

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 21 July 2010 at 17:00.

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### Agenda

- 1 Apologies.
- 2 Minutes of the meeting of the Planning Committee held on 30 June 2010 (to follow)
- 3 Public Question Time.
- 4 Declaration of Interests  
To receive declarations of personal or prejudicial interests, in accordance with the Code of Conduct.
- 5 20/10/0004 – Erection of detached 3 bedroom dwelling for accommodation for warden/manager and dependants in connection with tourism business and carp fishery, together with separate service and storage facilities at Mill Meadow, Parsonage Lane, Kingston St Mary
- 6 34/10/0020 – Erection of dwelling with single garage in the garden of Brookfield, Rectory Drive, Staplegrove
- 7 38/10/0149 – Erection of dwelling on land adjacent to 61 Farm View, Taunton (amended scheme 38/10/0012)
- 8 42/10/0020 – Change of use of part of paddock to form extension of domestic garden for children's play area, including play equipment at Little Oaks, Staplehay, Trull
- 9 52/10/0013 – Erection of two dwellings in the garden of High Green, Comeytrowe Lane, Comeytrowe (revised access arrangements to 52/09/0048)
- 10 Injunction proceedings at Oxen Lane, North Curry
- 11 Planning Appeals - The latest appeal decision received (details attached)

Legal and Democratic Services Manager

22 July 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](http://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](mailto: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 S Coles  
Councillor F Smith  
Councillor A Wedderkopp  
Councillor R Bowrah, BEM  
Councillor E Gaines  
Councillor I Morrell

## **Declaration of Interests**

### **Planning Committee**

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

MILLFIELD ECO PROJECTS LTD

**ERECTION OF DETACHED 3 BEDROOM DWELLING FOR ACCOMMODATION FOR WARDEN/MANAGER AND DEPENDANTS IN CONNECTION WITH TOURISM BUSINESS AND CARP FISHERY TOGETHER WITH SEPARATE SERVICE AND STORAGE FACILITIES AT MILL MEADOW, PARSONAGE LANE, KINGSTON ST MARY AS AMENDED**

Grid Reference: 322196.129112

Full Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval and permission be GRANTED subject to S106 to secure the following: - use of the dwelling as warden/manager accommodation for a 3 year period; plot 12 shall not be constructed until permission is granted for the permanent use of the dwelling as a warden/manager unit; in the event no permission is forthcoming for the unit within 3 years the warden/manager residence shall revert to tourism purposes only and be subject to the standard tourism occupancy condition and Plot 12 shall not be constructed.

Recommended Decision: Conditional Approval

It is considered that having regard to Taunton Deane Local Plan Policies S1, S2 and S7, the proposal is considered acceptable in order to satisfy the demonstrated need on the the site for tourism/fishery activities and would not adversely impact upon highway safety, residential amenity or the character or appearance of the area. As such the proposal would accord with government guidance contained within PPS7 and the Good Practice Guide for Tourism, and material planning considerations do not indicate otherwise.

**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 development hereby permitted shall be carried out in accordance with the following approved plans:

(A1) Dr No. 10 Rev D - Block Plan.

(A3) Warden/Manager Accommodation Ground/First Floor Plan.

(A3) Warden/Manager Accommodation Elevations.  
(A3) Service & Storage Facility Elevations Drawing No.s SSF/W01;  
SSF/E01;SSF/S01;SSFN01  
(A3) Service & Storage Facility Ground & First Floor Plan. Drawings No.s  
SSF/G01 & SSF/F01  
(A4) Location Plan

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Prior to commencement of development samples of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be 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.

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. Prior to the occupation of the development hereby permitted, a Flood Warning and Evacuation Plan must be submitted to, and agreed in writing with, the Local Planning Authority. The approved plan must identify an alternative, safe, dry access route to be used in the event of a flood. The approved plan must be maintained and operational for the lifetime of the development.

Reason - To ensure that the risk of flooding to people is not increased as a result of the development in accordance with PPS25.

6. No building hereby permitted shall be occupied until surface water drainage

works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

- ii. include a timetable for its implementation; and

provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason - To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem in accordance with PPS25.

7. Prior to the occupation/use of the building(s) the recommendations of the County Contract's ecological assessment dated 20 January 2010 shall be carried out unless otherwise agreed in writing by the Local Planning Authority.

The development shall not be occupied/brought into use until the scheme for the maintenance and provision of the new bat and bird boxes with related accesses have been fully implemented. Thereafter the resting places and agreed accesses shall be permanently maintained.

Reason - To protect wildlife and their habitat from damage in accordance with PPS9.

8. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 ("the 1995 Order") (or any order revoking and re-enacting the 1995 Order with or without modification), no extensions, additions or other alterations (including dormer windows), outbuildings or enclosure, or fencing shall be carried out without the further grant of planning permission.

Reason: In order for the Local Planning Authority to ensure the size of the dwelling is commensurate with the functional need of the business and to assess the impact of such development on the character and appearance of the area and amenity of local residents in accordance with Policy S1 and S2 of the Taunton Deane Local Plan.



## Notes for compliance

1. The applicant is advised that the alternative access route must be demonstrated to lie wholly above the 1 in 100 year flood event through a detailed topographical survey.
2. The condition relating to wildlife requires a mitigation proposal that will maintain favourable status for these species that may be affected by this development proposal.

It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the developer should ensure that any activity undertaken on the application site, regardless of the need for planning consent, must comply with the appropriate wildlife legislation.

## PROPOSAL

Planning permission is sought for the erection of a permanent dwelling to enable a warden/manager to be available on site. The justification for the on site presence relates to both the tourism business and to fulfil the requirements of the carp fishery and rearing venture. In addition permission is sought for the erection of a service and storage building. The terms of the application have now been revised. The applicant now seeks the erection of a dwelling with a temporary 3 year consent in lieu of an existing plot. In the event that permission is not granted for a permanent use of the building for a warden/manager the unit would revert back to tourism use only and Plot 12 would not be constructed, retaining the same level of tourism units.

The proposed siting of the development would be to the east of the existing lake, immediately to the south of approved plots located at the northern end of the site. The design of the warden/manager accommodation would be of a timber chalet appearance featuring timber cladding, under a tiled roof. The footprint of the building is 10.3m x 11.2m and would provide a 3 bedroom dwelling, with a ridge height of 7.5m, one metre higher than the adjacent tourism units. The service building would have a footprint of 13.7m x 6.0m. The internal layout indicates the provision of linen store, laundry, storage and workshop at ground floor level and additional storage at first floor. The proposed design of both buildings incorporate sustainable principles, including rain harvesting, biomass heat source, and solar energy, to achieve a carbon neutral construction.

The application is accompanied by a business plan for the site; accounting information; description of the duties of the warden/manager in relation to both the tourism and fishery elements; wildlife report, flood risk assessment, and additional supporting information.

## SITE DESCRIPTION AND HISTORY

The site was bought in 1991 and developed as a horticultural nursery in conjunction with a landscape business. In 1991 planning consent was granted, on appeal, for an agricultural dwelling adjacent to the nursery.

In the mid 00's the nursery site became redundant. In 2005 permission was granted for five units of holiday accommodation, reference 20/05/0005, with an additional 13

units approved under reference 20/05/0022. Mill Meadow therefore has permission for a total of 18 eco lodges with an additional two tourism units granted consent for the conversion of existing buildings on site, making a total of 20 units across the site. The units are subject to a condition restricting the use to tourism purposes only. The wording of the condition was varied at appeal.

An application for warden accommodation was previously withdrawn, reference 20/06/0017, following a recommendation to the Planning Committee for refusal. The recommendation was put forward on the grounds of insufficient justification for a warden to be on site. It is noted that at that time only one log cabin had been constructed and the fishery enterprise was not been run as a commercial venture.

The agricultural tie in connection with the adjacent Millfield House was lifted as a result of planning application 20/07/0026.

The site is located to the south of the Kingston St Mary Conservation Area and is outside of the settlement limits of the village. The site is not located within the designated Area of Outstanding Natural Beauty, which is located to the north. The site is part of an established tourist facility consisting of four holiday units and a fishing lake and is well screened due to the existing landscaping.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*PARISH COUNCIL* – The Parish Council objects on the following grounds: -

- It would result in overdevelopment of the site
- The last conditional planning permission on this site, in 2007, stated ‘The Local Planning Authority consider that any further development on this site may prejudice a satisfactory layout which would be in conflict with Taunton Deane Local Plan Policies S1 and S2’.
- The proposed accommodation for the warden and his/her family would be a permanent three-bedroom family residence – outside the settlement limit – on a site where previously permission has only been given for holiday units which cannot be occupied as full time homes throughout the year.
- The four holiday units so far constructed at Mill Meadow do not warrant a manager living on site.
- The applicant’s home and registered office is adjacent to the site – originally built as a manager’s house for the former nursery – and is ideally suited for the supervision of the holiday accommodation.

*HIGHWAY AUTHORITY* – The proposal would make use of the existing access which has been improved under previous applications at this site. As such it is able to provide sufficient width for two way vehicle flow and good visibility in either direction. During pre-application discussion there was concern the proposal would see an increase in vehicle movements from the existing access. However, permission was granted in 2005 for a new driveway. Therefore it was concluded that if this driveway were to be completed then the existing dwelling would not utilise the access to Mill Meadow.

It is therefore concluded that the proposed vehicle movements from the new dwelling will replace the existing movements associated with the main residential property. No objection.

*ECONOMIC DEVELOPMENT* – From an Economic Development point of view we would support this application. The business at Mill Meadow is moving forward and fits with the Taunton Deane Economic Strategy. The sustainable principles upon which the business is based are encouraged due to the green/ecological focus.

*ENVIRONMENT AGENCY* – The EA initially objected on the absence of a Flood Risk Assessment. A copy of the Flood Risk Assessment together with a Flood Warning and Evacuation Plan were subsequently submitted to the Environment Agency. The Environment Agency do not raise any objections to the proposed development subject to the imposition of a condition requiring the submission of a plan identifying an alternative, safe, dry access route to be used in the event of a flood.

*DRAINAGE OFFICER* – I note the Environment Agency's request that a Flood Risk Assessment be carried out. I also note that surface water is to be disposed of via SUD's techniques. Full details should be submitted for approval before any works commence on the site.

*LANDSCAPE OFFICER* – Subject to the retention of existing vegetation the new dwelling should be well screened.

*NATURE CONSERVATION & RESERVES OFFICER* – No objections subject to the imposition of a condition requiring the works to be implemented in accordance with the submitted ecological assessment. Note re protected species.

## **Representations**

8 letters of OBJECTION has been received. Summary of objections: -

- The former nursery site has relocated, the dwelling built for the Nursery Manager is vacant and can be used for the Warden as and when the site is developed;
- Speculative housing on agricultural land;
- What happened to the previous application to convert an office block into accommodation for a Warden and family?
- If a Warden/Manager is to be moved into the area, why can they not be housed in one of 18 units previously approved?
- Outside of the settlement limits. Contrary to TDBC Local Plan and Kingston St Mary Parish Council;
- Parsonage Lane is too narrow and proposal would give rise to an increase in traffic movements through Mill Cross along Kingston Road – highway safety implications.
- Original permission for 5 units was to provide accommodation for cyclists / walkers. The site has since ballooned despite objections and despite a covenant on the land to the contrary;
- To date there has been no tourist activity, nor economic benefit to the economy;
- Viability of the site is unproven;
- No dwellings have been sold despite reduction in price therefore no functional need;
- No need to be on site;
- Security of the site is already managed by the owners who live on site;

- Tie needs to be imposed in the event of consent been given;
- Proposed would set a precedent for other businesses located in rural areas.

6 letters of SUPPORT have been received. Summary of support:-

- Mill Meadow makes a valuable contribution to the rural economy and with the patronage of guests help to boost the village's facilities e.g. public house/post office;
- Anything that will help the enterprise to maintain the provision of high quality accommodation to attract visitors to the village and surrounding area can only be a positive;
- Provides security on site.
- Investors expect to have an on site warden to provide high level of customer service when in residence and security when not;
- West Somerset Railway support the application as a destination for many of the guests making journeys on the WSR;
- Mill Meadow support the WSR through making bookings on visitors behalf;
- Taunton Chamber of Commerce supports the application for the following reasons:-
- This type of business is exactly the sort of enterprise that is at the core of what Taunton Deane needs to win and retain quality businesses;
- The enterprise is now up and running and growing successfully;
- The company has provided the relevant information and technical points raised;
- The addition of suitable warden accommodation is vital to enable our member company to move the business on and attract substantial investment for its growth – which can in turn only benefit the Deane by providing a growing, quality, sustainable green business;
- The TDBC economic strategy includes enterprises such as Millfield Eco Projects at its centre as sustainable, carbon neutral, high quality business that attracts tourists/visitors.
- Those visitors in turn spend within the Deane;
- If TDBC are unable to assist and support this sort of enterprise who would the Deane support in order to attract and retain sufficient numbers of businesses and enterprises to stop us simply becoming a dormitory town?
- The Deane supports financially the Inter Somerset programme that is designed to attract businesses similar to the Millfield Eco Project to Somerset. Given the difficulty facing this application, what message does that send to other businesses looking to come to Somerset?

## **PLANNING POLICIES**

PPS1 - Delivering Sustainable Development,  
 PPS3 - Housing,  
 PPS4 - Planning for Sustainable Economic Growth,  
 PPS7 - Sustainable Development in Rural Areas,  
 PPS9 - Biodiversity and Geological Conservation,  
 PPG13 - Transport,  
 GPGT - Good Practice Guide on Planning for Tourism,  
 STR1 - Sustainable Development,  
 STR6 - Development Outside Towns, Rural Centres and Villages,  
 S&ENPP1 - S&ENP - Nature Conservation,  
 S&ENPP5 - S&ENP - Landscape Character,

S&ENPP19 - S&ENP - Employment and Community Provision in Rural Areas,  
S&ENPP23 - S&ENP - Tourism Development in the Countryside,  
S&ENPP48 - S&ENP - Access and Parking,  
S&ENPP49 - S&ENP - Transport Requirements of New Development,  
S1 - TDBCLP - General Requirements,  
S2 - TDBCLP - Design,  
S7 - TDBCLP - Outside Settlement,  
EC7 - TDBCLP - Rural Employment Proposals,  
EN12 - TDBCLP - Landscape Character Areas,  
EN28 - TDBCLP - Development and Flood Risk,  
M4 - TDBCLP - Residential Parking Provision,

## **DETERMINING ISSUES AND CONSIDERATIONS**

It is considered that the following key considerations are pertinent to the assessment of this application: -

- (a) whether the proposed dwelling would conflict with development plan policies and national planning guidance designed to protect the countryside and achieve sustainable development objectives and, if so, whether the arguments put forward are sufficient to justify an exception in this case;
- (b) the effect of the proposed development on the character and appearance of the landscape;
- (c) flooding;
- (d) highway safety; and,
- (e) impact on residential amenity.

### **(a) Development Plan Policy and Other Material Considerations.**

The site is located outside of the defined settlement limits of Kingston St Mary, where development should be strictly controlled. It is a cornerstone of government guidance that isolated new houses in the countryside require special justification. The Mill Meadow site has permission for 20 units of holiday accommodation, of which four are currently built and operational. Of the four units in operation two are new build eco-lodges and two are conversion of existing buildings. The business plan for the tourism enterprise is based on providing high quality customer service to cater for the demands of visitors and to attract additional investors to the site, which would be more appealing with the presence of an onsite warden. In order to increase the viability of the enterprise the applicant has also sought to operate a specialist carp rearing fishery and to continue to grow this element of the business on a commercial footing.

The tourism enterprise is supported by both the Council's economic officer and the president of Taunton Chamber of Commerce. Both support the business model of providing high quality eco-development and recognise the high level of service expected at the top end of the market. The applicant has submitted a range of national media articles in recognition of the business's eco-credentials. The applicant has also submitted for information purposes the log book recording visitors' experience of Mill Meadow. The applicant and Chamber of Commerce have made reference to the Council's 'Grow and Green' economic development strategy for Taunton Deane. The eco-cabins can and do play an important role in the tourist sector providing high quality accommodation to visitors to the Borough. It is accepted that providing additional high levels of customer service will help to increase the

viability of the business. The provision of a modest service building is considered acceptable to fulfil the function of laundry facilities on site in connection with the tourism enterprise. The question however, is whether the service levels and duties of the warden/manager, including the fishery element, can be achieved without an on-site residential presence.

Government guidance expects most tourist accommodation requiring new buildings to be located in or adjacent to, existing towns and villages. This site has been accepted for tourism purposes. The provision of high quality tourism development within the Borough has previously been supported on the basis it can aid diversification of the rural economy and support local businesses and facilities. The Best Practice Guide for Tourism sets out the importance of tourism to the economic, social and environmental well-being of the country. Paragraph 24 of the Best Practice Guide states for many type of holiday parks, a residential managerial presence is often essential, to achieve high quality service to the customer, security for the property, and to meet the obligations of health and safety regulations. The requirement for an on site presence will however relate to the type, scale and nature of the tourism business.

Local Plan Policy H12 (Agricultural or Forestry Workers) has not been saved and therefore Annex A of PPS7 sets out the criteria for assessing agricultural and forestry workers applications (and other rural based enterprises). In these cases, the enterprise itself, including any development necessary for the operation of the enterprise, must be acceptable in planning terms and permitted in that rural location. The guidance also directs Local Planning Authorities to apply the same stringent levels of assessment as they apply for agricultural and forestry workers' dwellings, to the extent that they are relevant to the nature of the enterprise concerned. Government guidance requires applications for such workers dwellings to be scrutinised thoroughly to ensure that there is no abuse of the planning system. The application was made on the basis of a permanent unit of accommodation for the warden/service manager. In order to provide technical advice on the submission Kernon Countryside Consultants (KCC) were commissioned to appraise submission. The contents of the appraisal are incorporated into this report. It should be noted that the appraisal was undertaken on the basis of a permanent unit of accommodation for a warden/manager.

Paragraph 3 of Annex A of PPS7 sets out the tests for allowing new permanent dwellings to support existing agricultural (or in this case rural-based tourism enterprise) units, providing:

- (i) there is a clearly established *existing* functional need;
- (ii) the needs relate to a *full-time* worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;
- (iii) the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so;
- (iv) the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remain so;
- (v) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- (vi) other planning requirements, e.g. in relation to access, or impact on the

countryside, are satisfied.

## Functional Test

Paragraph 4 of Annex A sets out that a *functional test* is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times, for example if workers are needed to be on hand day and night. For the functional test to be satisfied it has to be demonstrated that a worker needs to be on hand day and night in case activities / operations require essential care at short notice or to deal with emergencies.

When considering the need to live on site it is necessary to consider the types of problems that could occur, when they are likely to occur and how frequently they are likely to occur. If the problems / emergencies or indeed any other reasons why it may be judged essential to live on site are likely to occur during part of the normal working day (however long that may be) then it follows that these can be dealt with as part of the day to day work routine and do not warrant an on-site worker living on site.

The supporting information sets out a list of the warden's main duties. These include:

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## Maintenance to grounds

- Grass cutting
- Hedge Pruning
- Managing designated wildlife areas and monitoring diversity
- Clean and maintain roadways
- Inspect overflow system from lake and remove blockages
- Inspect culvert on stream under Parsonage Lane and remove blockages
- Ensure compliance with the Flood Risk Assessment recommendation
- Routine & specialist maintenance to lodges
- Inspect and service rain harvesters
- Maintain ground source heat pumps
- Clean windows
- Clean and treat external boarding
- Minor repairs to roofs
- Clear rainwater gutters
- Daily cleaning of internals
- 24 hour call out for emergencies

## Guest Services

- Welcome and guide guests on workings of lodge
- Receive prior to arrival pre-ordered groceries
- Provide guidance on local attractions, arrange bookings, concierge duties
- Routine and emergency service issues
- Drive courtesy transport as part of green transport policy to minimise visitor car numbers
- Process waste items for recycling

## Fishery Duties

- Multiple daily health checks on stock and water conditions
- Infection control – a statutory requirement
- Issue permits to fish
- Provide advice to guests
- Daily feeding linked to daily conditions
- Security – carp is an expensive stock

#### Administrative

- Maintain a register in compliance with planning condition
- Ensure the rules are observed and enforced
- Manage any visiting contractors
- Manage and police all entries to site
- Provide 24 hour security
- Manage and fulfil all Health and Safety requirements.
- Carryout such other tasks as required to facilitate the effective running of the business.

The KCC appraisal assessed the scheme against the existing situation i.e. four tourism units. It considered that the majority of the tasks undertaken by the warden in relation to the tourism element would be performed as part of the normal working day and it would not be essential to the proper functioning of the business for a worker to be readily available at most times. The appraisal considered that security could be provided by a security guard; requests by guests initiated by mobile phone could continue - albeit it would take a warden living off site longer to respond in the case of an emergency outside of normal working hours; in terms of checking in guests it is normal practice for guests to check in within a specified time or to make special arrangements and on the basis of four units it is not considered to substantiate the need for an on-site presence. It is considered that with regards the tourist element, whilst it would obviously be more convenient for a warden/manager to live on site it is not considered to be essential to the proper functioning of the holiday accommodation enterprise on the basis of four operational units.

The applicant has submitted appeal statements to support his proposal. The appeal at South Combe Water, Cullompton, for a manager's dwelling relates to a site comprising both holiday units and fish farming venture, in an isolated location, the Inspector concluded: -

*I consider that it is necessary for someone to be readily available at most times for the welfare of the fish. Security, customer service, health and safety and maintenance are other matters that contribute to the need for manager's accommodation, but would not in themselves justify on-site provision' (para 18).*

The fishery venture is a new enterprise for the business, albeit the former water storage lake has been stocked with fish for a number of years. The proposal includes diversifying in terms of harvesting and the planned intensification of the stocking levels and progression into fry rearing. Two fry tanks have been procured. In terms of the functional need for a warden to be on site the applicant has submitted details of the requirements for standards of husbandry, which will increase as the level of stocking is increased. The KCC appraisal advises that in their opinion it is not considered to be essential to the proper functioning of the fishery enterprise for a worker to be readily available at most times. However as the level of stock in the main lake increases and the applicant develops the rearing pond, the potential need



to be readily available in connection with the fishery enterprise will develop.

It is considered therefore that the fishery element in its current form would not constitute a functional need. However, there is evidence that if the applicant continues to develop that side of the business there would be a case for a functional on site presence.

#### Financial Test

PPS7 requires that 'the unit and agricultural activity concerned shall have been established for at least three years, have been profitable for at least one of them, are currently financially sound and have a clear prospect of remaining so'.

The holiday accommodation has been established since July 2008 i.e. the opening season for visitors to the site. It is less clear when the fishery enterprise became established as there have been fish in the lake for a number of years. The agent has responded that the lake has been stocked with carp since 2008. The rearing pond has not been established and accordingly the business fails to meet the first element of the financial test that the activities have been established for a three year period.

The second part of the test requires the activities to have been profitable for at least one of them. It is generally accepted that the level of profit should cover the full-time wage of the worker employed. This application (originally) relates to a permanent building/use rather than a temporary dwelling and accordingly the policy requirement is that the business *has* been profitable rather than *will* be profitable. The KCC appraisal identifies that the submitted accounts do not demonstrate that the activities (tourism / fishery) have been profitable and are of the opinion that there is no clear evidence of doing so.

#### Other accommodation

In regards to the suitability and availability of other dwellings in the vicinity the applicant has stated that the existing dwelling, Millfield House, is in private ownership and not available for warden's accommodation and would not reasonably be considered available due to the valuation of the property. The application is submitted by the Millfield Eco Projects Ltd.

#### Amendment to the terms of the application

The recommendation of the Kernon appraisal was that the proposal in its current form did not justify the presence of an on-site warden/manager. The applicant disputes the contents of the appraisal. Officers' agree with the response of Kernon is so far as the application is submitted as a permanent unit of accommodation for a warden/manager at this stage. The tourism business has only four units constructed and in operation and the commercial fishery venture would need to grow in line with the proposed business plan to justify a functional need. Likewise, both elements would not pass the financial tests at this point in time. In order to provide a low risk strategy to enable the applicant to continue to grow both elements of the business and to attract additional investment into the site an alternative approach was agreed.

It is considered the proposal would accord with the tests set out for temporary agricultural (rural based enterprises) on the basis that there is clearly a firm intention and ability to develop the enterprise. In terms of functional need the Kernon

appraisal was based on the requirements for a permanent dwelling/use, the business plan for a further 16 units (with planning permission) and the fishery diversification when taken together is considered to comprise a functional need. The application sets out the financial basis for the proposal which requires significant investment to proceed with the project.

The provision of a S106 agreement would enable the warden/manager unit to be permanently built as proposed. However, this unit would be subject to a three year temporary permission in order for the applicant to demonstrate the functional and financial tests for a permanent use of the building for a warden/manager are passed. In the event that the applicant is unable after the three year period to demonstrate that the business can satisfy the tests set out in PPS7 the unit shall revert back to a tourism unit in accordance with the tourism condition imposed on the other units on site. The applicant would forego the building of Plot 12 until the remainder of the tourism units are completed and permission is granted for the permanent use of the warden/manager unit for such use. In the event that no permission is forthcoming for the permanent occupation of the building for a warden/manager Plot 12 shall not be constructed. This would ensure that the same numbers of tourism units are on the site in the event an application for the warden/manager on a permanent basis were to fail.

#### (b) Character and Appearance

The design of both the warden's accommodation and service building draw upon the existing appearance and materials of the approved log cabins, featuring timber cladding under a tiled roof. The scale of the warden's accommodation and service building is considered to be commensurate with the overall tourism site, once completed. The site is positioned adjacent to the lake and well positioned in relation to the fishery element but less so in relation to meeting visitors. The site is well screened and the landscape officer has raised no objections to the proposal. In landscape terms, subject to justifying the need for the development, the proposal would have no significant adverse impact on the landscape. The design and materials would help to assimilate the proposal in its environs and would not prejudice the approved layout of the wider scheme.

#### (c) Flooding

The siting of the proposed dwelling and service building is located in Flood Zone 1. However the access and egress to the Mill Meadow site is located with Flood Zone 3. The Environment Agency is satisfied that subject to the imposition of a condition requiring the submission of a plan indicating an alternative safe, dry access in the event of a flood and a Flood Warning and Evacuation Plan the proposal is acceptable.

#### (d) Highways

The representations of local residents in respect of the highway network in the proximity of the site are noted. However, the Highway Authority do not raise an objection to the scheme and it is therefore considered it would be unreasonable to substantiate an objection on such grounds.

#### (e) Amenity

It is considered by reason of the siting and scale of the development and the separation distances from local residents the proposal would not give rise to any adverse impact.

## Conclusion

The green credentials and economic benefits of the existing holiday business are noted and supported. The applicant has undertaken to provide a high quality eco-lodge development with customer service levels to match, in order to attract the top end of the tourism market, which would have an economic spin off for the rural economy. The provision of a service/laundry facility would aid the level of facilities that the business can provide on site. The expansion of the fishery element of the business will enable increased leisure activities for visitors and provide increased income to support the viability of the enterprise. The above is not in question. Officers' consider that the proposed amendment to the terms of the application address the concerns expressed by the Kernon appraisal in so far as the temporary permission of the new dwelling for three years will enable the business to grow whilst providing a low risk. The S106 requirements would ensure that in the event that the applicant cannot demonstrate that the functional and financial tests are met the building would revert to tourism uses only in lieu of an approved plot on site. The temporary three year consent will ensure the welfare of the fish stock and allow the expansion of the fishery diversification. The ability to provide an onsite presence for high levels of security, customer service, health and safety and maintenance requirements will help attract additional investment in order to complete the construction of the remaining units on site. It is therefore recommended that subject to the completion of a S106 that permission be granted.

**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**

**ERECTION OF DWELLING WITH SINGLE GARAGE IN THE GARDEN OF BROOKFIELD, RECTORY DRIVE, STAPLEGROVE**

Grid Reference: 321095.12648

Reserved Matters

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval subject to the receipt of no representations raising new issues that are not considered in this report.

The proposed layout, scale, appearance access and landscaping are acceptable and are not considered to have a detrimental impact upon visual or residential amenity. The proposal is therefore considered acceptable and, accords with Taunton Deane Local Plan Policies S1, S2 and M4.

**RECOMMENDED CONDITION(S) (if applicable)**

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

- (A1) DrNo 0160\_02 rev B proposed site plan
- (A1) DrNo 0610\_01 existing site survey
- (A1) DrNo 0610\_02 rev B proposed elevations
- (A1) DrNo 0610\_05 3D images
- (A1) DrNO 0610\_02 rev B Proposed plans

Reason: For the avoidance of doubt and in the interests of proper planning.

2. The first floor windows to be installed in the north elevation of the building shall be obscure glazed and non-opening (unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed) in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority and shall not be modified thereafter without the prior written consent of the Local Planning Authority. The obscure glazing shall be installed prior to occupation of the dwelling hereby permitted and shall thereafter be retained as such.

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

## Notes for compliance

1. Your attention is drawn to conditions attached to the outline planning permission 34/09/0019 and the need for compliance with said conditions at all times.

## **SITE DESCRIPTION AND HISTORY**

The site comprises part of the side garden of the existing dwelling 'Brookfield', the last house at the end of Rectory Drive. Rectory Drive is a narrow single track lane serving a limited number of detached dwellings in spacious plots.

The site itself is accessed across the front of Brookfield from the existing parking/turning area. It is flat surrounded by trees and hedges. The existing dwelling is a double fronted property with bay windows, finished in render under a tile roof. However, there is a mix of dwellings in the area, being finished with render, brick and having tile and slate roofs. There are some small trees within the site, otherwise all significant landscaping is confined to the boundary.

Application 34/09/0019 granted outline planning permission for a dwelling on this site with all matters reserved.

## **PROPOSAL**

This application seeks approval of reserved matters following the grant of outline planning permission. The proposal shows a detached dwelling with a hipped roof, accessed from the existing turning head for Brookfield. The dwelling would be finished with render and would have a slate roof. Solar panels are also indicated. Most existing boundary trees are shown to be retained.

The application is before committee because the agent is related to a member of staff.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*SCC - TRANSPORT DEVELOPMENT GROUP* - Repeats previous comments stated at outline stage, mainly that there will not be a significant increase in traffic as a result of the proposal; the junction of Rectory Drive and Manor Road provides good visibility. Recommends conditions.

*STAPLEGROVE PARISH COUNCIL* - No objection.

### **Representations**

None. However, as noted below, neighbours were notified later in the application process than normal. The recommendation is, therefore, made subject to no new issues being raised.

## **PLANNING POLICIES**

EN12 - TDBCLP - Landscape Character Areas,  
T1 - TDBCLP - Extent of Taunton,  
STR2 - Towns,  
STR4 - Development in Towns,  
EN14 - TDBCLP - Conservation Areas,  
S1 - TDBCLP - General Requirements,  
S2 - TDBCLP - Design,  
M4 - TDBCLP - Residential Parking Provision,

## **DETERMINING ISSUES AND CONSIDERATIONS**

The principle of development is established by the previous grant of outline planning permission and cannot be revisited as a consequence of this application. The main issues in the determination of this application, therefore, relate to the reserved matters – access, layout, scale, appearance and landscaping – and the impact of these on the character of the area and amenities of other nearby property.

Access to the site is via the curtilage of the existing dwelling, as indicated at outline stage. The Highway Authority considers that this arrangement is acceptable and would not be detrimental to highway safety. They recommend the imposition of a number of conditions, which have already been imposed on the outline. Since these relate to the principles of access and remain in force – such as preventing the discharge of surface water to the highway and the surfacing requirements – they need not be reiterated here.

The design is considered to respond well to the character of the area, being a well proportioned dwelling in a substantial plot. The choice of materials respects those found elsewhere in the area and the layout of the plot, with the dwelling alongside the existing is similar to others in the street. It is broadly proposed to retain most of the existing boundary treatment and planting, which is acceptable. Final landscaping and boundary details are required by condition of the outline permission.

The application proposes that the main windows will face to the front and back (east and west), although some ground and first floor windows are proposed facing the existing dwelling, Brookfield. Brookfield does not have any significant windows in this elevation and its attached garage prevents any unacceptable overlooking. The windows will mean that the front garden of Brookfield is overlooked, but as this is a shared access area, the arrangement is considered to be acceptable.

There is a further dwelling, Wisteria, to the north, beyond the existing leylandii trees. Two first floor windows are proposed facing north, although these will only serve the bathrooms and could be obscure glazed. Conditions are recommended to insist on this in the interests of preventing overlooking. It is considered that the angles between the east elevation windows and the rear face of Wisteria prevent any unacceptable overlooking to this existing dwelling. In terms of ground floor windows, the existing hedge/tree boundary is indicated as remaining, and as noted above, final details are required by condition of the outline permission. It is not considered that any other nearby dwellings would be adversely affected by the proposal.

The site borders the conservation area to the south east. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving or enhancing the conservation area. Although it

is not within the designated area, it is considered that the proposal will not cause any harm to the conservation area or its setting.

In summary, it is considered that the proposal is acceptably designed, respecting the character of the area and the amenities of other nearby properties. It is, therefore, considered to be acceptable and recommended that reserved matters are approved.

As noted above, neighbouring properties were notified later in the application process than normal and the consultation period has yet to expire. The recommendation is, therefore, made subject to the receipt of no representations raising new issues that are not considered in this report.

**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**

38/10/0149

HAYWARDS BUILDING CONTRACTORS

**ERECTION OF DWELLING ON LAND ADJACENT TO 61 FARM VIEW, TAUNTON  
(AMENDED SCHEME 38/10/0012)**

Grid Reference: 323268.127049

Full Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Permission be granted subject to receipt of additional details regarding the proposed parking space and pedestrian access to rear of 61 Farm View.

The proposal, for residential development, is located within defined settlement limits where the principle of new housing is considered acceptable. The proposed access would be satisfactory and the development would not have a detrimental impact on the amenity of surrounding residential properties or the character of the area in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policies STR4 and 49 and Taunton Deane Local Plan Policies S1 (General Requirements), S2 (Design), and M4 (Residential Parking Provision).

**RECOMMENDED CONDITION(S) (if applicable)**

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A1) DrNo 15A Proposed plans and elevations  
(A2) DrNo 13 Existing site plan  
(A2) DrNo 14 Rev A Proposed site plan  
(A4) DrNo 02 Block plan  
(A4) DrNo 01 Rev A Location Plan

Reason: For the avoidance of doubt and in the interests of proper planning.

3. 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.

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The agreed boundary treatment shall be completed before the dwelling is occupied and thereafter maintained as such, unless otherwise agreed in writing by the Local Planning Authority.

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

5.
  - (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.

6. The area allocated for parking on the submitted plan shall be properly consolidated, surfaced and drained before the building is occupied and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: To ensure that there is adequate space within the site for the parking of vehicles clear of the highway in accordance with Taunton Deane Local Plan Policy M4.

7. Before the dwelling hereby permitted is first occupied a properly consolidated and surfaced access shall be constructed (not loose stone or gravel), details of which shall be submitted to and approved in writing by the Local Planning Authority and thereafter carried out as agreed prior to

occupation.

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

8. Details of the means of foul and surface water disposal in respect of the new dwelling shall be submitted to and approved in writing by the Local Planning Authority and thereafter carried out as agreed prior to occupation of the dwelling.

Reason: To prevent pollution and flooding in accordance with PPS25.

#### Notes for compliance

1. The alteration to the access will involve construction works within the highway limits. These works must be agreed in advance with the Highway Service Manager at the Taunton Deane Area Highways Office, Burton Place, Taunton Tel. No. 0845 3459155. He will be able to advise upon and provide relevant licenses necessary under the Highways Act 1980.

## PROPOSAL

The proposal comprises the erection of a dwelling, attached to the end of row of terrace dwellings, within the side garden of 61 Farm View. The proposed two storey, 3 bed dwelling, will have a front and rear garden. The dwelling would be constructed in brick with concrete tiles to match the existing dwellings.

Two parking spaces would be retained for the existing dwelling and one space provided for the new dwelling.

This is an amended proposal to a detached dwelling that was recently refused.

## SITE DESCRIPTION AND HISTORY

The proposed site forms a corner garden of an end of terrace property (61 Farm View) and is sited on the edge of Taunton.

### Planning history

38/10/0012 - Erection of two storey dwelling on land adjacent to 61 Farm View. This application was refused on 9th March 2010 for the following reason:

*The proposed dwelling, by reason of its design and siting, as a detached dwelling, is considered out of character with the established layout of the terraced properties and surrounding dwellings. Furthermore, the orientation of the proposed dwelling, opposite to the existing terrace further detracts from the visual amenity of the area. The proposal is therefore contrary to policies S1 and S2 of the Taunton Deane Local Plan and PPS1 and PPS3.*

38/02/0020 - Erection of a single storey extension to side and rear to provide a

garage/study and sunroom. The proposal was granted conditional approval by the planning committee on 23 May 2002, the proposal has not been implemented in full but a rear extension has been added which could be considered as partial implementation of that approval.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

#### *SCC - TRANSPORT DEVELOPMENT GROUP -*

- Existing property to retain garage and parking space, in accordance with Local Transport Plan (LTP).
- Proposed single parking space below requirements of LTP, however site is located within 200m of regular bus service to centre of Taunton; 700m to local services, 300m further than guidelines of LTP, though route is along lit pedestrian footways.
- No objection subject to conditions: consolidated and surfaced access; disposal of surface water; parking only for new dwelling. Note: works to be agreed and relevant licence obtained.

#### *WESSEX WATER - comment*

- Private foul sewer area and private sewer crossing site.
- Developer to dispose of surface water to mains, a private surface water sewer.
- Points of connection for water mains to be agreed.

#### *DRAINAGE ENGINEER - No observations.*

### **Representations**

ONE LETTER OF OBJECTION FROM WARD COUNCILLOR: - object due to condition of foul sewer and use for surface water disposal; sewer in poor condition and prone to blockages unlikely to cope with surface water; note that surface water drain runs through site, will this remain functional? New gate to 61 Farm View will allow access across new parking space, this will require some sort of right to access.

1 LETTERS OF SUPPORT: - will enhance look of the area; will discourage youths from fouling piece of land; vehicles parked on road would have the effect of calming traffic.

12 LETTERS OF OBJECTION: -

Highways - concerns re more vehicles parking on road and additional hazards contrary to Policy 49 of Somerset and Exmoor National park Joint Structure Plan Review; already a problem; the road is driven at excessive speed; 3 bed property could lead to additional 1-4 vehicles; adversely affect road visibility; visual obstructions for drivers, pedestrians and children in the area; only 1 parking space proposed, less than Local Transport Plan requirement of 2; would prevent cars parking in lay-by used by residents of 4,6 and 8 Glen Drive.

Character - built as 'open plan' would ruin layout and view of road, detrimental to visual amenity as only 2m from highway; boundary fence would be out of keeping; would lead to precedent for other corner plots; out of line with properties of Glen Drive.

Design – not in keeping with estate, not on building line and will not integrate.

Sewer - new dwelling immediately above main sewer serving 35 houses; concerns as previous serious problems with sewerage system; foul sewer runs under gardens and roadway for maintenance and repairs.

Amenity – where will shed/washing line/refuge be placed; area overpopulated and new development will affect this; loss of green area; two windows in gable directly opposite my kitchen and bedroom windows, impact on views.

Covenant - covenant on site, has permission been sought? proposal in breach of covenant.

Brownfield - site is not brownfield; would set precedent for other land; misleading; previously farm land, never been previously developed land; 'garden grabbing' inappropriate development that Communities Minister wishes to stop. A site visit should be arranged.

## **PLANNING POLICIES**

PPS1 - Delivering Sustainable Development,  
PPS 1 SUPP - Planning and Climate Change,  
PPS3 - Housing,  
STR1 - Sustainable Development,  
STR4 - Development in Towns,  
S&ENPP48 - S&ENP - Access and Parking,  
S&ENPP49 - S&ENP - Transport Requirements of New Development,  
S1 - TDBCLP - General Requirements,  
S2 - TDBCLP - Design,  
M4 - TDBCLP - Residential Parking Provision,

## **DETERMINING ISSUES AND CONSIDERATIONS**

The main considerations with the proposal are the impact on the character of the area, its design, parking and access, drainage and amenity.

### Design and setting

The dwelling has been designed to continue the row of terrace properties rather than the previously refused proposed detached dwelling. The ridge height of the dwelling is identical to the existing properties. The proposal differs in only that the width of the dwelling is slightly wider than the existing properties, this difference is not considered to harm the street scene nor harm the character and appearance of the adjoining dwellings.

The dwelling is proposed to be built within the side garden of 61 Farm View, within an housing estate that is characterised by an 'open plan' layout consisting of rows of terraced properties. The building of a dwelling in this position is not considered to

harm the open plan nature of the estate nor erode its character. The proposed dwelling will retain a front and rear garden and will be set back from the footpath fronting Glen Drive. The existing hedgerow will be retained.

### Parking/Highways

The existing property (61 Farm View) will retain the existing garage and a parking space. The proposed dwelling will be provided with one parking space in accordance with Taunton Deane Local Plan Policy that requires a maximum of 1.5 spaces. The requirements of the Local Transport Plan are a guide and two parking spaces are not a requirement.

The Highway Authority raises no objection to the proposal given the regular bus services and access to services by lit pedestrian footways. There has been no objection or concerns regarding visibility at the junction of Farm View and Glen Drive.

Additional details have been requested to ensure there is no conflict between the proposed parking space and pedestrian access to the garden of 61 Farm View.

### Drainage

The proposed dwelling will be built over, and connected to, a private sewer. Details have been requested to see whether surface water can be disposed to soakaways rather than the sewer. Whether these details are received or not, a condition will be attached to this development requesting details of foul and surface water disposal. Building over the private sewer is not a reason to refuse this application and the Drainage Officer has no observations to make.

### Amenity

The proposed dwelling is not considered to cause any undue overlooking or loss of light to any residential properties. The front of the dwelling will overlook the road junction and the rear will overlook the parking area and layby. The side of the dwelling has no first floor windows and the two ground floor windows will serve a kitchen and lounge (secondary window). The side of the dwelling is 20m from the front of the properties on Glen Drive, given the windows are at ground floor and the distance between the properties there is not considered to be any overlooking or loss of light. Furthermore, the dwelling would not be overbearing. A condition could be attached to prevent any further first floor windows within this elevation if thought necessary.

### Other

The covenant on the site is a separate issue to the granted of planning permission.

The proposal is considered to retain the character of the area without eroding the open plan layout or harming the amenity of nearby residential properties. The site is within the built up area of Taunton and although PPS3 has redefined garden areas not to be brownfield this doesn't preclude their development if in a suitable location and of an appropriate design. This is considered to be the case in this instance and the proposal is therefore supported.

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

**CONTACT OFFICER: Mr D Addicott Tel: 01823 356463**

42/10/0020

MRS P M HUGHES

**CHANGE OF USE OF PART OF PADDOCK TO FORM EXTENSION OF DOMESTIC GARDEN FOR CHILDREN'S PLAY AREA INCLUDING PLAY EQUIPMENT AT LITTLE OAKS, STAPLEHAY, TRULL**

Grid Reference: 321244.121846

Full Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Refusal

The area of countryside to the west of Staplehay is rural in nature and the introduction of this garden land changes the rural ambience of the area to a domestic one, eroding the countryside character and resulting in harm to the visual amenity of the area. Furthermore it sets an undesirable precedent for future development. As such, the proposal is contrary to policy 5 of the Somerset and Exmoor National Park Joint Structure Plan Review and policies S1 and EN12 of the Taunton Deane Local Plan.

**RECOMMENDED CONDITION(S) (if applicable)**

Notes for compliance

**PROPOSAL**

Little Oaks is a large brick and tile detached dwelling, set in a row of properties fronting Honiton Road. It backs on to open countryside and to the north, a public footpath passes the site.

This application seeks retrospective planning permission to change the use of part of the paddock to the rear of the site to domestic garden and for the siting of children's play equipment. Within the site, beech trees have been planted along a bank, and a climbing frame and two goal posts have been sited. The boundary fence to the rear of the existing residential curtilage of Little Oaks has been removed, opening up the existing garden to the site in question.

The applicant seeks only to change the use of an area 16.5 metres by 28.7 metres, which lies to the rear of Little Oaks and stretches behind the rear of The Beeches and Arden by 2.5 metres. They have stated that they do not intend to change the use of the remainder of the paddock.

**CONSULTATION AND REPRESENTATION RESPONSES**

## Consultees

*SCC - TRANSPORT DEVELOPMENT GROUP* - No Observations

*TRULL PARISH COUNCIL* - The Parish Council were in full support of the application, which would give a safe place for children to play and feel that the fears of neighbours are unfounded.

*HERITAGE AND LANDSCAPE OFFICER* - In my opinion the proposals are contrary to EN12 and would have a detrimental impact on the rural character of the area and set a precedent for further garden extensions in the local area. The site is clearly visible from the footpath, which runs east-west to the north of the site.

## Representations

4 letters of support on the grounds of:

- Ideal and safe area for children to exercise and play outdoors, which should be encouraged.
- Site is properly and regularly maintained.
- Relatively little space within the house for active, healthy play.
- Do not believe use of equipment causes any undue harm to local landscape or private amenities of neighbouring properties.
- Sweeping hedgebank is an established feature which will provide visual screening from the public right of way. Play equipment is difficult to see from footpath.
- Equipment cannot be seen by neighbouring properties, except Arden.
- Area forms natural extension to the garden and remainder of paddock has strategically positioned indigenous trees and hedges.

14 letters of objection on the grounds of:

- Planning regulations have already been breached and should not be condoned.
- Planning permission was granted for the original dwelling with sufficient garden space for play areas, a further change of use seems unnecessary.
- Proposal is contrary to local and national planning policies, within Landscape Character Area and alien to the character and appearance of the agricultural land
- Change of use, along with additional domestic paraphernalia, sheds, lighting and other eyesores, would be detrimental to character and appearance of visual amenity of area, particularly from public footpath
- Extension of garden land is inappropriate in this location and would set an unfortunate/dangerous precedent which would encourage similar proposals and make it difficult to resist them, resulting in further erosion of agricultural land, detracting from rural character of area.
- Despite landscaping and planting that has taken place, the play equipment is still clearly visible from the footpath
- Loss of prime agricultural land.
- Concerns over future use of the site.
- Change of use will adversely affect quiet enjoyment of garden at Bracondale.



- Suggests conditions to prevent any form of subsequent development or construction on the site if application is approved.

Other non-planning matters raised including:

- Concerns that change of use will lead to further changes of use, possibly relating to the whole paddock in future.

Letter received from applicant in response to objection letters:

- It is not intended to further change the use of the remaining paddock area and would accept a legal restriction to prevent an application for a further change of use and that the area of the paddock, the subject of this application, cannot be used for anything other than play equipment.
- Application is to allow a 7 year old child to use a climbing frame in a safe environment.
- A considerable amount has been spent maintaining and planting the paddock.

## **PLANNING POLICIES**

S&ENPP5 - S&ENP - Landscape Character,  
S1 - TDBCLP - General Requirements,  
EN12 - TDBCLP - Landscape Character Areas,

## **DETERMINING ISSUES AND CONSIDERATIONS**

It is important to note that whilst the paddock as a whole lies within the control of the applicants, this application relates only to an area largely to the rear of Little Oaks, measuring 28.7 by 16.5.

There is a well established line forming the rear boundaries of the row of dwellings, of which Little Oaks forms part. The garden area therefore 'juts out' significantly into the agricultural land to the rear. Although a bank with beech planting has been created, along with further tree planting, the site remains clearly visible from the footpath to the north.

This countryside is rural in nature and the garden land introduces a domestic and urban element into an otherwise rural environment, eroding the countryside character and resulting in harm to the visual amenity of the area.

Furthermore, the extended residential curtilage would set an undesirable precedent for other properties to do the same, resulting in an unacceptable level of harm to the surrounding landscape.

Whilst concerns have been raised regarding tree planting and fencing to the paddock, it should be acknowledged that planning permission is not required for those elements.

**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**



52/10/0013

MR T JAMES

**ERECTION OF TWO DWELLINGS IN THE GARDEN OF HIGH GREEN, COMEYTROWE LANE, COMEYTROWE (REVISED ACCESS ARRANGEMENTS TO 52/09/0048) AS AMENDED**

Grid Reference: 320431.123572

Full Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

The proposal, for residential development, is located within defined settlement limits where the principle of new housing is considered acceptable. The proposed development by reason of its siting, scale and design would not adversely affect the residential amenity of surrounding properties or the character or appearance of the area. The revised siting of the access is considered to be acceptable and would not adversely affect highway safety or the appearance of the street scene, in lieu of the previously approved access under planning consent 52/09/0048. The revised access will ensure the protected tree within the roadside hedgerow will not be disturbed. The proposal therefore does not conflict with Somerset and Exmoor National Park Joint Structure Plan Review Policies STR4 and 49 and Taunton Deane Local Plan Policies S1 (General Requirements), S2 (Design), and M4 (Residential Parking Provision).

**RECOMMENDED CONDITION(S) (if applicable)**

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan – Drawing No. 02 Rev C September 2009.

Block Plan – Drawing No. 03 Rev C September 2009.

Proposed Site Layout Plots 1 & 2 – Drawing No. 19 Rev C March 2010.

Proposed Ground Floor Plan & Elevations of Garage Plot 2 – Drawing No. 29 June 2010.

Existing Site Survey – Drawing No. 01 Rev B May 2009.

Existing & Proposed Elevational Sections, Plots 1 & 2 – Drawing No. 25 March 2010.

Sectional Elevation – Drawing No. 10 July 2009.

Proposed Plans & Elevations, Plot 2 – Drawing No. 21 March 2010.

Proposed Elevations (Option D), Plot 1 – Drawing 11 Rev A July 2009.

Tree Survey – Drawing No. SPP/1516/1 August 2009.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The development to which this planning permission relates shall not be implemented if any part of the development for which planning permission was granted by the Local Planning Authority reference 52/09/0048 is begun. In the event that works are undertaken for the development referred to in the permission already granted, this permission (reference 52/10/0013) shall forthwith lapse and be of no effect.

Reason – To ensure that only one scheme is implemented on the site in order to ensure one access only is authorized and an acceptable layout is safeguarded in accordance with Taunton Deane Local Plan Policies S1 and S2.

4. Prior to installation samples of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be 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. No demolition or clearance works or other operations likely to disturb nesting birds shall take place during the nesting season between 1st March and 31st August unless any variance is agreed in writing by the Local Planning Authority.

Reason: All birds, their nests and eggs are protected under the Wildlife & Countryside Act 1981 (as amended). This condition is imposed to ensure the protection of nesting birds during the nesting season in accordance with the relevant guidance in PPS9.

6. Prior to the occupation of the dwellings hereby permitted a properly consolidated and surfaced access together with parking and turning space for vehicles shall be constructed (not loose stone or gravel) details of which shall previously have been submitted to and approved in writing by the Local Planning Authority. The turning space and parking area shall be kept clear of obstruction at all times. Development shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety in accordance with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review and relevant guidance in PPG13.

7. Prior to commencement of the development details of the method for the disposal of surface water, so as to prevent its discharge onto the public highway, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details prior to the occupation of the dwelling.

Reason: In the interests of highway safety and to accord with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review 2000.

8. 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 Proposed Site Layout Plan, Drawing No. 19 Rev C. Such visibility splays shall be constructed prior to the commencement of the development hereby permitted and shall thereafter be maintained at all times.

Reason: In the interests of highway safety and to accord with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review 2000.

9. (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.

10. Prior to the occupation of the dwelling a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The agreed boundary treatment shall be completed before the dwellings(s) are occupied or in accordance with a timetable agreed in writing with the Local Planning Authority and thereafter maintained as such, unless otherwise agreed in writing by the Local Planning Authority.

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

11. All existing trees on site shall be protected in accordance with BS5837:2005 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.

#### Notes for compliance

1. Having regard to the powers of the Highway Authority under the Highways Act 1980 the applicant is advised that the creation of the new access will require a Section 184 Permit. This must be obtained from the Highway Service Manager, Taunton Deane Area Office, Burton Place, Tel No. 0845 3459155. Application for such a permit should be made at least four weeks before access works are intended to commence.
2. The illustrative master plan for the future expansion of the site, submitted for information, is noted. The Local Planning Authority considers that any further residential development should be part of a wider comprehensive development through the LDF process and would not support piecemeal development.
3. All nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) and if discovered should not be disturbed.

It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the applicant should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation.

4. The applicant is advised to contact the Council's Landscape Officer to discuss the requirements of the landscaping scheme. The proposed landscape scheme should include reinforcing the roadside hedgerow with a double staggered row of Hazel, Hawthorn, Field Maple and Holly to reinforce the rural character of the Lane.

#### **PROPOSAL**

Planning permission is sought for the erection of two dwellings within the curtilage of High Green, Comeytrove. Permission was previously granted, reference 52/09/0048, for the same development with an alternative access off Comeytrove Lane resulting in the loss of a section of hedgerow along the road frontage. Permission is now sought for the re-siting of the access further south of the site which would loop back around to serve the development. The revised scheme also includes the re-siting of the garaging to serve plot 2, to accommodate the access into the site. The agent has also submitted, for indicative purposes, a layout plan

indicating the position of an additional three dwellings for a future application which would be served from the proposed access. Revised plans have been submitted amending the design and detailing of the access to only that required to serve the two dwellings. The plans indicate a retaining wall at the site entrance and adjoining the access track into the site to take account of the changes in levels, the bank would be terraced at this point.

The design and access statement refers to a palette of materials for the proposed dwellings that are commonly utilised within the surrounding buildings, notably brick and render walls, clay roof tiles and UPVC windows.

## **SITE DESCRIPTION AND HISTORY**

The application site comprises a substantial dwelling known as 'High Green' set in an extensive curtilage, laid to grass with a mixture of mature trees and shrubs. The dwelling is set in an elevated position, with the land rising from south to north. The existing dwelling is located in the furthest north west corner of the site. The siting of the proposed two dwellings is located within the settlement limits, but the access off Comeytrowe lane is outside. There is a Sycamore tree protected by a TPO on the eastern boundary of the site, along the road frontage. To the north and east is residential development with open countryside to the west. To the south of the site is a public footpath which crosses diagonally across the field.

Permission was granted for the erection of two dwellings accessed off Comeytrowe Lane, reference 52/09/0048, to the north of the now proposed access.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*PARISH COUNCIL* - The Council oppose the application on the grounds that the proposed revised access is outside the present Taunton Deane Settlement Limit. The Council are also concerned that the proposed access is being changed to serve the existing two dwellings that have already received planning permission, but the plans with the application show an additional three dwellings that would also be outside the Settlement Limit, where no planning application has been submitted to date. The Council feel that the present application for the revised access should also seek planning permission for the other three dwellings at the same time.

*HIGHWAY AUTHORITY* – I refer to revised Plan No. 19 B for two residential units on land to the south of High Green, Comeytrowe Lane.

The access will provide visibility splays of 2.4m x 43.0m to the south and 2.4m x 34m to the north. These splays have been designed in accordance with Manual for Streets. Although the splay to the north cannot reach the suitable distance required I am satisfied that the nature of the road and the speed of the traffic a splay of 2.4m x 34m will be acceptable.

At the point where the access joins the adopted highway it will provide a width of 5.2m this narrows to 4.5m which was requested under previous planning application 52/09/0048. I am satisfied that two-way vehicle flow can be provided for the entire length of the drive.

Both dwellings will provide sufficient parking for two vehicles which is in keeping with the standards of the Local Transport Plan Parking Strategy and also the policies of the Taunton Deane Local Plan. Both dwellings will have independent turning off the private drive.

No objection subject to the imposition of conditions.

*LANDSCAPE OFFICER* – The proposed revised access will have an impact on the character of the existing country lane. It is not clear if additional engineering works will be required to meet highway visibility splay requirements.

Revised comments to Plan No. 19 Rev B - Slightly improved access point otherwise please see previous comments.

*NATURAL ENGLAND* – No comments to make.

*NATURE CONSERVATION & RESERVES OFFICER* – Previous comments apply equally.

The proposal is to build two houses within the existing garden of High Green, Comeytrove on the western outskirts of Taunton. The gardens are neat and well kept with short mown grass, managed hedges, some mature fruit trees and two small ponds. Greena Ecological Consultancy carried out a Protected Species Survey of the site in November 2009.

Bats – Bat droppings, probably from long eared bats and a single pipistrelle were found in the main house. As the house roof will remain untouched the bats roost will not be disturbed.

There were no features for bats to roost found in the garden but bats are likely to forage along the garden hedges. I am concerned that the removal of hedging will impact on the foraging bats using the hedge line to access the wider landscape from the main house. Removal of native hedge should be kept to a minimum.

Dormice / Badgers/Amphibians/Reptiles/Birds – no evidence found. However due to the timing of the report the officer recommends a timing condition be imposed regarding site clearance works in order to protect wild birds.

*DRAINAGE OFFICER* – No observations.

*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 onto our systems, for the satisfactory disposal of foul flows and surface water flows generated by the proposal. The connection point can be agreed at the detailed design stage.

With regards to water supply, there is water mains within the vicinity of the proposal. Again, connection can be agreed at the design stage.



The developer should be aware of the importance of checking with Wessex Water to ascertain whether there may be any uncharted sewers or water mains within (or very near to) the site.

## **Representations**

8 letters of OBJECTION have been received. Summary of objections: -

- Highway Safety - the access would involve a relatively steep slope to reach the narrowest section of Comeytrove Lane, almost opposite Comeytrove Rise, which has poor visibility downhill;
- The road is increasingly heavily used - buses, heavy commercial vehicles and as a cut through from Wellington New Road;
- Concern that the well-used footpath across this field be kept accessible and safe to walk at all times during the current building work;
- The trees specified in the roadside hedgerow, only the sycamore seems to be noted, therefore not an accurate representation of the hedgerow;
- Revised PPS3 (Housing) issued on the 9th June 2010 immediately changed the policy that land within the curtilage of a dwelling was considered brownfield land whereas now the policy is even if it is still classified as brownfield land then there is no presumption that land that is previously-developed is necessarily suitable for housing development nor that the whole of the curtilage should be developed;
- Further three dwellings would set a precedent outside settlement limit;
- The two properties are sited hard against the top of the bank in Comeytrove Lane, so they will loom over the road, at the top of a high and precipitously steep slope;
- Loss of privacy;
- Access drive is outside of the defined settlement limits;
- The drive provides potential access for further properties in this zone in the future as shown on the indicative plan, this negates the thrust of the consultation for wider development as presented which was to stream access traffic back to the A38 directly, not into Comeytrove Lane;
- Poor highway visibility;
- No footpath along this section of Comeytrove Lane;
- No mention of right of way across field;
- Sycamore tree used for justification to re-site the access there is nothing unique about it; site discounted in Core Strategy and Small Sites Consultation document of January 2010 as only suitable as part of an urban extension, which would necessitate a full traffic assessment and road scheme to serve the area.

5 letters of SUPPORT have been received. Summary of Support: -

- The repositioning of the drive ensures that the existing sycamore tree (subject to a Tree Preservation Order) is unaffected;
- Hedgerow in the location of the proposed drive is significantly less and its loss reduces the impact on Comeytrove Lane;
- Increased visibility;
- Design and siting of the two dwellings remains unaltered.

## **PLANNING POLICIES**

PPS1 - Delivering Sustainable Development,

PPS3 - Housing,  
PPS7 - Sustainable Development in Rural Areas,  
PPG13 - Transport,  
VIS2 - Principles for Future Development,  
TRAN1 - RPG 10 TRAN 1 - Reducing the need to Travel,  
STR1 - Sustainable Development,  
S&ENPP33 - S&ENP - Provision for Housing,  
S&ENPP48 - S&ENP - Access and Parking,  
S1 - TDBCLP - General Requirements,  
S2 - TDBCLP - Design,  
S7 - TDBCLP - Outside Settlement,  
M4 - TDBCLP - Residential Parking Provision,  
EN12 - TDBCLP - Landscape Character Areas,  
EN8 - TDBCLP - Trees in and around Settlements,

## **DETERMINING ISSUES AND CONSIDERATIONS**

The main issues in the determination of this application area are considered to be (a) whether the scheme is an over-development of the site resulting in harm to the character and appearance of the area; (b) whether the scheme would harm the living conditions of nearby occupiers, in terms of any significant loss of privacy or any overbearing effect; and, (c) any effect on highway safety.

### Character and appearance

The site is presently part of the garden area of High Green, and takes the form of a rectangular plot. There has been reference made by local residents to the omission of garden areas as brownfield land following revised guidance from central government incorporated into PPS3 - Housing. Nevertheless, the siting of the development is located within the built-up area boundary of Comeytrove where the principle of residential development is acceptable subject to normal planning considerations. The existence of a concurrent approval for two dwellings on this site is a material consideration. In terms of the design detailing, the dwellings are considered to be acceptable and the proposed materials would draw upon the mixture of materials used locally.

During the determination of the previous scheme protracted negotiations were undertaken with the agent and the landscape officer to clarify and mitigate the impact of the access works on the protected tree. Whilst it was ultimately agreed that the access could be achieved without harming the root system of the protected tree the current proposal will ensure that tree is not affected in anyway, whilst providing an acceptable layout within the site. The revised access would be positioned further to the south of the previously approved access, outside of the defined settlement limits, and its impact on the street scene needs to be given due consideration. The access has been amended to take account of officers' concerns to the design and specification of the access which had been designed not only to serve the proposed two dwellings but also an additional three dwellings in the future as shown on an indicative master plan. The area to the west of the site has been earmarked as part of the Comeytrove urban expansion. However, any development in this location, currently outside of the settlement boundary, should form part of the overall master plan for the area and not on the basis of piecemeal development. The agent has subsequently amended the access to address the concern that the access was over engineered and has now been designed to serve the proposed two dwellings only.

Whilst it is accepted that the access is located outside of the settlement boundary, the access does straddle the boundary and would reduce the potential impact upon the protected tree along the road frontage. There is a footpath to the south of the site and as such a landscaping condition is recommended to be imposed in order to help screen the development from public view. The proposal would not interfere with the right of way.

### Amenity

The siting of the dwellings has previously been considered acceptable by reason of the proposed siting of the dwellings and separation distances between elevations. The northern most proposed dwelling, Plot 1, takes the form of a chalet bungalow style property and has been designed to reduce any impact on the property to the north and features fenestration at ground floor level on the north elevation. The existing landscaping along the boundary would ensure there is no loss of privacy and by reason of its scale is not considered to appear dominating on the outlook of the occupiers.

### Highway Safety

The concerns of local residents to highway safety are noted, however, the Highway Authority is satisfied that the access position and technical details are acceptable and therefore it is not considered a refusal could be substantiated on such grounds.

### Conclusion

The principle of residential development on this site is accepted by virtue of planning consent 52/09/0048. It is considered that the re-siting of the access would not adversely affect the appearance of the street scene and would ensure the protected tree remains undisturbed. The landscape officer considers that the tree is of good health and has a high amenity value within the street scene. It is therefore considered that whilst the access is technically outside the settlement limit it would not constitute any built form and the benefits of retaining the protected tree would outweigh the conflict with local plan policy. The changes to the internal layout with a double garage sited to the north of Plot 2 would have no adverse impact and as such it is recommended that the application be approved subject to the imposition of conditions set out.

**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**

# Taunton Deane Borough Council

## Planning Committee – 21 July 2010

### Injunction proceedings at Oxen Lane North Curry

#### Report of the Legal Services Manager

(This matter is the responsibility of Executive Councillor Mark Edwards)

#### 1. Executive Summary

To update Members on the personal circumstances of the remaining residents at Oxen Lane and to seek authorisation to continue injunction proceedings against them

#### 2. Background

Following the unauthorised occupation of Oxen Lane by 18 gypsy families in October 2004, the Council instituted injunction proceedings against all the residents in January 2005, with a view to securing their removal from the site and the re-instatement of the land to its former agricultural condition. In April 2007 an interim injunction was granted preventing any occupation of the land for the purposes of a residential gypsy site, although such injunction was not enforceable against those families resident on the site at April 2007.

Since that time various families have left the site of their own accord, one family left following a Court Order and direct action was taken against a further resident who has been re-located to another authorised site.

There are two remaining families on the site, the Smiths and the Hollands who have been there since 2004 and who are protected at the present time from the terms of the interim injunction.

#### 3. Direct action and the current proceeding

In May 2010 the Council instructed its Counsel to prepare committal proceedings against the only remaining resident on the site who was not protected under the terms of the interim injunction. However, prior to the issue of those proceedings the resident left the site for a short period of time during which the Council took direct action to remove his caravan and possessions from the land . These were

placed in safe storage and subsequently transferred to the authorised site at Otterford.

The Council's DLO then proceeded to clear the bulk of the land of all unauthorised fences, hard standings and the road way as far down as the two remaining plots 8 and 16 which are lawfully occupied.

Currently the gravel taken from the hard standings and road way are stored on site in the form of a rough bund but this is not a permanent feature and without ownership of the land the Council is unable to secure the land physically against further incursions.

In accordance with earlier instructions the Council's Barrister was instructed to prepare papers to re-instate the injunction against the two remaining families and seek their permanent removal from the land.

Both families, the Smiths and the Hollands, have been offered a permanent alternative site at Otterford and these sites remain available to them. Further personal needs assessments were carried out on the 2<sup>nd</sup> July 2010.

In respect of the Holland family since their needs were last assessed one of the daughters has married and her husband, Luke Steven, is now also resident on the site. There are no particular health problems although all the family are registered with the doctor in North Curry. The youngest daughter who previously attended Heathfield School is now being home educated. It is believed that John Holland is not longer resident at the site.

The Smith family now have three children. The eldest attends Heathfield School, the middle child attends North Curry Primary School and the youngest child is under one. All are registered with the doctor in North Curry but there are no particular medical needs.

However, the Council has recently received a planning application on behalf of both families ie a single application for two pitches at the end of the site currently forming plots 8 and 16. The application has not yet been validated as the plan submitted in support was inadequate. The agent has however asked that the Council withhold taking any further enforcement action as they believe that the application has a chance of success because the works carried out by the Council to clear the rest of the site "preclude further occupation by other families" As explained earlier in the report this is not the case. The Council cannot physically secure the land and the current arrangements, such as they are, are temporary. In addition, both families have been offered alternative permanent sites at Otterford..

#### **4. Finance Comments**

There will be legal cost incurred in proceeding with the Court action but these have been budgeted for.

## **5. Legal Comments**

There are no legal reasons not to proceed although the seeking of an injunction is a discretionary matter. Counsel's advice is that the Council should proceed at this time.

## **6. Links to Corporate Aims )**

None

## **7. Environmental and Community Safety Implications**

**None**

## **8. Equalities Impact**

## **9. Risk Management**

## **10. Partnership Implications**

None

## **11. Recommendations**

It is recommended that the Council continues with injunction proceedings to secure the removal of the remaining families at Oxen Lane and the re-instatement of Plots 8 and 16 to their former condition.

**Contact:** Judith Jackson  
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**APPEAL DECISION FOR COMMITTEE AGENDA – 30 JUNE 2010**

<b>APPEAL</b>	<b>PROPOSAL</b>	<b>REASON(S) FOR INITIAL DECISION</b>	<b>APPLICATION NUMBER</b>	<b>DECISION</b>
APP/D3315/C/10/2124408 AND APP/D3315/C/10/2124409	SITE AT ORCHARD CROFT, BLACKMOOR, WEST BUCKLAND, TA21 9LJ	THE BREACH OF PLANNING CONTROL AS ALLEGED IN THE NOTICE IS WITHOUT PLANNING PERMISSION REMOVED THE STONE WALL AND AGRICULTURAL GATE AND ERECTED A WALL, WOODEN GATE POSTS AND WOOD GATES, MOVING ALLIGNMENT OF THE BOUNDARY CLOSER TO THE HIGHWAY.	E/034/46/08	BOTH APPEALS DISMISSED AND CORRECTED AND VARIED ENFORMCEMENT NOTICE UPHELD  DECISION DATE 17 JUNE 2010

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