

You are requested to attend a meeting of the Planning Committee to be held in The John Meikle Room, The Deane House, Belvedere Road, Taunton on 30 June 2010 at 17:00.

Agenda

- 1 Apologies.
- 2 Minutes of the meeting of the Planning Committee held on 9 June 2010 (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 06/10/0008 – Erection of dwelling and garage in garden of Frog House, 43 Mount Street, Bishops Lydeard
- 6 24/10/0019 – Change of use from residential house to children’s residential home at The Orchards, Helland, North Curry
- 7 Miscellaneous Item - Enforcement action at Lower Fyfett Farmhouse, Otterford, Chard. Report of the Head of Legal and Democratic Services (attached)
Reporting Officer: Maria Casey
- 8 Miscellaneous Item - Enforcement action at Upcott Farm Cottage, Nynehead
Reporting Officer: Maria Casey
- 9 E0145/44/2007 - Occupation of a mobile home for an agricultural worker after permission expired, Combe Farm, Ford Street, Wellington
- 10 E0017/51/2005 - Non-compliance with Section 215 Notice at Moor House, Stathe Road, Burrowbrodge
- 11 E0124/51/10 - Change of use of land by stationing of vehicles/motor home and erection of structure for residential purposes on land adjacent to King William Drove, Stathe Road, Burrowbridge
- 12 Planning Appeals - the latest appeals lodged and appeal decision received (details attached)

Tonya Meers
Legal and Democratic Services Manager

28 June 2010

Members of the public are welcome to attend the meeting and listen to the discussions.

There is time set aside at the beginning of most meetings to allow the public to ask questions.

Speaking under “Public Question Time” is limited to 4 minutes per person in an overall period of 15 minutes. The Committee Administrator will keep a close watch on the time and the Chairman will be responsible for ensuring the time permitted does not overrun. The speaker will be allowed to address the Committee once only and will not be allowed to participate further in any debate.

If a member of the public wishes to address the Committee on any matter appearing on the agenda, the Chairman will normally permit this to occur when that item is reached and before the Councillors begin to debate the item.

This is more usual at meetings of the Council’s Planning Committee and details of the “rules” which apply at these meetings can be found in the leaflet “Having Your Say on Planning Applications”. A copy can be obtained free of charge from the Planning Reception Desk at The Deane House or by contacting the telephone number or e-mail address below.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group.

These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room.

Full Council, Executive, Committees and Task and Finish Review agendas, reports and minutes are available on our website: www.tauntondeane.gov.uk



Lift access to the John Meikle Room and the other Committee Rooms on the first floor of The Deane House, is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available off the landing directly outside the Committee Rooms.



An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter.

For further information about the meeting, please contact Democratic Services on 01823 356382 or email d.durham@tauntondeane.gov.uk

Planning Committee Members:-

Councillor P Watson
Councillor D Wedderkopp
Councillor M Floyd
Councillor B Denington
Councillor M Hill
Councillor D House
Councillor C Bishop
Councillor J Allgrove
Councillor C Hill
Councillor L James
Councillor T McMahon
Councillor N Court
Councillor B Swaine
Councillor S Coles
Councillor F Smith
Councillor A Wedderkopp
Councillor R Bowrah, BEM
Councillor E Gaines
Councillor I Morrell

Planning Committee – 9 June 2010

Present:- Councillor Denington (Vice-Chairman) (In the Chair)
Councillors Mrs Allgrove, Bishop, Coles, Ms Court, Denington,
Mrs Floyd, C Hill, House, Miss James, McMahon, Stuart-Thorn,
Swaine, Watson, A Wedderkopp and D Wedderkopp

Officers:- Mr B Kitching (Area Planning Manager), Mrs J Jackson (Legal Services
Manager) and Mrs G Croucher (Democratic Services Officer)

Also present: Councillor Morrell

(The meeting commenced at 5.00 pm)

62. Apologies/Substitution

Apologies: The Chairman (Councillor Mrs Hill) and Councillors Bowrah
and Ms Webber

Substitution: Councillor Stuart-Thorn for Councillor Bowrah

63. Minutes

The minutes of the meeting of the Planning Committee held on 21 May 2010
were taken as read and were signed.

64. Apology

Reference Minute No 54/2010 regarding the proposed development on land
west of Bishop's Hull Road, Bishop's Hull, Councillor Morrell had previously
raised the point that incorrect information had been presented to the
Committee with regard to the application.

At the time, the Legal Services Manager (Judith Jackson), had stated that this
was not the case. However, it had since come to light that some of the
information provided to Members relating to a highways issue had been
inaccurate. Mrs Jackson was sorry the Committee had been misinformed.

65. Declarations of Interest

Councillors McMahon and D Wedderkopp declared personal interests as
Members of Somerset County Council. Councillor Miss James declared a
personal interest as an employee of Viridor. Councillor Coles declared a
personal interest as a Director of Southwest One.

66. Applications for Planning Permission

The Committee received the report of the Growth and 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:-

38/10/0089

Erection of extension to the rear of the garage at 36 Parkfield Drive, Taunton

Conditions

- (a) The development hereby permitted shall be begun within three years of the date of this permission;
 - (b) The development hereby permitted shall be carried out in accordance with the approved plans;
 - (c) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building unless otherwise agreed in writing with the Local Planning Authority.
- (Note to applicant:- Applicant was advised that the proposed extension falls within a flood zone and therefore floor levels within the proposed development should be set no lower than existing levels and appropriate flood proofing should be incorporated).

Reason for granting planning permission:-

The resulting garage, although large, would not have a dominating impact upon the existing property, nor had an adverse impact on the street scene. There would be no material impact upon the living conditions of the occupiers of the adjacent property, and no harm to highway safety. As such, the proposal was in accordance with policies S1 (General Requirements) and S2 (Design) of the Taunton Deane Local Plan.

38/10/0094

Erection of single storey rear and side extension at 83 Greenway Avenue, Taunton

Conditions

- (a) The development hereby permitted shall be begun within three years of the date of this permission;
- (b) The development hereby permitted shall be carried out in accordance with the approved plans;
- (c) 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 proposed development would not harm either visual or residential amenity, nor would it 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).

38/10/0133

Installation of Upvc window at 6 Northfield Gardens, 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.

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).

67. Residential Development at Area A, Firepool Lock, Taunton

Reference Minute No 72/2008, reported that planning permission had been granted for the residential development at Area A, Firepool Lock, subject to appropriate variations to the existing Section 106 Agreement regarding affordable housing, the alignment of the highway, delivery and providing for implementation of a Public Art Strategy, a contribution towards drainage attenuation maintenance (if necessary) and consideration of outstanding consultee responses with the addition of any conditions which might arise from them.

The Section 106 Agreement had since been amended in order for the Knightstone development of affordable housing (Area E) to take place. However, this did not provide for the delivery and provision of a Public Art Strategy. It was felt that the provision of Public Art could be secured through planning conditions.

Resolved that a Public Art Strategy for Area E be secured through an appropriate planning condition.

68. Appeals

Reported that two appeal decisions had recently been received, details of which were submitted.

Resolved that the report be noted.

(The meeting ended at 5.40 pm.)

06/10/0008

MR B BURKE

ERECTION OF DWELLING AND GARAGE IN GARDEN OF FROG HOUSE, 43 MOUNT STREET, BISHOPS LYDEARD

316872.129272

Full Planning Permission

RECOMMENDATION AND REASON(S)

Recommended Decision: Refusal

- 1 The development would be accessed via a private drive that does not afford adequate visibility from or of vehicles emerging onto the public highway. It does not incorporate the necessary visibility splays which are essential in highway safety and it is therefore contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review and Policy S1 of the Taunton Deane Local Plan.
- 2 The use of the access to the site in connection with the development proposed would be likely to increase the conflict of traffic movements close to an existing junction resulting in additional hazard and inconvenience to all users of the highway. The proposal is therefore contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted April 2000) and S1 of the Taunton Deane Local Plan.

RECOMMENDED CONDITION(S) (if applicable)

Notes for compliance

PROPOSAL

This application seeks full planning permission for the erection of a dwelling. It would be two storey, with half dormer windows, such that the first floor rooms were set partly into the roof. The windows would be of timber, set in stone elevations (except the rear which would be rendered) under a natural slate roof. A garage would be provided to the northeast of the main dwelling, linked via a single storey utility room. Access would be provided from the existing private drive from Mill Lane, providing a parking/turning area that would give way to a new drive leading up to Frog House. The existing garage would be demolished to form the new access and a number of small trees surrounding the garage would be felled. A mature tree on the eastern site boundary would also be felled to make way for the access. The site would be separated from Frog House by a new timber fence.

SITE DESCRIPTION AND HISTORY

The site, in the centre of Bishops Lydeard, comprises part of the gardens and

existing garage belonging to Frog House. Frog House itself is a large detached dwelling that fronts Mount Street, with a front door accessed from a private layby/hardstanding area between it and the public highway to the west. Its south elevation has a number of large windows facing the garden and application site.

The garden itself is generally flat, although it does slope up to the south to meet Mill Lane, which is at a higher level than the main garden. It contains some small trees, within the site, but the main planting and mature trees are along the site boundaries. The garage is a stone built structure with a corrugated sheet roof. The eastern site boundary is a low timber fence and conifer hedging, which separates the site from the neighbouring dwellings of Mill Lodge and Foxs Barn. Foxs Barn has a gable end window/door facing the site with steps down from first floor level. The southern and western boundaries are formed by a stone wall which provides a clear hard edge between the public realm and application site. There is a small arched gateway in the south western corner, at the junction with Mount Street and Mill Lane. To the west, over the public highway, a further neighbouring property, the listed Warre House faces the site, with first floor windows visible above its stone boundary wall. To the south, across Mill Lane is the end wall of the listed 44 Mount Street.

There is an existing vehicular access to the garage at the south of the site, via a private drive that also serves Mill Lodge and Foxs Barn.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SCC - TRANSPORT DEVELOPMENT GROUP – Initially objected to the application raising concerns that the parking and turning area does not meet SCC standards noting that the erection of a wooden fence separating the new dwelling from the driveway for the existing dwelling does not help the situation. The Highway Authority also consider that the private access road runs at an angle to Mill Lane and is not perpendicular. This substandard alignment results in a lack of visibility for vehicles emerging from the private road onto Mill Lane to see and be seen. In addition, there is a pinch point on the private access road, whereby it would be difficult for two vehicles to pass each other and could lead to reversing onto the highway close to the junction.

In addition, the private access is located in close proximity to the junction of Mill Lane and Mount Street, whereby the visibility of vehicles emerging from the private lane and forward visibility of vehicles turning left from Mount Street into Mill Lane is restricted. It is, therefore, considered that an additional dwelling and its associated traffic movements would lead to additional conflicting traffic movements and further exacerbate a substandard arrangement to the detriment of highway safety for all road users.

Whilst it is appreciated that this is an existing situation, the Highway Authority would not welcome new development that seeks to utilise substandard points of access onto/from the public highway, unless suitable improvements can be made.

Following the receipt of these comments, the applicant appointed a highway consultant to provide a rebuttal to the Highway Authority's comments. The main

points raised are:

- There is sufficient forward visibility along Mill Lane for vehicles approaching to take evasive action should a vehicle emerge from the site.
- The users of Mill Lane will likely be familiar with the situation.
- Traffic using the Mill Lane/Mount Street junction will be low in number and will be travelling slowly.
- There are no recorded accidents at this junction.
- The turning area can be enlarged through the removal of the dividing fence between it and the access drive for Frog House.
- There is sufficient space on the access drive for vehicles to be able to stop before the pinch point and sufficient forward visibility to see them approaching.

The Highway Authority have further responded to these comments stating that a great deal of emphasis has been made to the reliance of other the drivers on the highway driving with due care and attention and having sufficient forward visibility and time to see vehicles emerging and stopping in the event of conflict. However the Highway Authority considers that highway safety should not be solely dependent upon forward visibility if emerging visibility is substandard. There is also a need for emerging traffic to see approaching vehicles, pedestrians, cyclists and horses etc.

Irrespective of the number of vehicles that currently use Mill Lane and the junction of Mill Lane onto Mount Street, and the speed of these vehicles, the fact remains that visibility for vehicles emerging is extremely substandard and new development which results in additional/new traffic movements should not be permitted unless improvements commensurate with the speed of traffic can be incorporated.

Just because there are no personal injury accidents reported in connection with the access, this does not deem that it is safe and doesn't mean that accidents or near misses have not occurred which due to their minor nature may not have been reported. In any event, an additional dwelling and its associated traffic movement would increase the likelihood of an accident occurring, without appropriate improvements being made to the access, which is unacceptable to the Highway Authority in terms of highway safety.

Therefore, the concerns of the Highway Authority remain relevant and the recommendation of refusal still applies.

BISHOPS LYDEARD & COTHELSTONE PARISH COUNCIL – Objects to the application:

- The proposal is out of keeping with the character of the Conservation Area, which the Parish Council strongly wishes to preserve.
- The proposed access, both vehicular and pedestrian, is located on a dangerous blind corner.
- The Council has concerns over the increased volume of traffic onto Mount Street, which is already busy especially during peak hours.
- There appears to be a lack of adequate parking and turning space on the proposed site.
- The existing foul drain cannot sustain increased capacity from another dwelling.
- The loss of green space would not only be detrimental to the character of the conservation area, but would have a detrimental impact on wildlife in the area.
- The Council feels it is not possible to assess the visual impact of the proposal

- accurately from the plans provided, especially in respect of the roofline.
- The Council feels that the Conservation Officer's conclusion that the proposal would not have an impact on the Conservation Area contradicts the earlier statements in the report stating that the proposal would not enhance the character of the area.
 - Clause 7.2 in the conservation area appraisal stresses the importance of Green spaces in forming the character of the village.
 - Clause 8.4 of the conservation area appraisal states that the avoidance of development on remaining open spaces is important.

WESSEX WATER – The development is located within a sewered area, with foul and surface water sewers. The developer has proposed to dispose of surface water to a soakaway.

It will be necessary, if required, for the developer to agree points of connection to Wessex Water systems. This can be agreed at the detailed design stage.

CONSERVATION OFFICERS – Has the following observations:

Demolition of existing garage – The current garage occupies the site of a building shown on the late-19th Century OS maps and incorporates stonework likely to be from this period or earlier; it is therefore very likely that this building is the one shown on the maps, albeit adapted. The application does not address the potential significance of this building (i.e. does it have any historic value) or include sufficient information to calculate its volume – if it is over 115 cubic metres then conservation area consent is required for its demolition. My feeling is that the building is of insufficient importance to ask for a recording condition but would suggest that the applicant provides sufficient information for this to be assessed.

Setting of conservation area – This is a prominent and sensitive site within the conservation area, identified in the 2007 appraisal as an 'important green space'. Historically, this does not appear to have been a building plot and in character it appears to be a private garden. The proposed development will not add to this character.

Setting of the listed buildings (2 and 44 Mount Street) – The proposed development is set back off the street frontage. I do not consider that this will interfere with the setting of 2 Mount Street (opposite) or the view of No. 44 looking south along the street.

Design and materials – Overall the design does reflect other houses in the conservation area. There are two elements I am less keen on: the utility/lobby 'extension' which creates the garage link (I would have preferred a detached garage); and the east elevation roofline, why is this required?

The materials are all in-keeping but I am not sure why the east elevation is to be rendered, unless to keep costs down. I would suggest that, if approved, conditions are added for samples of the materials; particularly the exposed stone work.

Summary – The proposed dwelling would not adversely affect the setting of the listed buildings or have a negative effect on the character and appearance of the Conservation Area. Provided satisfactory confirmation of the status of the existing

'garage' is forthcoming, I would not object on conservation grounds if a recommendation for approval, subject to conditions, is made.

HERITAGE AND LANDSCAPE OFFICER – My concerns are that the proposed new access way to the rear of the property will significantly damage tree roots to the detriment of the character of the conservation area. I recommend a full tree survey be undertaken to assess the health and amenity of trees.

Representations

Letter from Ward Member (Cllr Lewin-Harris): Does not support this application because of the impact on the conservation area. This stretch of Mount Street is one of the few parts of the village which has not been affected by 20th century development and this development would, without doubt, have a negative impact on this prominent and sensitive site which is highly visible as you walk or drive along the main route throughout the village. The site falls within zone 2 of the conservation area where open garden space is identified by the 2007 conservation area appraisal as being particularly notable. The appraisal also states that the avoidance of development on remaining open spaces forming the setting of the conservation area is important.

FOUR letters of OBJECTION has been received, raising the following issues:

- The loss of significant green space in a conservation area. The 2007 conservation area appraisal designated the site as a prominent and sensitive site. Development of this site will adversely affect the surroundings and the conservation area. Conservation is about the space between the buildings as well as the buildings themselves. The existing garden areas in this part of the conservation area are integral to its character and are a significant factor in the setting of the listed building. There seems to be little point in conservation area designation if the approach to infill is no more rigorous than outside.
- The proposal does not respect the character of the area. Surrounding properties enjoy reasonably sized gardens. The gardens for the plot and what is left for Frog House will be minimal in comparison.
- The design does not reflect the scale and character of houses in the area. It bears no resemblance to any one of the houses which adjoin it. In view of its proximity to Mount Street it would be intrusive in the street scene. The application is deficient in level information and full site sections are required if the impact of the development is to be fully assessed.
- The internal layout may not be achievable due to the limited head height at first floor level.
- It is accepted that the form and materials follow the local vernacular and that it is set back so as not to impede views of 44 Mount Street. However, this does not outweigh other concerns.
- It is stated that 2 Mount Street is at a higher level, which is not true.
- The Conservation Officer's comments are inconsistent.
- The loss of garden space across the country is deplorable from a visual and environmental perspective.
- Access to the site is difficult, in close proximity to the Mill Lane and Mount Street junction. The access lane is narrow and cannot accommodate the additional traffic that would be generated – the access would have to serve 4 properties in total.

- The proposed development has limited parking space and the turning area would appear to be too narrow for visitors and delivery
- The proposed pedestrian access on the corner of Mill Lane will encourage unsafe parking and visitors to stop.
- There will be overlooking from the first floor window to the private courtyard/garden of Foxs Barn. The impact on the outlook from Warre House (2 Mount Street) is enormous compared to the current view over the beautiful garden.
- The connection to the foul sewer has not been shown and the existing drainage connection across the site may not be adequate.
- There is a covenant preventing the indicated access to a new dwelling. If the access cannot be achieved, then a new access directly to Mount Street would be undesirable in terms of the visibility splays and alterations to the stone wall that would be required.

PLANNING POLICIES

EN12 - TDBCLP - Landscape Character Areas,
 EN24 - TDBCLP - Urban Open Space,
 S1 - TDBCLP - General Requirements,
 S2 - TDBCLP - Design,
 EN14 - TDBCLP - Conservation Areas,
 M4 - TDBCLP - Residential Parking Provision,
 STR1 - Sustainable Development,
 S&ENPP49 - S&ENP - Transport Requirements of New Development,
 PPS 5 - PPS5 Planning for the Historic Environment,

DETERMINING ISSUES AND CONSIDERATIONS

The site is within the settlement limit of Bishops Lydeard and is, therefore, considered to be acceptable in principle. The main issues in the consideration of this application are the impact on the conservation area – including the design, siting and landscaping of the site – and the impact on highway safety. The impact on the setting of nearby listed buildings and the amenities of neighbouring residents must also be considered.

Conservation Area (including design, siting, layout and landscaping)

The site is within the Bishops Lydeard conservation area, set behind a stone wall with mature trees along the Mount Street boundary. The 2007 Conservation Area Appraisal identifies the site as an important green space, commenting that this part of the conservation area is characterised by an informal building layout brought about by the more frequent occurrence of large detached houses in spaces, with a greater use of brick, render and thatch in buildings.

It could, therefore, be argued that the site should not be developed as to do so would undermine its function as an important green space. However, it must be noted that the site is not readily visible from the public realm, being surrounded by stone walls and mature trees. It is clear from Mount Street that it is not built upon, but it is considered that the contribution that the site makes to the conservation area is essentially derived from the stone wall and trees. The proposed dwelling would be set behind the wall and the trees along Mount Street would be retained. Access would be derived from the existing driveway at the junction of Mount Street and Mill

Lane and the external characteristics of the site would, therefore, not be changed. It is considered that the features that warrant the designation as important open space would be unaffected by the development.

The dwelling itself is considered to be acceptably designed, being relatively low in height, with the first floor partly set into the roof space. The use of stone and natural slate picks up on the local palette of materials and, through the use of conditions, it could be ensured that a high quality finish with balanced timber casement windows and a good quality slate could be achieved. The Conservation Officer feels that the design and site layout is generally acceptable. He has raised some concerns about the rooflight in the rear elevation and the single storey linking section between the garage and the main dwelling. However, the rooflight is to the rear and would not be readily visible from the public domain, and the single storey section would be barely visible over the boundary wall. In any case, it is clearly subservient to the remainder of the structure and is not considered to harm the proportions of the proposed building.

The loss of the existing garage building is regrettable, since it may well be of 19th century origin. However, despite its age, it is a neutral building that is not fundamental to the character and appearance of the conservation area.

The Landscape Officer has raised some concern about the loss of trees on the site and has commented that a full tree survey should be submitted to allow this to be properly assessed. In actual fact, the proposal would only result in the loss of one large tree and this is to the rear (east) of the site. It is not considered that this loss would be detrimental to the amenity of the area and regardless of the findings of a tree survey, it would be acceptable in the context of the proposed development, since all trees along the site frontage would be retained. Other trees within the site that would be lost are small and make little contribution to the amenity of the area outside the site boundaries.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the Local Planning Authority to ensure that any application is assessed with regard to the desirability of preserving or enhancing the character and appearance of the conservation area. As noted, the site is designated as important open space, but it is not considered that its development would be detrimental to the character and appearance of the area, as the wall and trees would be retained along the site frontages. Despite the apparent conflict with the appraisal, therefore, it is not considered that the conservation area would be harmed. Accordingly, it would be preserved in accordance with the above duty and as required by planning policy.

Nearby listed buildings

There are listed buildings adjacent to the site to the west and south. As with the character of the conservation area at this point, the setting of the listed buildings is generally derived from the relationship of the buildings to the streets and public spaces. As noted above, it is not considered that the character and appearance of the conservation area would be harmed and so it follows that the setting of the listed buildings would also be preserved, in accordance with the duty at Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and guidance in Planning Policy Statement 5.

Highways

The Local Highway Authority originally raised objection to the proposal on the grounds that additional traffic utilising the access would be detrimental to highway safety. Indeed, the access provides poor visibility in close proximity to the junction of Mount Street and Mill Lane and additional traffic could result in vehicles having to reverse back onto the carriageway if one was entering whilst another was leaving. Alterations to the access would affect the important boundary walls, which would be detrimental to the conservation area and not acceptable.

There has subsequently followed a series of discussions with the Local Highway Authority and applicant. In the first instance, the applicant proposed that Frog House be serviced by an existing layby on Mount Street, although the Highway Authority do not consider that this situation is acceptable, due to its insufficient dimensions.

Subsequently, the applicant has commissioned a further 'rebuttal' to the Highway Authority's recommendation. Interestingly, this makes no reference to the layby, so presumably the applicant's highway consultant is in agreement with the Highway Authority over the unsuitability of this proposal. Rather, the statement focuses on the original proposal to access both the existing and new properties from the existing junction onto Mill Lane. In commenting on this statement, the Highway Authority considers that too much emphasis is placed upon the need for other drivers already on the highway to drive with due care and attention, claiming that forward visibility is sufficient for them to stop should somebody emerge without warning from the access.

The applicant's highway consultant has not, however, addressed the deficiencies in visibility afforded to vehicles exiting the site. Your officers agree with the Highway Authority's contention that highway safety should not be solely dependent upon forward visibility if emerging visibility is substandard. There is also a need for emerging traffic to see approaching vehicles, pedestrians, cyclists and horses etc. even in a lightly trafficked situation such as this. In light of the above, the proposal is not considered to afford sufficient visibility to vehicles exiting from the site and a refusal on this basis is recommended.

The Highway Authority also raised concerns about a pinch point on the private access drive and shortcomings in the available turning space. The applicant's highway consultant has shown how there is sufficient space either side of the pinch point to prevent vehicles stopping or reversing onto Mill Lane when others are approaching. The Highway Authority still feel that this is substandard, and although refusal is not recommended on this ground alone, it adds weight to the unacceptability of the situation as a whole. An amended plan was submitted with the highway statement removing the dividing fence between the access drives to enlarge the available turning space. It is not, therefore, recommended that permission is refused on this ground.

Neighbouring property

The proposed dwelling would be sited approximately 15m from the front face of the dwelling to the west, the listed Warre House. It has already been explained why it is not considered that the proposal would adversely affect the setting of the listed building, but consideration must also be given to residential amenity. It is accepted that the separation distance falls short of the generally accepted minimum back to

back distance, but the relationship here is between front elevations, where there is already a degree of intervisibility from the street. The high boundary wall around the site means that intervisibility will not be possible between ground floor windows and given that the properties are separated by the street and this separation distance is greater than many other situations within the village, the relationship is considered to be acceptable.

To the rear, the first floor windows have the potential to overlook the private gardens of Mill Lodge and Foxs Barn, but windows are in excess of 11m from these boundaries and this is considered to be an acceptable distance. Foxs Barn has first floor access steps and a doorway in the gable end facing the site around 24m from the rear of the proposed dwelling. Other first floor windows are considerably further away. Windows in Mill Lodge face to the south and not towards the application site. With regard to these matters, it is not considered that there would be any unacceptable loss of privacy to these existing neighbours to the rear and the proposed dwelling would not be overbearing upon them.

The proposal does not show any windows in the north or south elevations. Therefore, there would be no loss of privacy to the existing Frog House to the north or 44 Mount Street to the South. Again, the proposal is sufficiently distanced from these properties not to be overbearing on them.

No other nearby property is considered to be unreasonably affected by the proposal and, with regard to these matters, the proposal is considered to have an acceptable impact upon neighbouring property.

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

CONTACT OFFICER: Mr M Bale Tel: 01823 356454

24/10/0019

MR R CROSS

CHANGE OF USE FROM RESIDENTIAL HOUSE TO CHILDREN'S RESIDENTIAL HOME AT THE ORCHARDS HELLAND, NORTH CURRY

Full Planning Permission

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval for the following reason:

The proposal is considered not to have a detrimental impact upon visual or residential amenity or an adverse impact on highway safety and is therefore considered acceptable and, accordingly, does not conflict with Taunton Deane Local Plan Policies S1 (General Requirements) and Policy 48 (Access and Parking) of the Somerset and Exmoor National Park Joint Structure Plan Review.

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 property shall be used for the care of no more than 4 children at any one time.

Reason: In the interests of the amenity of the area and to limit traffic to the site.

Notes for compliance

1. You should ensure that the existing septic tank is in a good state of repair, regularly emptied and of sufficient capacity to deal with any potential increase in load which may occur as a result of this proposal. If it is found that a new system is necessary its discharge will require the consent of the Environment Agency.

PROPOSAL

The proposal is to operate the existing dwelling as a home for up to four children.

The use would not need permission if the care being provided was by foster parents, however the intention is that care would be provided by carers operating on a shift based system and therefore the use would not be as a single household.

SITE DESCRIPTION AND HISTORY

The property has previously operated as a care home by a different company without consent and the authorised use is as a dwelling.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SCC - TRANSPORT DEVELOPMENT GROUP - no objection

The proposal relates to the change of use from a residential home to a children's residential home. The proposal states that the site was previously used for the same purpose prior to this application. If this is the case it is unlikely that vehicle movements will change. The Orchard has access onto Helland Hill. At the point of access visibility is limited in either direction however vehicle speeds past the access are slow therefore the visibility can be considered acceptable. I therefore raise no objection to this proposal.

NORTH CURRY PARISH COUNCIL- After careful consideration at the Parish Council Meeting held on 9th June 2010 it was agreed to object to the planning application on the following grounds:

1. There will be an increase in traffic caused by regular arrival/departure of care/supervisory staff and this will put a further burden on what is a narrow access lane.
2. The Orchard is located on a 60 mph road with an 'S' bend, no street lighting and no pavement – it will put the young people resident at the home at considerable risk as they will regularly walk up to the village for the shop/bus stop etc.
3. The remote location means there is no quick access to support services such as medical care or police.
4. The location is very rural with no facilities for teenage children who by definition will not have close knit family support to provide transport to regional facilities.
5. There is a long standing environmental hazard caused by inadequate sewage disposal on the property – the cess pit continually overflows and this has been as source of regular complaints by neighbours. If young people and staff move into the building this problem will be exacerbated.

Additional Factors

There were vociferous objections to the proposal from all the near neighbours and these had been expressed to the Parish Council in writing and verbally at the meeting. The objections from neighbours are mainly based on previous experience from when The Orchard was a young people's home several years ago. Many neighbours experienced intimidation, theft, bullying of their own young children and general unsocial behaviour on the part of children in care at the Orchard. It was agreed that Mr Machen, as the Parish Councillor resident in Helland, would assist

the residents in making their views clear to TDBC. The residents would also seek to exercise their right – as there will be more than six individual objections – to have the application considered by the TDBC full Planning Committee rather than the decision being made at Planning Officer level under delegation.

The Parish Council also recorded that if the application is granted despite the Parish Council objections then minimum safeguards should be imposed including:

- Guarantee of adequate staffing/supervision.
- Restriction on number of children – maximum of three.
- If any child is proved to be disruptive to the local community there should be effective arrangements for the child to be transferred to an alternative home.
- The environmental issue over sewage should be addressed prior to any change of use approval.

Representations

15 letters of objection on the grounds of

- Increased traffic flow to the site,
- Limited public transport,
- In winter the road can become impassable,
- The road is narrow with no speed restrictions,
- Farm traffic use the road, there are blind bends and the area is not safe for pedestrians and children on bikes with no footways or street lights.
- There is a lack of amenities in the area.
- Problems caused by use of property as home between 2006-2008,
- Residents subject to foul language, intimidation, vandalism, trespass and theft.
- The proposal is inappropriate for the area and an unsuitable location, with danger of open waterways.
- The visual character of the property would be affected.
- The duty of care would not be met for the children or neighbours.
- Concern over resident safety.
- There would be a loss of property value.

PLANNING POLICIES

PPS1 - Delivering Sustainable Development,

PPS3 - Housing,

PPS7 - Sustainable Development in Rural Areas,

STR6 - Development Outside Towns, Rural Centres and Villages,

S&ENPP19 - S&ENP - Employment and Community Provision in Rural Areas,

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

S1 - TDBCCLP - General Requirements,

EC7 - TDBCCLP - Rural Employment Proposals,

EN12 - TDBCCLP - Landscape Character Areas,

DETERMINING ISSUES AND CONSIDERATIONS

The main consideration is the impact on the scale of use on the character and amenity of the area and highway safety. The property is an existing dwelling and the intention is to use it for up to 4 children with two carers. This is a similar scale of use

as it being a single family home and the use involving carers changing shift is considered to be a minimal impact and one that has to be balanced by the employment use that is created.

There is adequate parking on site to serve the proposed use and the Highway Authority consider the access suitable to serve the use proposed. The level of traffic using the site will be similar to a family home and the shift change for workers mid morning is considered not to create a significant level of additional traffic movement. The health and safety of the use of the site is governed by separate legislation governed by Ofsted and the control of children on site is the responsibility of the carers. It is not possible to impose a condition on the site to secure the removal of individual residents as suggested by the Parish Council.

The proposal utilises the existing drainage system at the property and it is the responsibility of the applicant to ensure this system is adequate for the use and there is separate legislation to address this issue. Environmental Health have been advised of the concern raised and are investigating the matter and I'm advised a new system has recently been installed. A note to the applicant on this issue is recommended.

The concerns raised by local residents and the Parish Council are noted, however the scale of residential use here is not considered to cause harm to the character or appearance of the area. Clearly there is a perceived concern over the proposed use and children's behaviour given the past use of the premises by a different operator, however this is a separate business use and while the concern of local residents is a material consideration it is not considered to be of sufficient weight to oppose the scale of use proposed.

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

CONTACT OFFICER: Mr G Clifford Tel: 01823 356398

Planning Committee – Wednesday 30 June 2010

Report of the Head of Legal and Democratic Services

Enforcement Item

1. **File/Complaint Number** E102/29/2007
2. **Location of Site** Land at Lower Fyfett Farmhouse, Otterford, Chard, TA21 3QP
3. **Names of Owners** Mr John M Terry and Mrs Susan Bryan-Terry
4. **Nature of Contravention** Non-Compliance with the requirements of an Enforcement Notice dated 21 April 2008

Background

1. On 19 April 2007 the Council received a complaint that an access track and turning area was being excavated across an agricultural field adjacent to Lower Fyfett Farmhouse to serve the rear of the dwelling which is in an Area of Outstanding Natural Beauty.
2. At the Planning Committee meeting on 16 April 2008 the members authorised the service of an Enforcement Notice together with a Stop Notice to prevent any further development at the Site.
3. The Enforcement Notice required the access track to be removed from the Site and the land at the Site be restored to its agricultural use by 12 August 2008.
4. The Enforcement Notice was served but not complied with resulting in the Council taking prosecution action in the Magistrates' Court for non-compliance with the requirements of an Enforcement Notice.
5. During the Court proceedings, Mr Terry applied for planning permission for the access track to serve the dwelling but the application was refused on 26 March 2009 because the driveway appeared to be a visual intrusion and detrimental to the visual amenities of the area, contrary to Somerset and Exmoor National Joint Structure Plan Review Policy 3 and Taunton Deane Local Plan policy EN10.
6. Mr Terry appealed against the Refusal of Planning Permission but the Appeal was dismissed on 1 September 2009.
7. The case for the offence of Non-Compliance with an Enforcement Notice was heard in the Magistrates' Court on Thursday 29 October 2009. Mr Terry pleaded guilty to the charge and was fined £2000 and ordered to pay £50 costs.

8. After the Court proceedings, the Council gave Mr and Mrs Terry a deadline to comply with the Enforcement Notice by 15 February 2010. At the request of Mr Terry, the deadline was extended to 30 April.
9. Mr Terry has advised the Council that he has been unable to secure a contractor to commence the works by 30 April 2010 to remove the unauthorised access track. Apparently he has instructed a contractor but the contractor is unable to advise Mr Terry when he will be in a position to start the works.
10. Mr Terry was subsequently informed that the if full compliance with the Enforcement Notice (i.e. to remove the unauthorised driveway and restore the land to its agricultural use) was not completed by the end of June 2010 then the Council may take direct action under Section 178 of the Town and Country Planning Act 1990.
11. This legislation gives the Council power to carry out physical works on land that should have been carried out in accordance with the requirements of the Enforcement Notice. The Council may enter the land and carry out the operations and recover from the person against whom the notice is enforceable any reasonable expenses incurred in doing so.

RECOMMENDATION

Members are asked to authorise direct action to remove the unauthorised driveway and restore the land to its agricultural use.

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

Planning Committee – Wednesday 30 June 2010

Report of the Head of Legal and Democratic Services

Miscellaneous Item

1. **File/Complaint Number** PD/11/A/819
2. **Location of Site** Upcott Farm Cottage, Nynehead, Wellington, Somerset, TA1 4AX
3. **Name of Owner** Mrs Jill Jeffreys
4. **Nature of Contravention** Non-Compliance with the requirements of an Enforcement Notice dated 22 January 2008

Background

1. The property known as Upcott Farm Cottage was formerly a barn lying within the site of Upcott Farm.
2. Planning permission was granted for the conversion of the redundant barn into a holiday let in October 1991.
3. The conversion works resulted in an unauthorised increase to the height of the roof. In addition there has been an unauthorised change of use from holiday let to a permanent residential dwelling
4. Mrs Jeffreys' daughter and son-in-law, Mr and Mrs Blanch, and their 3 children are living at the property as their permanent residential dwelling. Mrs Jeffreys has informed the Council that the couple are disabled and they occupy the property with their 3 children who are all aged under 5 years.
5. A Report went before the members of the Planning Committee on 31 October 2007 recommending that because there had been an unauthorised increase to the height of the roof and unauthorised change of use, the Solicitor to the Council be authorised to serve an Enforcement Notice and take prosecution action should the Enforcement Notice not be complied with and the members voted in favour of the recommendation.
6. An Enforcement Notice was served on 22 January 2008 and Mrs Jeffreys lodged an appeal against the Enforcement Notice. The appeal was dismissed on 12 August 2008.
7. Mrs Jeffreys submitted a planning application to change the use from holiday let to a dwelling and alter the roof. The application was refused on 8 July 2009.
8. Criminal Proceedings were commenced in the Taunton Magistrates' Court on 14 July 2009 for the offence of Non-Compliance with an Enforcement Notice under Section 179(2) Town and Country Planning Act 1990. The trial date of

the case is 13 September 2010. A barrister has been instructed to represent the Council at the trial.

9. Mrs Jeffreys appealed against the refusal of planning permission. The Planning Inspector allowed the appeal on 18 June 2010 insofar as it enables the current occupants, Mr and Mrs Blanch and their 3 children, to remain living at the premises. Planning Permission was granted for the change of use from holiday accommodation to a dwelling only for the occupation of Mr and Mrs Blanch and their resident dependents and alteration to the roof.
10. In accordance with the Code for Crown Prosecutors (which apply to prosecutions taken by local authorities), review of cases is a continuing process and prosecutors must take account of any change in circumstances that occur as the case develops.
11. As a consequence of the Planning Inspector's decision of 18 June 2010, it is no longer considered to be in the public interest to continue with the current criminal proceedings against Mrs Jeffreys whilst Mr and Mrs Blanch and their children remain at the property.

RECOMMENDATION

It is RECOMMENDED that whilst Mr and Mrs Blanch are residing at the property, the Solicitor to the Council be authorised to apply to the Magistrates Court to withdraw the current legal proceedings against Mrs Jeffreys because it is not in the public interest to continue with the prosecution.

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

1. **File/Complaint Number** E0145/44/2007
2. **Location of Site** Combe Farm, Ford Street, WELLINGTON
3. **Names of Owners** Mr and Mrs A Barratt
4. **Names of Occupiers** As above
5. **Nature of Contravention** Occupation of a mobile home for an agricultural worker after permission had expired.
6. **Planning History** Members will no doubt recall that a report was brought before them on 9th December 2008 for the above contravention. Members agreed to a long compliance time on the notice due to the occupation of the land having been taking place for some time. This prompted the owner to appoint an agent and submit an application for a permanent permission. However the application was never registered and was finally withdrawn. It was decided with discussions with the Council's Legal Services that it would be more effective to serve a Breach of Condition Notice. On closer inspection of the history files it appears that the last approval for temporary permission expired on 30th January 2000. Therefore the use has been unauthorised in excess of 10 years. It was felt that due to the length of time that has elapsed the applicant could submit a Lawful Development Certificate. Two letters have been sent to the owner advising him of the situation and requesting that it would be advisable for him to submit the Lawful Development Certificate. To date no application has been forthcoming.
7. **Reasons for taking Action** Under Section 171B (3) of the Town and Country Planning Act 1990 if a change of use has occurred for more than 10 years then it is no longer possible to take any enforcement action against it. It could be made lawful through the submission of a Lawful Development Certificate. In this particular case, although permission may not have been forthcoming in the event of an application being submitted the fact that the use has been continuing for more than 10 years it is not in the Publics interests to take further action. The fact that no Lawful Development Certificate application has been forthcoming is not a reason to take action, when the evidence is clear that such a certificate would be granted.
8. **Recommendation** No further action be taken over the occupation of the mobile home.

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

1. **File/Complaint Number** E0017/51/2005
2. **Location of Site** Moor House, Stathe Road, BURROWBRIDGE.
TA7 0JN
3. **Names of Owners** Mr D Bond
4. **Names of Occupiers** As above
5. **Nature of Contravention** Non compliance with Section 215 notice
6. **Planning History** A notice under section 215 of the Town and Country Planning Act 1990 was served on 25th April 2008 following authorisation from the Planning Committee for authorisation to take action regarding the untidy land at Moor House. The owner made progress in tidying the site and it was considered at the time that the notice had been complied with. However over the last two years the land has deteriorated and on occasions further correspondence has had to be sent requesting that the land be tidied as the notice remains in force. Over the last 6 months the amount of items on the land has increased and despite letters to the owner requesting he clear the land no further improvement has been made.
7. **Reasons for taking Action** As the Section 215 Notice is not being complied with the owner is in contravention of the notice and the next step for the Local Planning Authority is to commence Prosecution action.
8. **Recommendation** The Solicitor to the Council be authorised to commence Prosecution action over the non compliance of the Section 215 Notice served on 25th April 2008

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

1. **File/Complaint Number** E0124/51/10
2. **Location of Site** Land adjacent to King William Drove, Stathe Road, BURROWBRIDGE.
3. **Names of Owners** Mr R Harbourn
4. **Names of Occupiers** Persons unknown
5. **Nature of Contravention** Change of use of land by stationing of vehicles/motor home and erection of structure for residential purposes.
6. **Planning History** A complaint was received on 12th May 2010 that a number of persons had occupied the land over the last week and had started to construct what appeared to be a 'straw house'. A site visit was made on 18th May where it was found that a group of people were intending to tend the land, grow vegetables and reside on the land for short periods between travelling to festivals etc. The structure was intended to house small implements. The owner was contacted and informed that Planning permission was required as the occupiers had stated that they would be on the site in excess of 28 days in any one year. The owner was intending to submit a timetable of when the site would be occupied but this has not been forthcoming. Further visits have been made to the site and at the time there was no one on site. The straw structure was complete and fitted with a window and door with various items inside that were not in connection with the enterprise. Further complaints have been received that the group are now back in residence. The land has now been occupied for more than 28 days and no Planning application has been submitted.
7. **Reasons for taking Action** No justification has been submitted to support the need for a dwelling on agricultural/horticultural need therefore the use of the structure and Motor home is contrary to policies S1 (General Requirements) and S7 (Outside Settlement) of the Taunton Deane Local Plan and policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review.
8. **Recommendation** The Solicitor to the Council be authorised to serve an enforcement notice to ensure that the land is not used for residential purposes and take prosecution action, subject to satisfactory evidence, in the event that the notice is not 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 : 30 JUNE 2010

Appeal Proposal	Start Date	Application/Enforcement Number
CONVERSION OF BARN TO SINGLE STOREY DWELLING AT MAUNDOWN COTTAGE, JEWS LANE, MAUNDOWN, WIVELISCOMBE	02 JUNE 2010	49/09/0046
ERECTION OF 10 X 2 STOREY DWELLINGS (TO INCLUDE 3 AFFORDABLE HOUSING) AND ASSOCIATED WORKS AT THE OLD COAL YARD, WOODHILL, STOKE ST GREGORY	07 JUNE 2010	36/09/0017

APPEAL DECISION FOR COMMITTEE AGENDA – 30 JUNE 2010

APPEAL	PROPOSAL	REASON(S) FOR INITIAL DECISION	APPLICATION NUMBER	DECISION
APP/D3315/A/10/2120627/ NWF	Conversion of traditional agricultural buildings into two residential dwellings at Arundells Farm, Lower Henlade	<p>The proposed dwelling is in a rural location remote from services and would be reliant upon the private car fostering the growth in the need to travel contrary to advice in Policy TRAN1 of RPG10, Policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review and Policies S1(B) and S7 of the Taunton Deane Local Plan.</p> <p>The proposal is for a residential dwelling in the countryside where development is resisted under Policy H7 unless it is unlikely to attract a suitable business use. In the opinion of the Local Planning Authority the proximity of the unit to good highway links to Taunton and beyond, including the M5 junction, and the open layout of the buildings establishes a potential for business use that should be adequately explored by marketing for possible uses at a reasonable cost and over a suitable period of time (not less than 12 months). Without the marketing evidence there is no justification for divergence from Policies EC6 and EC8 which support farm diversification and the rural economy and the proposal is considered contrary to Taunton Deane Local Plan Policies S7 and H7</p>	31/09/0011	The Inspector found that the proposed development would be an unsustainable location in transport terms and would conflict with the local development plan regarding the conversion of buildings for residential use in the countryside. On balance, in the absence of conclusive marketing evidence to show that commercial activity would not be a viable proposition, and having regard to all other matters raised, he concluded that the appeal should be DISMISSED.
APP/D3315/A/10/2120429/ NWF	Change of use from holiday let to dwelling and alteration to roof at Upcott Farm	The building lies in open countryside where development is strictly controlled. It was originally a traditional agricultural barn and it is	26/08/0009	The Inspector concluded on the main issue that, although the development would not accord with

	Cottage, Nynehead	<p>the policy of the Local Planning Authority only to allow the conversion of such buildings to residential use where they are in keeping with traditional surroundings, where no significant alteration would be required, and where the building is unlikely to attract a suitable business re-use.</p> <p>The site is located in a relatively remote location away from services and facilities, where there is limited public transport. The occupiers of the proposed dwelling would therefore be highly dependent upon the private car for normal activities, including shopping, employment, health, leisure and education.</p>	<p>established planning policies that are aimed at securing sustainable rural development, the personal/family circumstances of the Blanch family are an important material consideration that indicate the appeal should not be determined in accordance with the development plan. He ALLOWED the appeal with a condition restricting the occupancy of the building to the Blanch family, emphasising that this should not be interpreted as condoning previous unauthorised works and is not an 'abandonment of proper planning process and law'. Provision already exists within the site for vehicular parking.</p>
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TDLP = Taunton Deane Local Plan **SENP** = Somerset & Exmoor National Park



Appeal Decision

Site visit made on 17 May 2010

by **John Wilde** C.Eng M.I.C.E.

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
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Decision date:
10 June 2010

Appeal Ref: APP/D3315/A/10/2120627

Arundell's Farm, Lower Henlade, Taunton, Somerset TA3 5LZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr D Brown against the decision of Taunton Deane Borough Council.
- The application Ref 31/09/0011, dated 15 June 2009, was refused by notice dated 20 July 2009.
- The development proposed is the conversion of traditional agricultural buildings into two residential dwellings.

Decision

1. I dismiss the appeal.

Main issues

2. The main issues are whether the proposed development would be sustainable in transport terms and whether or not it would comply with local planning policy relating to development in the countryside.

Reasons

Sustainability

3. Arundell's Farm lies within the open countryside about 1.15Km from the village of Stoke St Mary, which contains limited services including a public house, church and church hall. The road to Stoke St Mary is narrow with high hedge banks and no footways or verges. The roads that link the farm to Henlade, which is about 0.7km away and contains a post office and store, are also relatively narrow and contain a sharp tight bend. Neither Stoke St Mary nor Henlade have a school, and the post office and store in Henlade is on the far side of the busy A358. The bus stops in Henlade are also on the A358 which is on the far side of the village from the appeal site.
4. Encouraging sustainable development is one of the core principles of government planning policy. Planning Policy Statement 1: *Delivering Sustainable Development*, makes clear in paragraph 13(ii) that development plans should contribute to global sustainability by addressing the causes and potential impacts of climate change. One example of this is given as encouraging patterns of development which reduce the need to travel by private car. This approach is supported by Planning Policy Guidance Note 13: *Transport*, which states in paragraph 75 that *walking is the most important*

mode of travel at local level and offers the greatest potential to replace short car trips.

5. Policy STR1 of the Somerset and Exmoor National Park Joint Structure Plan Review (JSPR) reflects this approach and states that development should develop a pattern of land use and transport which minimises the length of journeys and the need to travel and maximises the potential for the use of public transport, cycling and walking. The nearest public transport to the site is in Henlade, and given the distances and types of roads involved I am not persuaded that cycling or walking from the site would be a regular occurrence. It follows that the proposed development conflicts with policy STR1.
6. Policy S1 of the Taunton Deane Local Plan (TDLP) is similar to policy STR1 in aiming to reduce car usage and consequently the proposed development also conflicts with this policy.

Countryside development

7. Policy H7 of the Taunton Deane Local Plan lists seven criteria to be met for the conversion of buildings to residential use. Of these the Council consider that the proposed conversion fails to comply with only criterion A(3). This criterion makes clear that to be suitable for residential conversion buildings should, amongst other things, be unlikely to attract a suitable business re-use.
8. Such an approach is in line with the hierarchy given in policy EC12 of Planning Policy Statement 4: *Planning for Sustainable Economic Growth*. This states that the *re-use of buildings in the countryside for economic development purposes will usually be preferable, but residential conversions may be more appropriate in some locations and for some types of building*.
9. The justification for policy H7 indicates in paragraph 3.40 that the applicant will need to show that there is little likelihood of an employment generating use, and that this is likely to require information on marketing over approximately twelve months.
10. I have been supplied with a Commercial Viability Report compiled by Greenslade Taylor Hunt dated 29 May 2009. This report concludes that the barns would be unsuitable for B1 use (office, research or selected industrial processes) and B2 use (industrial process other than B1) due to their height, construction and internal layout. This conclusion is supported by the contention that likely occupiers would prefer purpose built profile steel clad buildings situated on industrial parks, and that Greenslade Taylor Hunt find it difficult to attract occupiers to barn type premises. I have been supplied with no statistical evidence however, to support these assertions. The report also goes on to indicate that due to the barns' attachment to an existing dwelling, any office, workshop, or light industrial use would be unsuitable.
11. The Council accept that B2 use would be inappropriate in this particular case but take the view that small scale B1 use or B8 use (storage or distribution) would be feasible. At the time of my visit one of the barns was in use as a home for housing rabbits. While I note that this use is not a commercial activity it does indicate that uses can be found for the barns, even in their present form.

12. Notwithstanding the comments in the viability report and the informal comments of the highways officer regarding commercial use, I consider that a small scale office use would not unduly conflict with the residential nature of the site and could be successfully accommodated within the existing form of the barns. I have been provided with no evidence of marketing of either of these barns so as to persuade me that such a use could not be found on a small commercial scale.
13. In light of this lack of evidence, I conclude that the proposed development conflicts with policy H7 of the TDLP.
14. My attention has been drawn to several other conversions of agricultural buildings that have been allowed on appeal. From the limited information before me however, these cases differ from that before me in terms of their distances from services, site history and issues involved. None in my view therefore form a compelling precedent.

Overall Conclusion

15. I have found that the proposed development would be in an unsustainable location in transport terms and would conflict with the local development plan regarding the conversion of buildings for residential use in the countryside. I accept that the actual level of trips generated by the proposed development would be relatively low, and may be only slightly higher than those generated by a small scale commercial development. I am also aware that the barns have previously had planning permission for conversion into dwellings. That permission was however granted prior to government guidance stressing sustainability issues. I have also taken into account the sustainability advantage in the re-use of the barn and the construction costs involved in converting the barns to commercial use.
16. On balance however, in the absence of conclusive marketing evidence to show that commercial activity would not be a viable proposition, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Wilde

Inspector



Appeal Decision

Hearing held on 27 May 2010

Site visit made on 27 May 2010

by **Neil Pope BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State
for Communities and Local Government**

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**Decision date:
17 June 2010**

Appeal Ref: APP/D3315/A/10/2120429

Upcott Farm Cottage, Nynehead, Wellington, Somerset, TA21 0BU.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Jill Jeffreys against the decision of Taunton Deane Borough Council.
- The application Ref. 26/08/0009, dated 2/12/08, was refused by notice dated 8/7/09.
- The development proposed is described as *allow change of use from holiday to dwelling, adjusting roof as discussed with planning officer as shown on plans to allow family of 3 children and 2 disabled parents to remain housed as there is a shortage of suitable accommodation in the area, to adjust the roof to make it visually more acceptable while causing as little stress to the barn structure as possible.*

Preliminary Matters

1. A more concise description of the development is the change of use from holiday accommodation to a dwelling and alteration to the roof.
2. The development has already been undertaken. The building is occupied by the appellant's daughter and son-in-law (Mrs Louise Blanch and Mr Robert Blanch) and their three young children.
3. Applications for costs have been made by the Council against the appellant and by the appellant against the Council. These applications are the subject of separate Decisions.

Decision

4. I allow the appeal, insofar as this enables the current occupants to remain living within the building, and grant planning permission for the change of use from holiday accommodation to a dwelling and alteration to the roof at Upcott Farm Cottage, Nynehead, Wellington, Somerset, TA21 0BU. The permission is granted in accordance with the terms of the application Ref. 26/08/0009, dated 2/12/08, subject to the following conditions:
 - 1) the building shall only be occupied by Mrs Louise Blanch, Mr Robert Blanch and their resident dependants;
 - 2) notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no additions or extensions (including the insertion of dormer windows) shall be added to the building and no further buildings, structures or enclosures shall be constructed or placed on the site other than that expressly authorised by this permission.

Main issue

5. The main issue is whether the development accords with established planning policies that are aimed at securing sustainable rural development, having particular regard to the extent of works involved in the conversion of this former barn, the likelihood of a suitable business re-use taking place and the degree to which residents are likely to be dependent upon the use of the private car for accessing services and facilities.

Background Matters

6. The site has a lengthy planning history. This includes an appeal that was dismissed in 1986 for the conversion of the building into a dwelling. Permission was granted in 1991 to convert the barn into a holiday unit (Ref. 26/91/005). That development was commenced. In 1997 permission was again refused to use the building as permanent residential accommodation (Ref. 26/96/0004). In August 2008, enforcement appeals in respect of an increase in height of the building and its use as a permanent dwelling were dismissed (Refs. APP/D3315/C/08/2068302 & 2068321). The building is adapted for use by the disabled. I have taken these matters into account in determining the appeal.

Reasons

7. The appeal site lies within the countryside and is beyond the settlement limits for Higher Nynegarth as defined in the adopted Local Plan¹. Within such areas, established planning policies² provide strict control over development. This is reflected in the planning history. Under LP policy H7, the conversion of rural buildings to residential use is not permitted where, amongst other things, the building is incapable of conversion without major rebuilding or significant extension and alteration, and is unlikely to attract a suitable business re-use.
8. The works undertaken to the appeal building since 2007 include a complete new roof structure and a 'ring-beam' tying this to the walls. This has increased the internal wall height by about 230mm and the eaves height by 100mm. Some neighbours have submitted photographs of the building and have argued that the ridge height of has increased by about 1m. However, the Council and the appellant agree that the ridge height is about 300mm-400mm higher. This is consistent with what I saw during my visit. Some infilling has also been undertaken to the external walls, all external elevations have been re-pointed and some stone work on the gable ends has been re-bedded. The building has been significantly altered.
9. The appellant's builder has informed me that it is common practice to replace the whole of a roof structure in barn conversions and has argued that "*no form of major re-building works*" was undertaken. In this regard, I note the findings of some Inspector's (and one Reporter in Scotland) who have determined other appeals involving the re-use of rural buildings, as well as other permissions granted by the Council for conversions elsewhere in the Borough. Some of these permissions include new roof structures and the rebuilding of some walls.
10. Each case must however be determined on its own merits. In the absence of photographic records and structural surveys, and given the variations in the

¹ Taunton Deane Local Plan (LP) 2004

² Planning Policy Statement 7 'Sustainable Development in Rural Areas' (PPS7) , policy STR6 of the Exmoor National Park Joint Structure Plan Review (SP) and LP policy S7

respective local policies, it is very difficult to make meaningful comparisons with appeal decisions elsewhere in the country. The Council's representative also informed me that some of the schemes permitted within the Borough were amendments to permissions which pre-dated the LP and/or current national planning policies, or involved the retention of barns that were important to the setting of a listed building. No two cases are exactly the same and these other decisions do not set a precedent that I am bound to follow.

11. I agree with the appellant that interpretation of LP policy H7 could be clearer if the permissible scale or extent of 'major rebuilding' had been specified as part of the LP or in supplementary guidance. Nevertheless, it is very clear from the recent enforcement appeals that the previous Inspector found the works to the roof of Upcott Farm Cottage to constitute major rebuilding. There has not been any material change in circumstances since that decision to lead me to find differently on this matter.
12. The appellant has argued that it is unviable to let the appeal building for use as holiday accommodation. In support, she has supplied twelve months letting records for the adjacent one bedroom holiday cottage. This reveals a loss of over £6,000 during this period. The appellant contends that the appeal building would be more difficult to let as there are numerous other properties of a similar size within the area and it lacks the facilities, such as a swimming pool, that other holiday units offer.
13. The appeal premises however, are a different size to the adjacent one bedroom unit and have never been marketed as holiday accommodation, either for letting (including disabled holiday accommodation) or for sale. Paragraph 3.40 of the supporting text to LP policy H7 requires information on marketing over approximately 12 months. Furthermore, the Inspector who determined the appeal in 2008, noted the advice of the Council's Tourism Officer and found that tourist accommodation remained a viable business re-use of the property.
14. I recognise that the appellant would incur costs in marking the property as holiday accommodation. Nevertheless, this would have been apparent from the outset. Other holiday units with swimming pools may also be more attractive to some holidaymakers. However, it is reasonable to assume that such accommodation would be more expensive and may be beyond the budget of many visitors. There is nothing of substance to show that the absence of a swimming pool would have a significant effect on attracting visitors to self-catering accommodation in this part of the county.
15. The appeal site lies in an attractive rural area between the Blackdown Hills, the Quantock Hills and Exmoor National Park. There are also other popular visitor attractions in the area. The evidence before me does not demonstrate that the appeal premises are unsuitable or unviable for holiday use.
16. I note the arguments regarding the travel movements/trip generation of residents compared to those staying on holiday. There is agreement between the main parties that a permanent dwelling would be likely to generate between 6-8 movements by car/day. Whilst some holidaymakers would undertake a greater number of car movements/trips, I concur with the Council that the vast majority would undertake significantly less.
17. In my experience, which includes self-catering family holidays in the countryside, it is unusual for holidaymakers to make more than 2 or 3

movements/trips by car/day. This is similar to the experiences of the Parish Council's representative. I also note that in another appeal at Thurlbear the Inspector found that a change of use from holiday letting to a permanent dwelling would generate additional trips (Ref. APP/D3315/A/08/2078992). Those staying on holiday are unlikely to require access to employment and healthcare facilities, which are remote from Upcott Farm Cottage. Visitors such as friends and relatives, are also unlikely to be associated with those staying on holiday. Deliveries are also likely to be very rare.

18. There is a weekly bus service to Nynehead and some ring-and-ride community transport is also available. The local community hall is licensed and is the base for a playgroup and some other community clubs. However, there is no shop and the local school is due to close in July. There is a very limited range of services available to those living in and around Nynehead.
19. The County Council's Transport officer advised that residents of Upcott Farm Cottage are likely to be dependent on private vehicles for most of their daily needs. This would foster the growth in the need to travel and be at odds with established planning policies. The Inspector who determined the appeal in 2008 also found that occupiers would be highly dependent upon the private car. The evidence submitted in support of the appeal on this matter is rather unconvincing and there is much greater weight in the Council's argument.
20. Given the above, I find that the development would not accord with established planning policies that are aimed at securing sustainable rural development. I am required to determine the appeal in accordance with the development plan³ unless material considerations indicate otherwise. The Council accepts that the appellant's personal and family circumstances are a material consideration to be taken into account in determining this appeal. However, it has argued that this should be given no weight as the appellant had attempted to manipulate the planning system and "*knowingly brought the situation upon herself.*"
21. The appellant has lung disease, degenerative spinal disease, diabetes and debilitating post cancer surgery issues. She was divorced during the 1990s and encountered financial difficulties. Since then she has re-married and lives nearby at Weekmoor Farm. I have sympathy for the appellant's very serious medical conditions and appreciate that she has experienced considerable financial and emotional problems in the past. However, these personal circumstances carry little weight and do not justify granting permission.
22. The appellant's daughter has cerebral palsy. Her son-in-law has paraplegia, due to a spinal cord injury in 1995, and is confined to a wheelchair. They vacated an adapted bungalow in Milverton (owned by the appellant) to occupy the appeal premises with their children. One of the appellant's carers confirmed that whilst this bungalow was suitable for disabled family use it had a very steep gradient and difficult access. In effect, Mr Blanch was unable to leave the confines of the bungalow and both he and his wife felt that they were not close enough to their family and friends who provide their daily support and help network. This has not been disputed by the Council.
23. If this appeal were to fail Mr and Mrs Blanch and their children would effectively become homeless. The Council has only a very limited number of disabled

³ Includes the SP and LP

adapted properties, including two 4 bedroom bungalows and twenty-one 3 bedroom bungalows. Its Housing Services Officer (HSO) has informed the appellant that this accommodation would probably not suit the needs of the Blanch family. The HSO has also advised that there are a limited number of properties for the disabled in the Housing Association stock and these are in Taunton. The HSO has commented that such properties do not come up for re-let very often and there is no budget for building new or adapting existing stock and *"it would be a long time for a family to be housed if at all."*

24. If the Blanch family were to become homeless the Council informed me that its Housing Services department would identify them as being in extreme housing need and given *"extremely high priority"*. However, until such time as suitable family accommodation could be found I understand that the Council would look to place Mr and Mrs Blanch in a hotel and their children would be taken into care. There is serious risk of Mr and Mrs Blanch being separated from their children for a very considerable period of time.
25. Mrs Blanch's carer informed me that if this situation were to arise it would have a *"catastrophic effect"* on Mrs Blanch's physical and mental condition. The children would also miss their parents. Withholding permission could therefore have very serious implications for the health and social well-being of the Blanch family. In the very unusual circumstances of this case, there are strong compassionate grounds to be weighed in the overall planning balance.
26. The circumstances of this case are special with both parents being disabled and little, if any, prospect of re-housing the family in suitable accommodation in the near future. The implications for Mr and Mrs Blanch and their children is an important material consideration in determining this appeal to which I attach considerable weight. When weighed alongside my findings above regarding the development plan and other planning policies, matters are finely balanced. Whilst the previous Inspector took into account the personal circumstances of the appellant's family I was informed that considerably more information and details have been submitted in the appeal before me. I have also been able to explore this issue in much greater depth with the main parties.
27. These other material considerations indicate that permission should be forthcoming. However, circumstances could change in the future. To avoid undermining the provisions of the development plan and to maintain public confidence in the planning system, it would necessary to restrict the occupancy to Mr and Mrs Blanch and their dependents. I note the appellant's arguments that this would affect the ability to dispose of the property at some stage in the future. However, the alternative would be to withhold permission.
28. I conclude on the main issue that although the development would not accord with established planning policies that are aimed at securing sustainable rural development, the personal/family circumstances of the Blanch family are an important material consideration that indicate the appeal should not be determined in accordance with the development plan.

Other Matters

29. I note the concerns of some residents that over a lengthy period of time the appellant has undertaken development in breach of the planning permission. Restricting the occupancy in the way I have described above should not be interpreted as condoning previous unauthorised works and is not an

'abandonment of proper planning process and law.' Whatever the previous roof materials the Inspector who determined the appeal in 2008 found that the alterations to the roof did not detract from the character and appearance of the barn or the surroundings. Whilst part of the site can also be seen from a footpath the new roof does not harm the quality of the public realm.

30. I note the provisions of national planning policies for housing⁴ as well as emerging local policies⁵. The development adds to the range of housing and meets the needs of a family with disabled parents. In so doing, it adds to the mix of different households in this part of the Borough. However, as I have found above, it would increase the need to travel and is not a suitable location for new housing. PPS3 does not support the appellant's case. The emerging local policies have not reached an advanced stage and only carry very limited weight. The Council has also pointed out that these local policies identify Nynehead as an unsuitable location for new development due to the lack of services, facilities and poor transport links.
31. On behalf of the appellant attention was drawn to Articles 6 and 8 of the Human Rights Act 1998. The appellant (and those acting on her behalf) took a full and active part in the Hearing. There was adequate opportunity/reasonable chance for the appellant to put forward her case and she was not disadvantaged in relation to the Council or any other party. Throughout the Hearing I asked questions of both main parties without bias. The appellant does not reside within Upcott Farm Cottage and there would be no interference with her home. There would also be no interference with her family life. My finding on the main issue above would not violate the appellant's human rights.
32. I have taken into account other decisions taken elsewhere, including those within the Borough that have been drawn to my attention. Any inconsistencies or unjustness in the Council's decisions would be a separate matter for others.

Planning Conditions

33. Given my findings above in respect of the main issue, a condition restricting the occupancy of the building to the Blanch family would accord with the advice in paragraphs 92 and 93 of the Annex to Circular 11/95⁶.
34. Provision already exists within the site for vehicular parking. It would be unnecessary therefore to attach conditions requiring the submission of parking details and the provision of parking spaces. To safeguard the character and appearance of the area and the integrity of the building, it would be necessary to bring certain permitted development rights under the Council's control.
35. I conclude that the appeal should succeed in the terms set out above.

Neil Pope

Inspector

⁴ Planning Policy Statement 3 'Housing' (PPS3)

⁵ Taunton Deane Borough Council Core Strategy and Small Sites Consultation

⁶ The Use of Conditions in Planning Permissions

APPEARANCES

FOR THE APPELLANT:

Mrs J Jeffreys	Appellant
Mr K Woosnam	Appellant's agent/friend
Ms H Packman BSc (Hons), OT	Carer for Louise Blanch
Mr R Blanch	Appellant's son-in-law

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Bale BA (Hons), MA, MRTPI	Area Planning Co-ordinator
Mr J Hardy	Senior Enforcement Officer

INTERESTED PERSONS:

Mr G Sparks	Nynehead Parish Council
Mr D J Price RIBA	Local resident
Mrs A Brook	Local resident
Mr J D Brook	Local resident
Mr Darbyshire	Local resident