

## **Planning Committee**

You are requested to attend a meeting of the Planning Committee to be held in The John Meikle Room, The Deane House, Belvedere Road, Taunton on 14 December 2011 at 17:00.

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### **Agenda**

- 1 Apologies.
- 2 Minutes of the meeting of the Planning Committee held on 9 November 2011 (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 37/11/0025 – Change of use of land for use as storage for grounds maintenance equipment and materials at Taunton Deane Nursery, Stoke Road, Stoke St Mary (resubmission of 37/11/0011) (Retention of works already undertaken)
- 6 46/11/0013 – New site access onto the A38 link road at Foxmoor Business Park, Haywards Lane, Chelstone, Wellington
- 7 48/11/0039 – Erection of agricultural cubicle building at Quantock Farm, West Monkton
- 8 Failure to comply with a Tree Replacement Notice dated 27 October 2009 at Beauford Park, Norton Fitzwarren

Tonya Meers  
Legal and Democratic Services Manager

12 January 2012

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.

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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)**

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### **Planning Committee Members:-**

Councillor C Bishop	(Chairman)
Councillor S Coles	(Vice-Chairman)
Councillor J Allgrove	
Councillor R Bowrah, BEM	
Councillor B Denington	
Councillor A Govier	
Councillor C Hill	
Councillor M Hill	
Councillor L James	
Councillor N Messenger	
Councillor I Morrell	
Councillor J Reed	
Councillor F Smith	
Councillor P Tooze	
Councillor P Watson	
Councillor A Wedderkopp	
Councillor D Wedderkopp	
Councillor G Wren	

## **Declaration of Interests**

### **Planning Committee**

- Members of Somerset County Council – Councillors Govier and D Wedderkopp
- Employees of Somerset County Council – Councillors Mrs Hill and Mrs Smith
- Employee of Viridor – Councillor Miss James
- Employee of UK Hydrographic Office – Councillor Tooze
- Employee of Natural England – Councillor Wren
- Daughter works as an administrator in Development Control – Councillor Mrs Reed

TAUNTON DEANE BOROUGH COUNCIL

**CHANGE OF USE OF LAND FOR USE AS STORAGE FOR GROUNDS  
MAINTENANCE EQUIPMENT AND MATERIALS AT TAUNTON DEANE  
NURSERY, STOKE ROAD, STOKE ST MARY (RESUBMISSION OF 37/11/0011)  
(RETENTION OF WORKS ALREADY UNDERTAKEN)**

Grid Reference: 324958.122767

Retention of Building/Works etc.

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval for the following reason

The proposal is for a limited storage use on an existing commercial site with no new building and limited traffic movements and the proposal is considered not to have a detrimental impact upon visual or residential amenity and is therefore considered acceptable and, accordingly, does not conflict with Taunton Deane Local Plan Policies S1 (General Requirements) and S2 (Design).

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

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

(A4) Location Plan

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

2. There shall be no storage of equipment or materials over 3m in height unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the visual amenity of the area in accordance with policy S2 of the Taunton Deane Local Plan.

**Notes for compliance**

1. The visibility splays should be maintained at all times, and it is recommended that any vegetation obscuring the splay is removed.

**PROPOSAL**

The proposal is for change of use of part of the land at Taunton Deane Nursery site

for the storage of grounds maintenance equipment and materials. Such materials would include fencing materials, concrete slabs, wood chip, play bark and iron planters and turf culture equipment such as rollers, chain harrows, fertiliser spreader and trailers as well as play equipment and surfacing used in the day to day operation of the parks department. The land area is approximately 30m x 70m and located on the southern part of the site and an average additional vehicle movement would be 20 per week.

## **SITE DESCRIPTION AND HISTORY**

The site consists of former agricultural land which had use as a commercial plant nursery for the Authority in October 2006 (ref.37/06/0006). Subsequent applications were submitted for the alteration of the access position (37/06/0010) and erection of greenhouses, polytunnels and an office building in July 2007 (37/07/0002).

A recent application for retention of polytunnels and clarification of vehicle movements (37/11/010) was granted by Members on 9th September 2011.

An application for use as storage and depot for grounds maintenance equipment and materials was submitted (37/11/0011) and subsequently withdrawn on 11th August 2011.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*SCC - TRANSPORT DEVELOPMENT GROUP* - Given that the proposal would not appear likely to result in an increase in vehicle movements to the site, nor would it have a detrimental effect on the existing highway network there is no objection to this proposal from the Highway Authority.

*STOKE ST MARY PARISH COUNCIL* - Previous comments still apply - Objections raised and supported by photographic evidence from Mr Groves had been raised to PC by neighbouring residents. These objections include frequent use of site at unsocial hours, increased vehicular activity, traffic noise, dust, general environmental impact and nuisance and loss of amenity.

Currently there appears to be much increased traffic movements, unsuited to either the narrow lanes through Stoke St Mary or through Chestnut Drive - a densely populated residential estate. The further proposed expansion of the site would substantially increase traffic to and from the site.

The application would appear to be retrospective as the site is currently being used as a depot for non horticultural storage and tipping for forward transit. This is above and beyond the scope of the original application. We believe the site to be currently operating without the appropriate permissions being in place and therefore open to enforcement proceedings.

No environmental survey regarding the impact on flora and fauna has been offered, nor does the site appear to have been registered as an approved recycling depot (deposit of tarmacadam hard core). Taking into account the above it was unanimously agreed to oppose both applications.

*LANDSCAPE LEAD* - Subject to retention of the existing maturing landscape the proposals will have limited landscape impact.

## **Representations**

2 letters of objection on the basis of:

- the use for storage of ground maintenance equipment and materials not horticulture,
- it being retrospective,
- permitting it would set a precedent and would allow the land to be sold for industrial use.

1 neighbour objection on grounds of:

- Intensification of the use,
- Council acting in biased manner,
- The site is a transfer station for materials and machinery around the Borough and generates intense use,
- Large vehicles and disturbance,
- Other items stored outside red line area,
- B8 use will affect amenity of neighbour contrary to policy S1 of the Local Plan,
- Traffic disturbance,
- Dust nuisance,
- Noise and disturbance and impact of lighting.
- Vehicle movement information inaccurate, there are more than 20 vehicles per week, the impact is likely to increase with no control over operating times.
- The hours of use specified are anti-social and unacceptable close to a residential property.
- The site is in open countryside and is contrary to policy S7 of the Local Plan without justification.
- External lighting will be required in winter months, inappropriate in a rural location.
- If approved appropriate conditions should be attached.

## **PLANNING POLICIES**

PPS1 - Delivering Sustainable Development,  
PPS4 - Planning for Sustainable Economic Growth,  
PPS7 - Sustainable Development in Rural Areas,  
STR6 - Development Outside Towns, Rural Centres and Villages,  
S&ENPP19 - S&ENP - Employment and Community Provision in Rural Areas,  
S&ENPP48 - S&ENP - Access and Parking,  
S&ENPP49 - S&ENP - Transport Requirements of New Development,  
S1 - TDBCLP - General Requirements,  
S2 - TDBCLP - Design,  
S7 - TDBCLP - Outside Settlement,  
EN12 - TDBCLP - Landscape Character Areas,

## **DETERMINING ISSUES AND CONSIDERATIONS**

The main issues are the traffic and the landscape and amenity impact of the proposal.

The storage of equipment and materials is intended for the southern end of the site and it is indicated that this will be no more than 20 additional journeys per week. The access to the site was approved with the original permission and it is not considered that the proposal would worsen any safety aspect of the use of the access. The use is not considered to result in significant transport movements over and above the existing commercial use of the site. The Highway Authority have commented and raise no specific objection to the proposal. A note reminding of the need to maintain visibility was added to the recent permission and it is considered to add that if permission were granted in this instance. There is not considered to be highway safety or traffic issue with the site and the application is considered acceptable.

The area of storage lies to the south of the site and the area is largely screened from views from the road to the south by hedging. The Landscape Officer considers that subject to retention of the existing maturing landscaping the proposals will have limited landscape impact. This view is agreed with and the landscape impact of the proposal is considered an acceptable one.

The open storage areas for sand and compost are to the west of the site and are considered to relate to the approved horticultural use of the site and not the storage use of items such as fencing and play equipment that occurs to the south. There is a dust issue with this existing use and attempts are being made to lessen this, including dampening the area in dry conditions.

The concern over noise, nuisance and unsocial hours seem to relate to the existing commercial horticultural use of the site. It is not considered that this would be significantly altered by the change of use to a small part of the southern part of the site. The applicant has indicated the extent of use operating the storage area during the normal working day, (normally 7am to 5pm) however it is not considered that a condition can be imposed limiting this as it would not be possible to enforce, given other traffic movements to the site. A condition to limit the height of any materials stored on site is considered appropriate.

A wildlife survey was submitted with the original application and no protected species found. Given the relatively small area of land that is proposed and the nature of the storage use of the application it is not considered that there would be any adverse wildlife impact from the proposal.

The proposed use modifies part of the use of the site allowing an alteration to the existing commercial use of the site. It is not considered that this alteration would have a significant adverse impact on the landscape or private amenity of local residents to warrant an objection to the proposal. The application is considered to comply with Development Plan policies for use of existing commercial sites and the proposal is supported.

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



**CONTACT OFFICER: Mr G Clifford Tel: 01823 356398**

**NEW SITE ACCESS ONTO THE A38 LINK ROAD AT FOXMOOR BUSINESS PARK, HAYWARDS LANE, CHELSTON, WELLINGTON**

Grid Reference: 316156.120381

Full Planning Permission

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**RECOMMENDATION AND REASON(S)**

**Recommended Decision:**

The proposal would create a new access to an existing business park, which would not cause harm to highway safety and would not have an unacceptable impact on the visual amenities of the area. It would improve the economic development potential of the business park and its resident businesses in terms of its visibility and access to the strategic road network, in particular the M5 motorway. It would also improve the living conditions of a number of residents on Hayward's Lane by removing a significant amount of traffic from the existing access routes which are narrow and poorly aligned. Such matters are considered to outweigh the conflict with the development plan, which seeks to restrict new development in the open countryside and prevent new accesses onto County Routes, and is in accordance with Policy S1 (General Requirements) of the Taunton Deane Local Plan.

**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:

(A4) DrNo.2384.03C Site location plan  
(A1) DrNo 2384.08A Junction Details  
(A1) DrNo 3001 rev E surface water drainage design  
(A1) DrNo SPP.1657.1E Landscape Masterplan

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

3. No development shall commence except the implementation of the

landscaping scheme until full detailed plans and specifications for the left in/left out junction have been submitted to and agreed in writing by the Local Planning Authority. The access shall be constructed and thereafter maintained in complete accordance with those details.

Reason: In the interests of highway safety, to ensure that the access is constructed in an acceptable manner in accordance with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.

4. No development shall commence until details of a flood compensation scheme have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented prior to the commencement of works on the access road hereby permitted.

Reason: To ensure that flood risk is not increased in the area as a result of the development in accordance with Planning Policy Statement 25.

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 a planting season prior to the commencement of works to form the new access, or as otherwise agreed 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 preserves and enhances of the local character and distinctiveness of the area and that the visual amenities of the area are not unacceptably harmed in the short term whilst works are carried out in accordance with Taunton Deane Local Plan Policy S2.

6. The existing access from Haywards Lane shall be permanently closed to vehicular traffic, whilst maintaining a link for pedestrians and cycles only in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. The access shall be closed in accordance with the approved details within 1 months of the new access being brought into use.

Reason: The acceptability of the development hereby permitted rests partly on the closure of the existing access. The provision for pedestrians and cyclists is required to encourage travel to the site by means other than the private car, in accordance with Policies S1 and M5 of the Taunton Deane Local Plan.

#### Notes for compliance

1. Where major works are to be undertaken on or adjoining the publicly maintainable highway an agreement under Section 278 must be entered into with the Highway Authority.
2. The details required by condition (3) shall be generally in accordance with Drawing 2384.08A.

### **PROPOSAL**

This application seeks full planning permission for the construction of a new access to Foxmoor Business Park. The access would be provided directly from the link road between the A38 Chelston Roundabout and the M5 Junction 26 ("the link road"). It would be a 'left in-left out' junction arrangement, such that traffic travelling in either direction did not have to turn right across the flow of traffic. Consequently all traffic entering the site would be required to use the Junction 26 roundabout and all traffic leaving the site would have to use Chelston Roundabout.

The proposal would require the loss of a number of roadside trees planted along the southwestern edge of the road. The access road would then proceed to the business park, southwest of the access and curve left on its final approach, taking a route through an existing depression and slightly less wooded area of the existing landscaping, with a new earth mound being constructed; the intention of preventing direct views of the business park from the A38.

The existing access from Haywards Lane would be closed off to vehicular traffic, with a pedestrian and cycle access remaining in this location.

### **SITE DESCRIPTION AND HISTORY**

Foxmoor Business Park began life as a plant nursery when permission was granted in 1996 for two glasshouses. In 2001, planning permission was granted allowing a change of use of 50% of the existing glasshouse to a B1 use. That permission was subject to a Section 106 agreement that restricted users of the B1 space to Foxmoor Nurseries Ltd. and any associated or subsidiary company.

In 2007, following an alleged breach of the planning permission whereby the site was used for independent business use, an Enforcement Notice was served. A subsequent appeal against the notice was successful, the result being a deemed planning permission for the use of half of the glasshouse at the site for B1, B2 and B8 purposes. The Council has subsequently considered that the associated Section 106 agreement is somewhat meaningless as, with the correct tenancy agreements in place, all companies can comply with its terms.

The Business Park, as it now exists, comprises a former glasshouse, which has been subdivided into more than 39 independent business units. Access is derived from Haywards Lane to the west of the site, which leads to the A38 some 400m to

the north. The narrow road passes close to a number of dwellings, particularly at the northern end, close to the A38. A concrete and hardcore roadway/hardstanding wraps around the building.

To the east of the glasshouse, agricultural fields separate the site from the link road. Along the link road boundary there is a strong line of tree planting. Within the fields, further planting has been undertaken to provide a 'parkland' landscape with small groups and individual trees, together with substantial groups of trees on an elevated mounds close to the glasshouse. These were created when permission was originally granted for the nursery and have, largely, succeeded in their aim of obscuring the glasshouse from view when travelling along the link road.

The link road is a short stretch of road that carries traffic between the M5 J26 and the A38 at Chelston Roundabout. The road is lined by trees on both sides and, when travelling in a northerly direction, from the motorway, bares gently to the left for the majority of its length. Shortly past the application site, to the north, the road widens to provide two westbound lanes and one eastbound lane. To the south, lay-bys are provided on both sides of the road, which are understood to be heavily used by car-sharing commuters. A ditch lies between the field and carriageway, within the tree line.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*WEST BUCKLAND PARISH COUNCIL* – Supports the granting of planning permission.

*SCC - TRANSPORT DEVELOPMENT GROUP* – The site lies outside of any development limit and is remote from any urban area, and therefore distanced from adequate services and facilities. As a consequence, the new development is likely to be dependant on private vehicles for most of their daily needs, deliveries and customers. Such fostering of growth in the need to travel would be contrary to government advice given in PPG13 and RPG10, and to the provisions of policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted: April 2000), and Policy ST3 of District Local Plan. However, it must be a matter for the Local Planning Authority to decide whether the proposed development would warrant an exception.

In terms of the detail, the proposal seeks to create a new left in/left out junction on the M5 Link Road. Policy 51 of the Somerset and Exmoor National Park Joint Structure Plan Review classifies the M5 Link Road as a County Route. Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review states that no new development should derive direct access from a County Route, unless there is a special need or benefit to do so. This stretch of highway is key route in the highway network, which forms part of the County Freight Route and the M5 diversion route.

However, it is recognised that subject to the closure of the access from Foxmoor Business Park onto Haywards Lane (as part of this application), the proposal would provide betterment to the local road network removing goods and other vehicles

from Haywards Lane.

It must be a matter for the Local Planning Authority to decide whether the relocation of traffic movements away from Haywards Lane and directly onto the strategic road network or any other overriding planning need, outweighs the transport policies that seek to protect the strategic road network.

Bearing the above information in mind, I would therefore ask that in the event of permission being granted, a condition is imposed requiring full details of the proposed junction prior to any works taking place.

*ENVIRONMENT AGENCY* – The site is located in Flood Zone 3, being at risk of the 1 in 100 year fluvial flood event from the Haywards Water. In accordance with PPS25, the application should be accompanied by a Flood Risk Assessment (FRA) which is currently not the case and this alone could be grounds for refusal.

However, we would advise that whilst the requirements of PPS25 have not been adhered to in this instance, we consider that based on the information submitted to date, the development will meet the principles of PPS25 provided that conditions are attached requiring a flood compensation scheme to be submitted to and approved in writing.

*LANDSCAPE LEAD* – Initially expressed concern that the proposals will have a significant landscape impact, contrary to policy EN12, and against the spirit of the S106 agreement which still covers the landscape of the site. Considerable care was taken in arriving at the landscape scheme, now implemented, for the glass houses. The road a proposed would not respect that design.

Further to these comments, there have been detailed discussions about the landscape impact and the a detailed landscaping scheme has been submitted in attempt to mitigate the impact of the proposed development. The landscape officer now feels that, despite the fact that there would be significant short term harm to the immediate landscape and views along the A38 link road, this would be limited to around 2 years whilst the planting established and that, in the long term, the landscape impact would be limited.

*WELLINGTON CHAMBER OF TRADE & COMMERCE* – No comments received.

*STRATEGY LEAD* – The proposal is for a new access onto the A38 link road to serve the existing Foxmoor Business Park, West Buckland. The proposal indicates a limited access from the J26 roundabout direction and egress towards the Chelston roundabout/Wellington direction only. As such I would imagine that County Highways and Highways Agency may have concerns and will wish to comment, being both in proximity to J26 and requiring J26 roundabout as a manoeuvring mechanism to enter the site.

Notwithstanding this, the route lies within open countryside. Policy S7 of the adopted Local Plan (2004) applies. In line with government policy the Local Plan seeks strict control on development in the countryside. The proposal does not fit any

of the defined criteria under this policy. Is there thus an overriding 'requirement' that negates the application of this policy? An enforcement appeal was considered for the activity at Foxmoor Nursery in 2007. The Inspector noted with regard to the existing Haywards Lane access that "if there was concern over the potential traffic levels in Haywards Lane, I believe that the Highways Authority would have made representations to that effect". The appellants argued that Haywards Lane largely complied with the Manual for Streets (5.5m carriageway) and that the geometry of the road is suitable for the current levels of traffic. The Inspector noted that the Highway Authority had not requested upgrading of the existing road and that a mix of industrial uses would not be detrimental in terms of highway safety, provided the permission was regulated by conditions designed to limit the traffic movements to and from the site.

I am not aware of what conditions were subsequently applied, however, there has been no further application to extend the uses or thus intensify traffic movement, thus I can see no evidence as to why this new route would be justified or acceptable.

*WELLINGTON TOWN COUNCIL* – Object to the application for the following reasons:

- Access and exit point perceived as a highway danger;
- Current access seen to be sufficient;
- The impact on the landscape would be contrary to policy;
- It would open up the land for further development.

*HIGHWAYS AGENCY SOUTH WEST* – Content that the proposal will not have an adverse effect on the Strategic Road Network, therefore no objections.

*ECONOMIC DEVELOPMENT SPECIALIST* – I should like to express my support for the development proposed. The provision of a new, improved access would significantly enhance the business potential of the business park and of the resident businesses on it, by providing better vehicular access, and improved visibility from the A38. It would also reduce any conflict which currently exists between the occupiers and the nearby residential properties who currently share the same access.

The provision of better access may also open up the longer term opportunities to improve the Business Park. Again, I would be wholly supportive of that – Foxmoor is in a perfect location to attract business that requires proximity to the M5, so this Park could become the Borough's foremost business location in years to come. To enable that to happen in the future it is important that the current proposed access has the anticipated highways capacity to accommodate that extra traffic.

## **Representations**

5 letters of SUPPORT from 4 people have been received raising the following comments:

- The lane in general, and particularly the 90 degree corner near Chelston Cottage, are totally unsuitable for HGVs. The situation is dangerous, especially for pedestrians.
- Getting in and out of cars parked on this bend is increasingly hazardous – particularly with children.
- The lane is narrow and lorries have to squeeze past parked cars. Warning cones that have been positioned have been flattened by HGVs.
- Traffic has increased to six HGVs in one hour and 66 in 12 hours, making local residents' lives a misery. There will doubtless be a serious accident in time.
- Vehicles visit at all hours, including on Sundays and bank holidays.
- The development definitely warrants an exception to Policy 49 as the benefits to residents and pedestrians in Haywards Lane would be monumental and make a real difference to our quality of life.
- The application would greatly reduce the flow of traffic on the narrow Haywards Lane and make it easier for the heavy traffic to and from the motorway.
- The proposals would make the link road safer with a central reservation.

2 letters of OBJECTION has been received, raising the following concerns:

- The proposal would open up the area for further unwelcome development.
- Foxmoor Nurseries should never have been granted permission in this location. Any further development should be refused.
- Recent development at Chelston is putting further pressure on the area as a whole.
- Until recently, Wellington was approached from the motorway through fields but a succession of planning permissions and badly screened developments is creating anonymous outskirts like hundreds of other towns.
- The road in the main carries traffic on and off the motorway. Traffic exiting the motorway will still be travelling at speed. The curve to the left does not give extensive vision.
- There will be extra use of the Chelston roundabout which is already very busy.

## **PLANNING POLICIES**

EN12 - TDBCLP - Landscape Character Areas,  
 EN28 - TDBCLP - Development and Flood Risk,  
 F1 - TTCAAP - Developments within the Floodplain,  
 S1 - TDBCLP - General Requirements,  
 S2 - TDBCLP - Design,  
 EN28 - TDBCLP - Development and Flood Risk,  
 M5 - TDBCLP - Cycling,  
 S&ENPP49 - S&ENP - Transport Requirements of New Development,  
 W14 - TDBCLP - Landscape Setting of Approach Roads,  
 T34 - TDBCLP - Approach Routes to Taunton,

## **DETERMINING ISSUES AND CONSIDERATIONS**

The assessment of this application requires a balanced assessment of a number of



competing considerations. These can be grouped under headings of planning policy, highway safety, visual impact and impact on neighbouring residents. In this case, all the issues must be considered in the round, so this report will discuss the proposal in terms of each of the above matters and then draw them together to reach a reasoned decision.

### Planning Policy

The site is in the open countryside where there is a general presumption against new development. Policy S7 of the Taunton Deane Local Plan applies and sets out the types of development that are acceptable in rural locations. In terms of the policy, new development must be for the purposes of agriculture or forestry; accord with a specific development plan policy or proposal; be necessary to meet a requirement of environmental or other legislation; or support the vitality and viability of the rural economy in a way which cannot be sited within the defined limits of a settlement.

The applicant considers that the proposals for the new access road would support the vitality of the development by providing a more sustainable access, reducing overall business miles whilst the landscape masterplan would maintain the landscape character of the area and in particular minimise the views of the Business Park from the A38 Link Road.

However, taking account of the comments from the Strategy Lead, your officers consider that the proposed development does not appear to accord with any of these specific requirements. It clearly cannot be situated within a settlement as the overall site cannot be relocated, however it cannot be said to support the vitality and viability of the rural economy as such because the business park can, and continues to, function perfectly well on the basis of the existing access arrangements.

The proposed access would be created directly onto an important link in the strategic road network, a County Route. Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review clearly states that “unless the special need for and benefit of a particular development would warrant an exception, [development should] not derive access directly from a County Route.

Again, the applicant suggests that Policy 49 is complied with on the basis that the proposals provide safe access designed in accordance with DMRB guidance and comments received from SCC’s Highways Safety Audit Team. It is stated that the proposals provide access on to a road of adequate standard in the route hierarchy. The existing Haywards Lane access route and Haywards Lane junctions with the A38 are unsuitable to serve the Business Park because of the number of goods vehicle movements generated by the development. The removal of heavy goods vehicles and other commercial vehicles from Haywards Lane would encourage walking and cycling to the site and would be a benefit for both the local community and Foxmoor Business Park.

However, returning to the wording of Policy 49, it is difficult to argue that there is a ‘*special*’ need’ given that the site already benefits from an existing access which an appeal inspector has already determined is capable of accommodating the traffic likely to be generated by the site.

In your officer’s view, all of this suggests that the proposal may be contrary to the

development plan and unacceptable in principle.

### Highway Safety

It would be fair to say that the Local Highway Authority has always had concerns about the approach route to the site along Haywards Lane. However, in the context of the appeal decision, it is considered to be acceptable to serve the development in terms of highway safety. That said, it is clearly not the best for accommodating a significant amount of heavy traffic, with generally poor forward visibility and limited width.

In terms of the specific proposal, protracted discussions with the Local Highway Authority have resulted in a junction onto the link road that, subject to minor tweaking, is technically acceptable in highway safety terms. In particular, the design is such that vehicles are significantly discouraged from turning right towards the M5 and, rather, are required to exit to the left and (if necessary) make a 'U' turn around the Chelston Roundabout to reach the M5. Similarly, vehicles travelling from Chelston will have to perform a 'U' turn around the Junction 26 roundabout in order to access the site. Accordingly, there should be no need for vehicles to cross the carriageway and, as such, the free-flow of traffic is maintained. The Highway Authority are now broadly content with the proposals and the Highways Agency have raised no objection in principle. However, they are still not satisfied with the fine technical details of the access, which are still to be approved through the safety audit process. Therefore, they recommend a condition that full details of the access are approved prior to the commencement of development.

### Visual Impact

As noted above, the link road is lined on both sides by mature trees, providing a rural feel to this important approach route into Wellington. Policy W14 seeks to preserve the landscape setting of approach routes into the town.

Those passing the site have, in the majority of cases, just left the strategic motorway network or are travelling to it. It could be argued either way: That the mind is already accustomed to the visual context of highway infrastructure; or that the link road provides a pleasant visual break between the strategic road network and the employment development at Chelston.

Interestingly, in negotiating the detailed design proposals for the junction, the Highway Authority have required the 'engineering' of the junction to be reduced, with the removal of a central reservation, which provides a less urban approach to the proposed road layout. However, the provision of the required acceleration and deceleration lanes, together with the visibility requirements – complicated by the inward curve of the road, will result in a significant loss of existing tree planting along the link road. Detailed landscaping proposals are provided to mitigate the impact of this loss, involving the planting of new trees behind the new visibility splays. The applicant has agreed to plant these in advance of the works to the access, so that they are already in place when the existing trees are removed. This will go some way to mitigating their loss, but they will still take some time to establish, so there will be some short term visual harm to the visual amenity of the area.

The proposed access will open up new views into the site. The proposed access road has been designed such that it curves around and does not afford direct views of the glasshouse. Again, additional planting is proposed within the site to prevent any direct views that may exist and that will fully establish in the medium term.

### Neighbouring residents

The existing business park creates a substantial amount of traffic along Haywards Lane. From recent survey's of activity, the applicant's have estimated this to be in the region of 500 vehicle movements per day. A small number of dwellings towards the northern end of Hayward's Lane have to bear the brunt of these vehicle movements on a day to day basis, some in very close proximity to the building's themselves.

The proposals would see the Business Park's access onto Haywards Lane closed for all but pedestrian and cycle traffic and there is no doubt, therefore, that the quality of life for these few households would improve as a result of the development.

No nearby residents are likely to be directly affected by the new access itself.

### Other matters

The application includes provision for surface water drainage from the site. The Environment Agency are content with these proposals, however, they also note that the proposals are within flood zone 3. On that basis, they would wish to see a floodplain compensation scheme submitted prior to the commencement of the development and this can be adequately controlled by condition.

There is no doubt that the proposals would enhance the attractiveness of the business park as an employment area. The direct access from the M5 would raise its profile in terms of ease of access and visibility. This is a far cry from the small scale B1 uses, ancillary to existing horticultural enterprises, that the Local Planning Authority originally envisaged at the site. Indeed, the concerns of Wellington Town Council and also expressed in the representations that the proposal could open up the area for further development, or indeed full redevelopment of the business park may be very real. Such future developments would need planning permission and any issues of expansion would need to be considered at that time.

The Council's Economic Development Specialist lends his support to the proposals, stating that the proposals "would significantly enhance the business potential of the business park and of the resident businesses on it, by providing better vehicular access, and improved visibility from the A38...The provision of better access may also open up the longer term opportunities to improve the Business Park. Again, I would be wholly supportive of that – Foxmoor is in a perfect location to attract business that requires proximity to the M5, so this Park could become the Borough's foremost business location in years to come".

### Discussion and conclusions

The above summarises the main issues in respect of this application. From this, it is

clear that a new access that is technically acceptable in highway safety terms can be constructed onto the link road. It would also significantly improve the residential amenities of a few residents that are local to the site. However, this extends to only a handful of properties, so in assessing the amount of weight that should be attributed to this matter, it is important to consider that the wider public interest may be vested in conflicting matters.

On the matter of visual impact, it is clear that there would be some short term harm arising from the proposals, with views of the site being significantly opened up whilst the new planting establishes. In the long term, the new access would always exist, being a new fairly urban feature within the otherwise rural landscape. That said, it is viewed in the context of the strategic road network and motorway infrastructure, and is close to further, significant employment development at Chelston. Given the development of Chelston Business Park and the more recent and continuing development of Westpark 26, this site is no longer significantly detached from other significant employment development, or indeed the remainder of Wellington. Further, the proposed landscaping will, in the long term, serve to screen the main part of the development from those travelling on the link road, so the area will tend to feel more rural than urban. In this context, the comments in the representations that the proposal would contribute to "creating anonymous outskirts like hundreds of other towns" is considered to carry little weight.

Perhaps most importantly, it has been shown that the proposal conflicts with the development plan both in terms of strategic development policy and specific highway policy relating to access onto County Routes. Decisions on planning applications must be made in accordance with the development plan unless material considerations indicate otherwise that the proposal is acceptable. It can easily be shown that there is little harm arising from the proposal in terms of landscape impact or highway safety. However, that 'little harm' could not in itself outweigh the development plan which, in terms of Structure Plan Policy 49 for instance, requires 'special need or benefit' to be demonstrated.

However, the rationale behind these policies must surely be to prevent sporadic or poorly related development in the open countryside and to secure the free flow of traffic along important stretches of highway. In this case the development does, in fact, already exist and has been specifically allowed in this location. The proposal only relates to an access and not the principle of the development as a whole (no matter how much that is viewed as paving the way for further development in the future); and that access would, due to its design, not compromise the free flow of traffic on the County Route. In this context, the benefit that would be felt by the handful of nearby residents that have to endure the existing site traffic, combined with the economic development potential of the site and its businesses that could be unlocked through the access is considered to carry sufficient weight to overcome the conflict with the plan.

It is, therefore, considered that the proposal is acceptable and it is recommended that planning permission is granted.

**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**



QUICK & SONS

**ERECTION OF AGRICULTURAL CUBICLE BUILDING AT QUANTOCK FARM,  
WEST MONKTON AS AMENDED BY INFORMATION FROM THE APPLICANT.**

Grid Reference: 325723.129925

Full Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

The proposed development is considered to be acceptable, would not harm visual nor residential amenity or have any detrimental impact on the Listed Building. Therefore, the scheme accords with Taunton Deane Local Plan Policies S1 (General Requirements), S2 (Design), and PPS5. In terms of the use of the building and traffic generation, the residents' concerns are noted, however the proposal is for recognised agricultural purposes in a rural area and as such is in accordance with PPS4 and PPS7.

**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) Unreferenced Plans (drawn by C A Gribble, dated 12/9/2011)

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

3.
  - (i) Before any part of the permitted development is commenced, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority.
  - (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority.

- (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

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

- 4. An earth mound shall be constructed and maintained in the location shown on the submitted plan to a height of not less than 2 metres in accordance with details to be submitted to and approved in writing by the Local Planning Authority and shall be provided within three months of the commencement of any part of the development.

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.

## **PROPOSAL**

The application is for the erection of cubicle housing for dairy cows in an agricultural building measuring 36.6m by 24.7m with a height of approx 9m to ridge and 5m to eaves. The materials will be concrete panel and Yorkshire boarding sides, profile fibre cement sheets for the roof. The floor area of this proposal is 914sqm. The application is for the first part of a two part structure and the plans indicate a bund to the north and east of both phases, which will be landscaped.

The agent in his design and access statement, states “the application arises from the perceived need to increase the milking heard by nearly two hundred cows, on this 140 ha farm.....there will be no impact upon traffic volume on the public roads”.

The applicant stated at the time of the site visit that this comment was not entirely correct, and a lesser number was intended. For clarification, the applicant has stated that the “new building would be used for existing stock which are mostly homebred especially for winter housing and also an increase in 150 milking cow numbers over the next 24 months. We will no longer be rearing our bull calves from birth to 24 months thus reducing the beef stock to equalise numbers in dairy stock.” He states that enough forage is grown on the farm’s land to accommodate the increase in numbers. The milk collection will remain the same, (every other day), the concentrate lorry will deliver an additional four times a month. The highest levels of traffic would be on a handful of days on certain months of the year, ie grass silage season, wheat harvest and maize harvest, other farmers would use the same route to harvest their crops.

## **SITE DESCRIPTION AND HISTORY**

The site, Quantock Farm, is to the north west of the village of West Monkton, and is accessed via rural lanes. The Application site is in a field on the eastern side of an existing complex of agricultural buildings, and it would be partial sunken into the ground, as the ground rises to the north of the field. There is a significant treed boundary to the north and north east of the field. The land is open to the south, and it is some distance (around 600m) to nearest dwellings in this direction. A public footpath passes through part of the farm and the main vehicular access to the farm. The site is in Open Countryside, within the Quantocks Landscape Character Area, outside the West Monkton Conservation Area (1.1km to the nearest point) and outside the Quantock Hills Area of Outstanding Natural Beauty (1.4km to nearest point). There is a County Archaeological site to the east of the application site.

### History

There have been a series of applications and permissions for agricultural buildings, covered stock yards, works to the Listed Building, and change of use and conversion of barns to holiday units and an extension to the time limit of the previous permission and Listed Building Consent.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*SCC - TRANSPORT DEVELOPMENT GROUP* - Firstly the Highway Authority would like to state that the application was consulted on the 24<sup>th</sup> October 2011 to which no observations were made on the application, as sufficient evidence was included within the application.

It has come to my attention from the Local Planning Authority that the application has been subject of debate with regards to highway related issues. The application seeks to erect a cubicle building to provide accommodation for livestock.

The site is located along Quantock Lane a designated unclassified section of highway to which the National Speed Limit applies past the site. However, given the narrow nature of Quantock Lane, it is likely that vehicle speed will be significantly reduced.

Having made a site visit on the 7<sup>th</sup> November 2011, in light of the concerns put forward, I also have studied additional information submitted by the applicant and agent. It is evident that the livestock on site will increase as well some vehicle movements to and from the site, however the Highway Authority believes this to be a minimal impact on the surrounding highway network.

Having received information from the agent acting on behalf of the applicant, the site currently has 350 milking cows, with a proposed increase to 500 over a 24 month period, an increase of 150 cows. It is assumed that the 350 cows calve each year.

The agent has stated that the traffic movement in connection with the proposal



will be as follows:-

### Transport Impact

- 1 Milk tanker every other day – Arrival times are late evening 9:00/10:00PM.
- 1 Lorry delivery of Blends (Weekly).
- 1 Lorry delivery of Soya Hulls (Monthly).
- Staffing Levels on site will remain the same as existing.

Given that the site is an established agricultural development where you would anticipate seeing growth and expansion in livestock, associated vehicle movements will always increase. It is also noted that the nature of the surrounding lanes are predominantly narrow. Given the current proposal, and in light of the submitted information this increase is deemed a minimal impact on the highway network and therefore it would be unreasonable for the Highway Authority to raise an objection. However, I would point out any future increase at this site, may increase the overall traffic movements to a level that becomes unacceptable to the existing highway network.

*WEST MONKTON PARISH COUNCIL* - no comments about the proposed buildings; extreme concern expressed by members of the public attending the PC meeting on the environmental impact the proposals will have. the concerns were; silage (and where the maize would be grown), slurry disposal, smell and traffic volume. There are already traffic issues between some local residents and large agricultural vehicles going to and from the farm. The Design and Access statement was considered by the PC to be completely inadequate.

*LANDSCAPE LEAD* - subject to suitable landscaping the proposals are acceptable.

*QUANTOCK HILLS AONB* - With regards the above planning application, the AONB Service recognises that the application site is beyond the AONB boundary but we ask that due consideration be given to the details of the application to ensure that development at this site will not be detrimental to the character and quality of this nationally protected landscape (including views to and from the protected landscape).

### **Representations**

13 letters of objection -

animal related

- 200 extra cows is a 50 % increase in capacity ;
- the agent's comments about perceived need to increase the herd shows a lack of detail;
- the proposal is for factory farming with no grazing;

traffic related

- impact from additional vehicle movements;
- a significant number of extremely large tractors with large trailers of fodder, often with three in succession use the lane;
- there are few passing places in the lane, so smaller vehicles have to back for considerable distances;
- the existing vehicles accessing Quantock Farm are driving excessively fast along the narrow lanes and around the bends;
- there is bound to be additional traffic with feed, to collect milk and to dispose of the slurry;
- there is already a significant amount of mud from the large vehicles, which is left on the lanes and never cleaned up;
- TDBC leaflets suggest people walk on the lanes, but these are full of mud and vehicles travelling too fast on the lanes;
- the business operates on a no-grazing principle and there will be an increase in traffic due to the increase in the herd;
- the applicant should explain why the increase in numbers of cattle does not result in an impact on local traffic volumes;
- the narrow road running through the village is lined with domestic dwellings;
- contractors have no consideration to other drivers;
- the existing 400 cow situation has already created a highway problem, which results in articulated lorries from all directions, but mostly through the Conservation Area from the A38;
- this traffic on narrow roads is contrary to the West Deane Local Plan;
- surprised that the Transport Development Group has no comments;
- the Transport Development Group should be monitoring the situation since the previous application;
- farm vehicles travel too fast especially when harvesting and silaging and these vehicles do use the lanes after midnight causing noise nuisance;
- there should be speed, weight and size restrictions on the farm vehicles;
- this is a Conservation Area and vehicles should be restricted;
- if the farming methods were more sustainable, then less traffic would come through the village
- the Council should approach farm machinery manufacturers to point out the rural roads are narrow and verges are being destroyed;

#### amenity issues

- noise from farm vehicles
- mess from hay and straw left on roads;
- smells from farm slurry;
- smells from slurry spreading;

#### other issues

- there should be notices in the village about the proposal;
- concern over reliability of information given;
- what is the policy of TDBC on intensive farming;
- the site is in the Area of Outstanding Natural Beauty;
- there has been no pre-application discussion with local people;
- objections to a previous application are still relevant;
- an Environmental Impact Assessment should be sought;
- permission previously sought and obtained for holiday units with more associated

traffic;

- various matters unrelated to the current application, which relate to the way applications are determined, and how the Core Strategy has been dealt with in local meetings.

## COMMENTS ON REVISED APPLICATION;

6 letters of objection including 2 from the same address

- previous comments still apply;
- there is still no clear explanation of the proposal;
- the latest submissions raise more questions than provide answers;
- the answers are vague and there are concerns about increased adverse impact on the village;
- the applicant has not consulted the village, belittles concerns expressed;
- not convinced that cattle numbers will not increase;
- there is no explanation in respect with to slurry management;
- concern about the apparent familiarity between the applicant and planning officer (this relates to an email address; the planning officer has met the applicant once on site);
- suggest that a comprehensive explanation of the whole proposal including a proper environmental impact assessment, is provided;
- any further development at Quantock Farm is inappropriate;
- photographs of nearby roads showing some mud on roads,
- no justification as to why another building is required;
- the numbers of animals proposed are unclear;
- if all the food is being grown on the farm, why are farm vehicles being driven through the village;
- if the building goes ahead, will the council monitor the stock level;
- the applicants do not have regard to the problems and anxiety created and there is no sign of any steps to correct the already unacceptable problems;
- the Local Planning Authority should explain its policy in regard to intensive farming, excessive animal numbers and slurry/effluent which could detrimentally impact on water courses and the land;
- the Local Planning Authority should have the accounts for the last three years and the budgets for the next three years;
- there should be a declaration confirming the accuracy of all the submissions;
- the application should be vetted by experts from Canning or Bickton College;
- the information provided does not give a complete picture of the proposal;
- the certificates have been incorrectly signed as the section – none of the land to which the application relates is, or is part of, an agricultural holding has been signed, how can this be the case;
- the farmer should expand the business by acquiring other units, not be farming intensively;
- exact statement on acreage of land in each crop, yields and how each ton is used, numbers of cows for each year, numbers of calves born and how used, numbers of and movements of all cattle, amount and disposal of slurry; full details of all feed, bedding, milk and all other movements made by vehicles, should be supplied to the LA and assessed by an expert from College of Agriculture;
- perhaps a weight restriction or one way system should be introduced on the rural lanes;
- there should be a restriction on dung spreading within a limited distance of West Monkton;

- is it possible to limit noise from heavy vehicles?

## **PLANNING POLICIES**

PPS1 - Delivering Sustainable Development,  
PPS4 - Planning for Sustainable Economic Growth,  
PPS 5 - PPS5 Planning for the Historic Environment,  
PPS7 - Sustainable Development in Rural Areas,  
S1 - TDBCLP - General Requirements,  
S2 - TDBCLP - Design,  
S7 - TDBCLP - Outside Settlement,  
EN12 - TDBCLP - Landscape Character Areas,

## **DETERMINING ISSUES AND CONSIDERATIONS**

The proposal is for the erection of an agricultural building; the objections from residents mainly relate to the use of the building and implications in relation to traffic generation.

The proposed site of the building is to the east of other agricultural buildings, and will not be visible from any nearby properties. The building would be seen in association with the other buildings and adjacent covered slurry heaps. There is a wooded area to the north/north east and the plans indicate a bund to the north and east which will be landscaped. The site is a distance from any residential properties and it is not considered that there will be any detriment from the building itself or its use to any residents. There is no impact on the Listed Building or its setting as the proposed site is away from the farmhouse and there are several other intervening buildings

The numbers of cows or other animals on a farm is not normally a planning issue, as the matter of exact numbers is not controlled by the Local Planning Authority. In this case the proposed numbers of milking cows has caused an issue to be raised in respect to traffic generation.

Vehicular access to the farm is via the local roads, and the route through West Monkton village appears to be that most used by the farmer and for his deliveries (both to and from the farm). It is not considered appropriate or enforceable that the Local Planning Authority could insist or condition that a particular or an alternative route should be used. The state of the roads is the responsibility of County Highway Authority, however mud/straw on rural roads is commonplace, and may not be cleared up to the expectation of some local residents. Large agricultural vehicles travelling through rural areas and in the vicinity of farms is to be expected, and is experienced throughout the Borough and country. Officers have experienced the situation of facing these large agricultural vehicles on similar narrow lanes, but have concluded that this is the way of agricultural businesses.

Many objectors have comments upon the manner in which such vehicles are driven, this however cannot be controlled by the Local Planning Authority. Whilst such driving appears to be causing an issue with residents in West Monkton, driving to any destination may result in similar behaviour. Large agricultural vehicles may cause noise and nuisance to local residents, however this is the case all over the Deane, and could be considered as being similar to delivery vehicles/builders' merchants' lorries and similar in villages or urban area. The fact that West Monkton

is a Conservation Area, does not mean that traffic of a particular sort can be prevented from using its roads. The County Highway Authority Officer has considered the application details and all the comments raised by residents and has concluded that the proposal is acceptable. There is no proposal from the Highway Authority to introduce any weight, width or other restriction on the roads. It is not considered that the current proposal can be used to restrict the comings and goings to and from this farm.

With regard to noise from farm vehicles and smells emanating from the farm, such consequences are usual, and most farms with animals do have unpleasant smells, such is the situation in many rural areas. Noise from farm vehicles is also commonplace.

In respect to other issues, the site notice was placed close to the highway, the Parish Council notified, and the weekly list notification published in the Gazette; the Local Planning Authority does not place site notices in the nearby villages. The site is outside the Area of Outstanding Natural Beauty, but in any event agricultural buildings are usually acceptable within/adjacent to the existing agricultural buildings. Whilst applicants/agents are encouraged to have pre-application discussions with local residents, this is not obligatory. The Local Planning Authority does not have a policy on intensive farming, and is unlikely to have one. Current National Planning Guidance is to encourage farmers and farm diversification as part of the rural economy. There are regulations in respect to whether an environmental impact assessment is required, the current proposal does not fall within those guidelines.

In respect to the amount of information submitted and the accuracy of that information, the agent and applicant gave different figures for the eventual number of cattle to be housed. As stated above the actual numbers cannot be controlled by the Local Planning Authority and it is the visual and other impacts which need to be assessed. The information supplied gives a broad concept of the proposal, it is not considered necessary to seek the detailed assessment that some objectors are seeking. Such details would not be sought from other applicants in respect to other commercial proposals.

In conclusion, the proposal is for an agricultural building in a location which is considered in visual terms to be appropriate. The numbers of animals housed is not and cannot be controlled by the planning system as it would be considered unreasonable and would not be enforceable, the impact of additional traffic is an issue which can be considered, but the County Highway Authority does not consider that there would be any detrimental impact as a result of this proposal. The Local Planning Authority could not control the vehicular comings and goings in and around the village. The proposal is agriculturally related and is considered to be acceptable.

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

**CONTACT OFFICER: Ms K Marlow Tel: 01823 356460**

# Planning Committee – 14 December 2011

## Report of the Head of Legal and Democratic Services

### Enforcement Item

1. **File/Complaint Number:** PD/22/833
2. **Location of Site:** Beauford Park (Mobile Home Park), Norton Fitzwarren, TA2 6QJ. The area in question is at the southern end of the site, adjacent to the Norton Brook
3. **Name of Owner:** J and B Small Park Homes (also at Buckingham Orchard Park Home Estate, Plymouth Road, Chudleigh Knighton, Devon, TQ13 0EW) – a partnership between the Small family.
4. **Nature of Contravention:** Failure to comply with a Tree Replacement Notice dated 27 October 2009.
5. **Planning History:**

The Site is subject to the provisions of a Tree Preservation Order (TPO) TD726 (Norton Fitzwarren No.2, 1997) dated 26 February 1997

The area of land in question is Wood 1 (W1) referred to in the TPO. W1 was an area of predominantly mixed willow and alder trees. All the trees are no longer in existence.

The northern section of W1 is owned by J and B Small Park Homes. The southern section of W1 is jointly owned by developers, BDW Trading Ltd, Bellway Homes Ltd and Strongvox Ltd. This southern section is included in a current development proposal and is due to be re-planted by the developers in line with approved landscape drawings.

Under section 206(1) of the Town and Country Planning Act 1990 a land-owner is under a duty to replace trees in woodlands that are removed, uprooted or destroyed in contravention of a Tree Preservation Order.

During a routine inspection of the Site by a Council officer in June 2005 it was noticed that not all the trees in W1 were present.

During 2005 and 2006 correspondence was sent to Mr Small by the Council asking that the trees be replaced but this was not complied with.

During December 2006 the Council were informed by the public that trees at the Site had been felled. Site visits were carried out as a result of this information and it was noted that trees had been felled that were the subject of the TPO

Planning consent was granted in 2007 to fell 2 of the remaining trees [within the W1 area because they were considered dangerous. It is thought that many of the trees in the area had gone into decline because there were large amounts of hardcore,

broken tarmac and concrete deposited in the area. (Much of this material is still present). Other dangerous trees were subsequently removed from within the W1 area (with consent) by tree surgeons acting for the St. Modwen Developments Ltd, who at the time owned the area of land in question.

In 2008, following a land-ownership dispute, St. Modwen Developments Ltd agreed with Mr Small that he owned half of the area of W1.

In April 2008 a letter was sent by the Council to Mr Small reminding him of his duty to replace the trees in the area of W1 in his ownership.

The trees were not replaced and a Tree Replacement Notice (TRN) was issued in October 2009. (A previous Tree Replacement Notice issued in January 2007 had been rescinded due to the land-ownership dispute between Mr Small and St. Modwen). The requirements of the TRN were to replace trees within the W1 area shown edged green on the plan attached to the TRN by 31 December 2009 however the deadline for compliance was extended to 26 February 2010. The requirements of the TRN have not been complied with.

Under section 209 of the Town and Country Planning Act 1990, failure to comply with the Tree Replacement Notice means that the Council may enter the land, plant the trees and recover from the land owner any expenses reasonably incurred by the Council in respect of planting the trees. Anyone who wilfully obstructs the Council from using these powers is guilty of an offence and is liable, if convicted in the Magistrate's Court, to a fine of up to £1000.

### **Reasons for taking action**

The trees in W1 were subject to the Tree Preservation Order and had amenity value, being close to a number of homes and visible from the railway and public footpath. The proposed new planting will have amenity value and be appreciated by the residents living near to the Site. The proposed planting is aimed to be carried out in conjunction with the new planting due to be carried out by the developers owning the land on the southern part of W1. .

It should be noted that Mr Small has allowed some additional park homes to be erected so that they are encroaching on the area of W1. There is also now an electricity sub-station on the Site and several underground electricity cables, the locations of which have been supplied by Western Power.

### **Recommendation**

The replacement tree works be carried out by Taunton Deane's DLO, and the expenses recovered from the owner.

The Tree Replacement Notice requires 120 trees to be planted. However, due to various factors such as the poor ground conditions (caused by the dumping of hardcore, concrete and other materials), the presence of the electricity substation, the underground cables and the proximity of adjacent homes, the proposal is for the Council to plant just 30-35 trees and shrubs giving adequate clearance from the

substation, the underground services and park homes. The plants would be a mixture of native trees and shrubs, such as birch, willow (goat or grey), alder, field maple, hazel, dogwood, hawthorn and blackthorn, planted as bare-root whips and feathered trees.

The estimated cost of carrying out the works is approximately £600. The works would take approximately one day to complete. The planting should be carried out during the current planting season, as soon as possible but with regard to the weather conditions.

**In preparing this report the Officer has considered fully the implications and requirements of the Human Rights Act 1998.**

**CONTACT OFFICER: David Galley, 356493 (2423)**