters received from local residents, three in support, two stating no objections and

one commenting that the proposed extension will have no detrimental impact on the layout of the close and will not affect the street scene as most of the building is to the rear.

PLANNING POLICIES

S1 - TDBCLP - General Requirements,
S2 - TDBCLP - Design,
H17 - TDBCLP - Extensions to Dwellings,

DETERMINING ISSUES AND CONSIDERATIONS

The existing property is a small traditional style bungalow, 11.4 metres in width and 7.8 metres in depth. The proposed extension would run 15.7 metres along the rear of the property (also extending along the rear of the proposed side extension). This rear extension wraps around the existing bungalow and runs the full depth of the property, being from 9.7 to 12 metres in depth, due to the angled design of the extension. In addition, a further conservatory also wraps around the proposed extension, 7 metres along the rear and 6.8 metres along the side.

The existing bungalow occupies a footprint of approximately 88 metres squared, whilst the proposed extension to include the conservatory and porch would occupy a footprint of approximately 128 metres squared, an increase of 145%. (Calculations based on measurements scaled from proposed floor plan.)

The extensions proposed are therefore extremely large in comparison to the size of the current bungalow, failing to appear subordinate to the existing property in any way. The roof design fails to respect the roof form of the property, whilst the proposed extensions, as a result of the “wrap around” style and angled element at the front of the utility room, exacerbated by the large conservatory, appear awkward and do not relate well to the form of the existing dwelling. As such, the proposed extensions would appear incongruous, significantly dominating and detracting from the original character of the bungalow and result in a property out of keeping with surrounding dwellings.

It is acknowledged that the proposed extensions are predominantly to the rear and the side extensions will be partially screened from Sylvan Way by the existing garage. As such, there will be no significant harm to the street scene. However, it is important to note that whilst the majority of the extensions proposed may not be clearly visible from public viewpoint, this is not a good enough reason to allow poor design. Policy H17 states that extensions will be permitted provided they do not harm the form and character of the dwelling and are subservient to it in scale and design. The proposals are not considered to meet this criteria in any way and are therefore contrary to this aspect of the policy.

RECOMMENDATION AND REASON(S)

Recommended Decision: Refusal

- 1 The proposed extensions, by virtue of their size, scale, design and bulk, appear as incongruous additions, which dominate and detract from the bungalow, to

the detriment of its character, and would result in a dwelling that would appear out of keeping with the scale and appearance of surrounding properties. As such, the proposal is contrary to policies S1 (General Requirements), S2 (Design) and H17 (Extensions to Dwellings) of the Taunton Deane Local Plan.

RECOMMENDED CONDITION(S) (if applicable)

Notes for compliance

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

CONTACT OFFICER: Miss K Purchase Tel: 01823 356468

Planning Committee – 2 September 2009

Report of the Head of Legal and Democratic Services

Revocation of Certificate of Proposed Lawful Use or Development relating to Development Works to Outbuildings at Higher Mill, Hatch Beauchamp, Somerset, TA3 6AE (“the Site”)

Applicant/Owner: Mr Wayne Collins

Reason for this Report

1. On 22 December 2008 the Council issued a Certificate of Lawfulness for proposed alterations and extension to existing outbuildings at the rear of Higher Mill, Hatch Beauchamp in order to provide garages, a workshop, a log store, a mower store, a study/office and a gym. Subsequently information has come to light which demonstrates that part of the evidence which was submitted in support of the application for a Certificate was false. It is therefore considered that the Certificate should be revoked.

Background

2. On 7 November 2008 the Council received an Application for a Lawful Development Certificate for a Proposed Use or Development (Certificate of Lawfulness) from the Applicant's Agent, DLP Planning Ltd (DLP).
3. In its covering letter dated 5 November 2008 sent with the Application, DLP submitted that the proposed operational development/building works to the outbuildings is development within the curtilage of the dwelling house, thus constituting permitted development and complying with the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and therefore did not require planning permission.
4. The Council accepted the information contained in the Application as true, that is, that the proposed works to the outbuildings fell within the permitted development rights and the Certificate of Lawfulness was issued on 22 December 2008.
5. Since the Certificate was issued, DLP contacted the Council in March 2009 to say they incorrectly stated in their covering letter of 5 November 2008 that:-

“No part of the buildings will be situated on land forward of a wall forming the principal elevation of the original dwelling house”.

DLP explained it was originally considered that the northwest elevation is the principal elevation of the dwelling house, however, it is the southeast elevation that is in fact the principal elevation, having the front door and main architectural features of the building.

6. Under Section 193(7) of the Town and Country Planning Act 1990, a local authority can revoke a Certificate of Lawfulness if on the Application for the Certificate a statement was made or a document was used which was false in a material way or any material information was withheld.
7. Mrs Judith Jackson, Legal Services Manager at the Council carried out a site visit. As a result of observations made during the site visit it came to the attention of Mrs Jackson that there was another false statement made in the covering letter of 5 November 2008 as follows:-

“The buildings are located within the curtilage of Higher Mill and are required for purposes incidental to the enjoyment of the dwelling house.”

In Mrs Jackson’s opinion, the curtilage of the dwelling house is land around Higher Mill lying to the west of the track/footpath that runs through the original application site and not land lying to the east of the dwelling house.

6. Article 24(12) of the Town and Country Planning (General Development Procedure Order) 1995 requires that prior notice be given to the owner and the occupier of the land and to any other person who will in the local planning authority’s opinion be affected by a Revocation of a Certificate of Lawfulness and invite those parties affected to make representations within 14 days of service of the notice to the local planning authority before revocation of the Certificate.
7. On 18 May 2009 Mrs Jackson wrote to the Owner and to DLP giving them notice that she intended to revoke the Certificate because of the two false statements made in the covering letter dated 5 November 2008 sent by DLP. In her letter, Mrs Jackson invited them to make any representations they wished to make in respect of either or both of the two false statements within 14 days of receipt of her letter.
8. DLP sent a letter dated 30 June 2009 to Mrs Jackson. In their letter, DLP took issue with Mrs Jackson’s statement that there were two false statements made in relation to the application. DLP conceded the statement “No part of the buildings will be situated on

land forward of a wall forming the principal elevation of the original dwelling house” was a false statement and in those circumstances would be happy for the Council to revoke the Certificate.

DLP do not agree that the statement “The buildings are located within the curtilage of Higher Mill and are required for purposes incidental to the enjoyment of the dwelling house” is false. In DLP’s opinion, the Site does fall within the curtilage of the dwelling house.

Legal Implications

9. There is no right of appeal against the Council’s decision to revoke a Certificate of Lawfulness however the validity of the Council’s decision may be challenged by application to the High Court for judicial review.
10. No compensation is payable to the applicant if the Council revokes a Certificate of Lawfulness.

RECOMMENDATION

It is recommended that the Committee confirm that the Certificate of Lawfulness be revoked for the reason that on the Application for the Certificate two false statements were made which were false in a material particular.

CONTACT OFFICER Maria Casey 01823 356413 or
m.casey@tauntondeane.gov.uk

1. **File/Complaint Number** E0269/36/2008 &36/08/0021
2. **Location of Site** Cedar Moor, Meare Green, Stoke St Gregory, TAUNTON.
3. **Names of Owners** Mr T Moody
4. **Names of Occupiers** As Above
5. **Nature of Contravention** Formation of access for domestic purposes.
6. **Planning History** The access was brought to our attention in October 2008. The owner was contacted and informed that Planning permission was required as the access was constructed off a classified road. The owner said he had permission as it was shown on a previous Planning approval drawing for an extension to the main house. It was explained that a separate application was required as it did not form part of the original permission. Following many requests for an application for the access an application was submitted but was not able to be registered. At the same time the owner submitted a Lawful Development Certificate for the change of use of the field to which the access serves stating that it has been in residential use for more than 10 years. This application has not yet been determined. The access has now been completed and is in use. Complaints have been received from members of the public about the dangerous position of the access and Somerset County Highways have concerns regarding visibility.
7. **Reasons for taking Action** It is considered that the access and gates are a visual intrusion into the countryside having an urban style which is uncharacteristic in this rural location. The location of the access along this road is in a position where it is difficult to obtain satisfactory visibility along the carriageway. Therefore the access is contrary to Somerset & Exmoor National Park Joint Structure Plan Review Policy 49 and Taunton Deane Local Plan Policy S1.
8. **Recommendation** The Solicitor to the Council be authorised to serve an enforcement notice and take prosecution action subject to satisfactory evidence that the notice has not been complied with.

In preparing this report the Planning Officer has considered fully the Implications and requirements of the Human Rights Act 1998

CONTACT OFFICER: Mr John A W Hardy Tel: 356466

APPEALS RECEIVED : FOR COMMITTEE AGENDA : 2 SEPTEMBER 2009

Appeal Proposal	Start Date	Application Number
<p>DISPLAY OF FOUR ILLUMINATED FASCIA SIGNS, ONE ILLUMINATED PYLON SIGN AND ONE ILLUMINATED DIRECTIONAL SIGN, TOGETHER WITH TWO ENTRANCE SIGNS, ONE ILLUMINATED AND ONE NON ILLUMINATED, AT WELLINGTON MOTORS (RENAULT), SUMMERFIELD WAY, CHELSTON BUSINESS PARK, WEST BUCKLAND, AS AMENDED BY AGENT'S EMAIL RECEIVED 25 JUNE 2009 AND AMENDED DRWG NO. REN0766 PLANNING</p>	<p>18 AUGUST 2009</p>	<p>46/09/0017A</p>
<p>ERECTION OF 20 NO. AFFORDABLE DWELLINGS AND PROVISION OF RECREATION FIELD AND PLAYGROUND AREA ON LAND OPPOSITE THE VILLAGE HALL, NYNEHEAD (AMENDED DESCRIPTION) AS AMPLIFIED BY E-MAIL DATED 15 JANUARY 2009 AND EMAIL DATED 17 FEBRUARY 2009</p>	<p>21 AUGUST 2009</p>	<p>26/08/0010</p>

APPEAL DECISION FOR COMMITTEE AGENDA – 2 SEPTEMBER 2009

APPEAL	PROPOSAL	REASON(S) FOR INITIAL DECISION	APPLICATION NUMBER	DECISION
APP/D3315/C/08/2093496/WF	ALTERATIONS AND EXTENSIONS, TREFUSIS LODGE FARM, BRADFORD ON TONE	Without planning permission demolished the south east facing wall of the barn and partially demolished the remaining three walls of the barn and thereafter reconstructed the walls erecting a two-storey building.	ENFORCEMENT E160/07/2007	The Inspector directed that the enforcement notice be varied and subject to these variations DISMISSED the appeal and upheld the enforcement notice.

TDLP = Taunton Deane Local Plan **SENP** = Somerset & Exmoor National Park