

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 26 September 2012 at 17:00.

Agenda

- 1 Apologies.
- 2 Minutes of the meeting of the Planning Committee held on 27 June 2012 (attached). Minutes of meeting held on 18 July 2012 (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 23/12/0014/vsc - Application to vary section 52 agreement relating to planning permission 23/74/0011 to allow development to proceed without carrying out the highway works at land adjacent to Creedwell Orchard, Milverton.
- 6 46/12/0012 - Erection of six no. B1 commercial units and formation of vehicular access at site at former brickyard, Higher Poole, Wellington.
- 7 38/12/0244 - Erection of dwelling with associated garage and parking provisions, within the gardens of Hawksworth House and land to the north, at 1 Holway Avenue, Taunton, as amended.
- 8 38/12/0163 - Demolition of buildings and erection of 7 no. residential dwellings with associated gardens, parking and access road at 7A - 13 Staplegrove Road, Taunton as amended.
- 9 25/12/0021 - Erection of 32 no. dwellings with associated garages and landscaping at the Old Cider Works, Norton Fitzwarren.
- 10 23/12/0026/LB - Replacement of windows and doors and enlargement of window opening to the east elevation to form a doorway at Preston Farm, Preston Bowyer, Milverton (retention of works already undertaken)
- 11 08/12/0013 - Erection of single storey dwelling at land to the north of Maidenbrook Farmhouse, Tudor Park, Priorswood, Cheddon Fitzpaine (amended scheme to 08/11/0032)

- 12 02/12/0011 - Erection of equestrian managers dwelling and double garage at Three Oaks Racing Stables, Combe Florey Road, Ash Priors (resubmission of 02/12/0005)
- 13 E/0135/38/12 - Car Business running from private residence at 10 Fullands Road, Taunton
- 14 E/025/07/11 - Unauthorised mobile home on land to the rear of Langs Farm, Bradford On Tone.
- 15 Planning Appeals- the latest appeals lodged and appeal decisions received (details attached).

Tonya Meers
Legal and Democratic Services Manager

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

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Planning Committee Members:-

Councillor B Nottrodt (Chairman)
Councillor S Coles (Vice-Chairman)
Councillor J Allgrove
Councillor C Bishop
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 F Smith
Councillor P Tooze
Councillor P Watson
Councillor A Wedderkopp
Councillor D Wedderkopp
Councillor G Wren

Planning Committee – 27 June 2012

Present: - Councillor Nottrodt (Chairman)
Councillor Coles (Vice Chairman)
Councillors Mrs Allgrove, Bishop, Bowrah, A Govier, C Hill,
Mrs Hill, Miss James, Morrell, Mrs Smith, P Watson, A Wedderkopp,
D Wedderkopp.

Officers:- Mr B Kitching (Development Management Lead), Mrs J Jackson (Legal Services Manager), Miss M Casey (Planning and Litigation Solicitor), Matthew Bale (West Area Co-ordinator), Mrs G Croucher (Democratic Services Officer) Mrs T Meadows (Corporate Support Officer)

(The meeting commenced at 5.00 pm)

80. Apologies/Substitutions

Apologies: Councillors Mrs Messenger, Tooze, Denington and Wren

Substitution: Councillor Mrs G Slattery for Councillor Tooze

81. Declarations of Interest

Councillors D Wedderkopp and A Govier declared personal interests as Members of Somerset County Council. Councillor Nottrodt declared a personal interest as a Director of Southwest One. Councillors Mrs Hill and Mrs Smith declared personal interests as employees of Somerset County Council. Councillor Miss James declared a personal interest as an employee of Viridor. Councillor Coles declared that he had received correspondence regarding item No 49/12/0027, Councillor Watson declared that a family member resided in Priorswood Road, item No 38/12/0109 and Councillor Allgrove had received correspondence regarding item No E/0337/33/11. None of the Councillors considered that they had fettered their discretion.

82. Applications for Planning Permission

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

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

49/12/0030

Erection of a dwelling with adjoining garage, parking and formation of access at land on Croft Way, Wiveliscombe (resubmission of withdrawn application 49/12/0016)

Conditions

- (a) The development hereby permitted shall be begun within three years of the date of this permission.
- (b) The development hereby permitted shall be carried out in accordance with the following approved plans:
- (A4) DrNo 01 Location Plan
 - (A3) DrNo 02 Block Plan
 - (A1) DrNo 04 Rev A Existing Topographical Survey with Entrance Visibility Splay and Foul Sewer Drainage
 - (A3) DrNo 08 Rev A Proposed Block Plan
 - (A1) DrNo 09 Rev A Proposed Site Plan, Ground and First Floor Plans
 - (A1) DrNo 10 Rev A Existing and Proposed Site Sections, Section A-A and Elevations SK02
- (c) Full details of the means of disposal of surface water shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development hereby permitted. The approved details shall be implemented prior to the occupation of the dwelling hereby permitted and shall thereafter be maintained as such.
- (d) The 'Cell Web' root protection system shall be installed to a depth of 100mm within the area indicated on drawing 1141/09 rev A prior to the commencement of any other works on the site.
- (e) Prior to their installation, details and/or samples of the materials to be used in the construction of the external surfaces of the dwelling and access drive 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.
- (f) Prior to the occupation of the dwelling hereby permitted, a 2m close boarded timber fence (or other such screen that may otherwise be agreed in writing by the Local Planning Authority) shall be erected along the line of the existing post and wire fence at the southern site boundary in a position and for a length that shall previously have been submitted to, and approved in writing by, the Local Planning Authority.
- (g) The windows hereby permitted shall be timber and thereafter maintained as such, in accordance with details to include sections, mouldings, profiles, working arrangements and finished treatment that shall first have been agreed in writing by the Local Planning Authority prior to their installation.
- (h) No service trenches shall be dug within the root protection areas of the trees on the northern site boundary as identified in the submitted arboriculture report prepared by Sam Manton, submitted with the application, without the prior written agreement of the Local Planning Authority.

Reason for granting planning permission:-

The proposed development would harm neither visual nor residential amenity, nor would it be damaging to the character of the main dwelling. Accordingly, the proposal did not conflict with Taunton Deane Local Plan Policies S1 (General Requirements), S2 (Design) and H17 (Extensions to Dwellings) and Policy DM1 of the emerging Taunton Deane Core Strategy.

**20/12/0020 Erection of ground floor rear extension at 6 Kingston Court,
Kingston St Mary, Taunton**

Conditions

- (a) The development hereby permitted shall be begun within three years of the date of this permission;
- (b) The development hereby permitted shall be carried out in accordance with the following approved plans:-

(A1) DrNo 1111_14 Existing and proposed plans and elevations

(A4) DrNo 1111_13 Site plan Plot 6

(A4) DrNo 1111_12 Location Plan Plot 6

Reason for granting planning permission:-

The proposed development would harm neither visual nor residential amenity, nor would it be damaging to the character of the main dwelling. Accordingly, the proposal did not conflict with Taunton Deane Local Plan Policies S1 (General Requirements), S2 (Design) and H17 (Extensions to Dwellings)

05/12/0017

**Erection of single storey rear and side extension at 23 Great Mead,
Bishop's Hull**

Conditions

- (a) The development hereby permitted shall be begun within three years of the date of this permission.
- (b) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - (A4) DrNo 0812_03 location plan
 - (A4)DrNo 0812_04 site plan
 - (A1)DrNo 0812_01 existing and proposed floor plans

Reason for granting planning permission:-

The proposed development would harm neither visual nor residential amenity, nor would it be damaging to the character of the main dwelling. Accordingly, the proposal does not conflict with Taunton Deane Local Plan Policies S1 (General Requirements), S2 (Design) and H17 (Extensions to Dwellings).

- (2) That **planning permission be refused** for the under-mentioned developments:-

49/12/0027

**Change of use and conversion of two traditional agricultural barns to
one work place and dwelling with associated vehicular access and**

parking, ground mounted photovoltaic panels, reed bed filtration system and protected bat roost at Cotcombe, Croford Hill, Wiveliscombe (amended description)

Reason

- (1) By reason of there having been no marketing of the buildings for employment use, it has not been demonstrated that the premises are unlikely to attract a suitable business re-use. The proposal is, therefore, contrary to Policy H7 of the Taunton Deane Local Plan and Policy DM2 of the emerging Taunton Deane Core Strategy.
- (2) The site is located outside of any defined settlement limits, (as set out in the Taunton Deane Local Plan) where Development Plan policy provides that development should be strictly controlled and provided for where consistent with the policies and proposals set out in the plan. Notwithstanding the work/business floorspace the proposed conversion includes a permanent residential dwelling remote from adequate services, employment, education and other services and facilities required for day to day living. Such a proposal would be likely to generate the need for additional travel by private motor vehicles due to its location and lack of accessibility to alternative means of travel. The proposal is therefore considered to be an unsustainable form of development contrary to Local Plan Policies STR1 and STR6 of the 2000 Somerset and Exmoor National Park Joint Structure Plan Review and Taunton Deane Local Plan Policies S1 (B), H7 and EC6, Policies DM1 and DM2 of the emerging Taunton Deane Core Strategy together with guidance contained within the National Planning Policy Framework.
- (3) The proposed development will result in the deliberate disturbance of a protected habitat for which there is no overriding reasons of public interest that would justify such disturbance. In addition it has not been demonstrated that there are no other satisfactory alternative sites on which the proposed development could not be accommodated. As a result the proposals fail to satisfy the derogation tests necessary for the Local Authority to discharge its duty set out within Regulation 9(5) of the Habitat and Species Regulations (2010).

42/12/0019

Installation of a balcony to the west elevation of ancillary building at Fisherman's Rest, Middle Sweethay, Trull (retention of works already undertaken)

Reason

The balcony, by reason of its size, siting and design, represents an incongruous addition to the traditional form and linear appearance of the building and as such adversely affects the character and appearance of the building, the surrounding landscape and the setting of the Grade 11 listed building opposite. The proposal is contrary to Policies S1, S2 and H17 of Taunton Deane Local Plan Policy DM1 of the emerging Core Strategy Policy and the National Planning Policy Framework.

Also resolved that: - enforcement be authorised to secure removal of the balcony within 3 months and that the Solicitor to the Council be authorised to take prosecution action should the enforcement notice not be complied with.

83. Residential development for the erection of 7 dwellings with associated access and 8 No parking spaces on land to the rear of the Gardeners Arms, Priorswood Road, Taunton (38/12/0109)

Reported this application.

Resolved that subject to the applicants entering into a Section 106 Agreement to secure:-

1. One unit of affordable housing; and
2. Contributions, towards the provision of community leisure facilities as follows:-
 - (a) £1454 per dwelling towards the provision of active outdoor recreation;
 - (b) £2688 per 2+ bedroomed dwelling towards children's play provision;
 - (c) £1118 per dwelling towards community halls; and
 - (d) £194 per dwelling towards the provision of allotments,

The Growth and Development Manager be authorised to determine the application, in Consultation with the Chairman or Vice-Chairman and, if planning permission was granted the following conditions be imposed:-

- (a) The development hereby permitted shall be begun within three years of the date of this permission;
- (b) The development hereby permitted shall be carried out in accordance with the following approved plans:-
 - (A1) DrNo 1193(PL-)05 Block Plan as Proposed;
 - (A1) DrNo 1193(PL-)04 Floor Plans, Elevations and Sections;
 - (A1) DrNo 1193(PL-)03 Floor Plans, Elevations and Sections;
 - (A1) DrNo 1193(PL-)02 Floor Plans, Elevations and Sections; and
 - (A1) DrNo 1193(PL-)01 B Site Plan as Proposed;
- (c) 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;
- (d) Prior to development commencing on site a drainage plan for the whole development shall be forwarded for approval in writing by the Local Planning Authority, including results of percolation tests carried out and shall include

soakaways to be constructed in accordance with Building Research Digest 365;

- (e) The applicant shall undertake all the recommendations made in Acorn Ecology Limited's Ecological Survey Report dated February 2012, (Appendix 4 Conservation Action statement) and provide mitigation for bats and birds as recommended. The works shall be implemented in accordance with the approved details and timing of the works, unless otherwise approved in writing by the Local Planning Authority. The development shall not be occupied until the scheme for the maintenance and provision of the new bird and bat boxes and related accesses have been fully implemented. Thereafter the resting places and agreed accesses shall be permanently maintained;
- (f) If the period of time, from the granting of planning permission and the commencement of development extends more than one year, then further wildlife surveys must be commissioned to ascertain any changes in the use of the site by protected species;
- (g) The first and second floor window(s) in the southern elevations facing the southern boundary of the site shall be glazed with obscure glass to be agreed in writing by the Local Planning Authority and shall thereafter be so retained. The said windows shall be fixed shut or limited opening in a manner to be agreed in writing by the Local Planning Authority prior to their occupation and there shall be no alteration or additional windows in this elevation without the further grant of planning permission;
- (h) The area allocated for parking and turning on the submitted plan, drawing number 1193[PL-]01B shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted;
- (i) Notwithstanding the details shown on the approved plan 1193 [PL] 01 B, no development shall take place until a scheme detailing arrangements and specification for the site access and proposed highway improvements have been submitted to, and approved in writing by, the Local Planning Authority. Before any building is occupied the development shall be completed in accordance with the details shown on the approved plans and retained thereafter;
- (j) The proposed estate road, footways, tactile paving, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason for Planning permission, if granted:-

The proposal, for residential development, is located within defined settlement limits where the principle of new housing is considered acceptable. An affordable housing unit will be provided and the proposed access would be satisfactory and the development would not have a detrimental impact on the visual or residential amenity of surrounding

residential properties and accordingly does not conflict with Somerset and Exmoor National Park joint Structure Plan Review Policies STR4 and 49, Taunton Deane Local Plan Policies S1 (General Requirements), S2 (Design), C4 (Leisure Provision) and M4 (Residential Parking Provision) and Policy DM1 and CP4 of the emerging Taunton Deane Core Strategy.

84. E/0337/33/11- Structure erected to accommodate a large Carnival Float at Crossways, Curland, Taunton

Reported that it had come to the attention of the Council that a structure comprising scaffolding poles and tarpaulins had been sited within the farmyard adjacent to the boundary between the privately owned farmhouse and the remaining farmyard. The structure was used to house and work on a Carnival float owned by a local Carnival Club.

The structure had been erected without planning consent.

Resolved that:-

- (1) Enforcement action be taken to require (a) the removal of the structure constructed of scaffolding poles, tarpaulin sheets and galvanized steel sheeting and (b) the cessation of any construction work on the Carnival Float in its present position;
- (2) The Solicitor to the Council be authorised to take prosecution proceedings in the event that the enforcement notice was not complied with; and
- (3) The time period for compliance with the enforcement notice be four months from the date on which the Notice took effect.

85. E/0261/10/10 – Building erected on common land adjacent to Timberlands Farm, Churchstanton

Reported that it had come to the attention of the Council that the occupier of the land had erected a large 'pole barn' sited on a triangular piece of land east of Timberland Farm, Churchstanton to keep hay and straw dry.

A site visit had been carried out and the occupier was asked about the structure, it was claimed that the structure was moveable and therefore did not require planning permission. The Council's Senior Solicitor had been consulted and it was considered that the erection of the barn fell within the definition of development as it was a building operation that had resulted in a building. However in the view of the Growth and Development Manager the pole barn was a suitably designed agricultural building in keeping with Blackdown Hills Area of Outstanding Natural Beauty. As such it was not considered expedient to take enforcement action.

Resolved that no further action be taken.

86. E/0145/42/11 - Access not built in accordance with approved plans at Lower Kibbear Farm, Kibbear, Trull

Reported that it had come to the Council's attention that a wall at Lower Kibbear Farm, Kibbear, Trull had been constructed not in accordance with the approved plans.

Investigations of this matter had revealed that the wall had been in existence for over four years which made it immune from any action by the Local Planning Authority under Section 171B (1) of the Town and Country Planning Act 1990.

Resolved that no further action be taken

87. Failure to comply with Enforcement Notices served in respect of Plots 1,3,54 and 41 on Persimmon site to the west of Bishop's Hull Road, Bishops Hull, Taunton.

Reference Minute Nos. 66/2011 and 15/2012, reported that Meeting of 8 August 2011 and 8 February 2012.

Following the resolution to prosecute, the Council had received representations from Solicitors acting on behalf of Persimmon saying that the works to the buildings constituted permitted development and therefore prosecution action was not appropriate.

Whilst it was accepted by the Council, and had been accepted by the Inspector on appeal, that had the houses been completed the properties could have been altered to the current façade under permitted development rights, the current facades were unauthorised and therefore could be both the subject of enforcement action and prosecution.

Reported that there had been subsequent discussions between the owners of Plots 1 and 3 and Persimmon, since it was the owners rather than the company who were under threat of prosecution.

Persimmon had agreed to remove the existing facades and immediately replace them with like, in order to prevent prosecution action. As a result, the Council had been asked to consider bringing the matter of prosecution back to the Committee for re-consideration. However, before doing so it had been felt that a far greater commitment to do the works from Persimmon and the owners would be required.

Persimmon had now supplied an undertaking to comply with the notices by the end of August 2012, if required. The owners of Plots 1 and 3 had consented to these works being done.

Further reported that a balance had to be drawn between showing that the Council would follow through on enforcement action, to maintain its credibility, and the need to avoid taking action which to the general public would be perceived as costly and achieve nothing.

The entire front of both properties would need to be removed and the intention was to replace like with like, as this was what the owners wanted. In such circumstances it would not be in the public interest to proceed with the prosecution. Noted that Persimmon had complied with the Notice on Plot 41.

Resolved that on balance the earlier resolution to prosecute the owners of Plots 1 and 3 be rescinded and that no further action be taken against the owner of Plot 54.

(The meeting ended at 8.00 pm)

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
- Director of Southwest One – Councillor Nottrodt
- Employee of UK Hydrographic Office – Councillor Tooze
- Employee of Natural England – Councillor Wren

S NOTARO WINDOWS LTD

APPLICATION TO VARY SECTION 52 AGREEMENT RELATING TO PLANNING PERMISSION 23/74/0011 TO ALLOW DEVELOPMENT TO PROCEED WITHOUT CARRYING OUT THE HIGHWAY WORKS AT LAND ADJACENT TO CREEDWELL ORCHARD, MILVERTON

Grid Reference: 312387.125572

Variation of S52/S106 Condition

RECOMMENDATION AND REASON(S)

Recommended Decision: That the Section 52 agreement relating to application 23/74/0011 is varied through the removal of clauses (1) and (2) of Schedule I.

PROPOSAL

A request has been made to vary the terms of a Section 52 agreement attached to a 1974 planning permission at land off Creedwell Orchard, Milverton.

In 1975 application reference 23/74/0011 granted outline planning permission for the development of 80 dwellings on the site. Reserved matters approval was given in 1979.

In 2007, Taunton Deane Borough Council issued a Certificate of Lawfulness confirming that the 1975 planning permission had implemented, development having been commenced within the time periods specified within the planning permission. Accordingly, the development can now be lawfully recommenced and carried out.

Attached to the 1975 permission was a Section 52 agreement that sought to ensure that childrens play facilities were provided on site and that various highway works were undertaken prior to occupation of any of the dwellings. Those highway works are described in Schedule I of the agreement as follows:

- (1) The widening of Creedwell Close on its Eastern side in accordance with the details on Plan B attached [to the agreement] to a width of 5.5metres carriageway with footpath of 1.8 metres width; Plan B shows the new line of the edge of the widened highway coloured blue. Plan A shows coloured green the general location of the part of the highway to be widened.*
- (2) The widening of Creedwell Close on its Northern and Southern sides in accordance with the details on Plan C attached [to the agreement] to a width of 5.5 metres carriageway with two foopaths of 1.8 metres each in width. Plan C shows the new lines of the edges of the widened highway coloured blue. Plan A shows coloured yellow the general location of the part of the to be widened.*
- (3) The construction of the main spine road on the land [to be developed] to a width of 5.5 metres carriageway with two footpaths each of 1.8 metres width*

in accordance with the details shown on plan D attached [to the agreement] to at least base course level before any house is occupied.

This request is now made to remove the requirement to undertake the road widening works from the agreement – i.e. to delete clauses (1) and (2) above.

In support of their request, the applicants have prepared a transport statement suggesting that, in line with current guidance, the existing highway network is capable of providing a suitable and safe means of access to the site. In a little more detail, reference is made to highway width and visibility splay guidance in Manual for Streets and Manual for Streets 2, the current government guidance on highway design for residential areas. It is suggested by the applicants' transport consultant that the existing width of Creedwell Orchard of around 4.9m is sufficient to allow a car to pass a refuse vehicle (Manual for Streets recommending a minimum of 4.8m for a car and lorry to pass, and having observed a refuse vehicle passing parked cars on the road). It is also suggested that given the observed traffic speeds on Silver Street, the existing visibility splays at the junction of Creedwell Orchard and Silver Street are adequate in terms of highway safety.

SITE DESCRIPTION AND HISTORY

The development site to which the S52 agreement relates is a rising (steeply in places) agricultural field that slopes up from north to south. To the north, it bounds Bartletts Lane and a handful of residential developments served from this lane and Burgage Lane that links it to Rosebank Road and then onto Silver Street. To the west is the existing development of Creedwell Orchard and Creedwell Close a mix of 1 and two storey dwellings and flats. To the east are further, more sparsely arranged dwellings. The field is partly open to its southern boundary and partly hedged from an adjoining agricultural field.

The vehicular access to that site is from Creedwell Orchard, an estate road that serves the dwellings to the west and it is to this road that the Section 52 agreement required widening works to be undertaken. It is understood that access at the southern end is now unavailable and this is why it is argued that no widening works are required here (a single point of access instead being proposed). At the northern end, the road is around 4.9m wide and has two footways. Access to the site is through an area of land currently containing 3 garages.

Some of the planning history has been alluded to above, but is provided in detail below:

1975 outline planning permission granted (ref 23/74/0011) for the development of 80 dwellings.

1979 reserved matters approved (ref. 23/78/0025) pursuant to the 1975 outline permission for the development of 80 dwellings.

1979 Outline planning permission refused (ref. 23/78/0026) for the renewal of the 1975 permission for residential development. Permission was refused for reasons of being a substantial and disproportionate increase in the population of Milverton and the north-western part of the Borough that would prejudice the proper

development of other settlements in the area; that the proposal would have an adverse effect upon the visual and other amenities of the Milverton conservation area and village; and that the site comprises good quality agricultural land where development would not take place except in strong extenuating circumstances.

1991 Full planning permission refused (ref. 23/91/0026) for the erection of 42 dwellings on the site. Permission was refused because the site was outside the settlement limits, was in an elevated and prominent position, would detract from the character, environment and harm the visual amenity of the area and outstanding heritage settlement, is outside areas identified for development and sufficient land is available for development elsewhere within the district.

In 2001, at the Taunton Deane Local Plan Inquiry, the Council argued that the site should not be allocated for residential development. The inspector agreed with that position and decided not to allocate the site.

2007 Certificate of Lawfulness for a proposed development issued (ref. 23/06/0045) on the basis that the Council was satisfied that on the balance of probabilities that the proposed development was commenced prior to 6th August 1981. This certificate confirms that the 1975 outline planning permission (and associated 1979 reserved matters) were implemented in accordance with the permission and, therefore, can be lawfully recommenced.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SCC - TRANSPORT DEVELOPMENT GROUP - The application seeks to vary the Section 52 Agreement which relates to Planning Permission 23/74/0011 to allow development to proceed without carrying out widening works on land adjacent to Creedwell Orchard.

The Highway Authority's task is to assess the information provided both by the developers and objectors and come to a view on whether or not 1) The local highway network, Creedwell Orchard and its junction with Fore Street, has sufficient capacity to deal with the traffic generated by existing and proposed developments and 2) whether or not the existing roads are of a suitable standard bearing in mind the current guidance to deal with the type and volume of traffic generated by existing and proposed developments.

1. Traffic Capacity

The developer has submitted a report which assesses the development impact. It has used its own traffic counts to evaluate the levels of development traffic. It concludes that the expected total traffic can be readily absorbed into the local highway network.

The Save Milverton Action Group (SMAG) has also commented on the report making valid points about the inadequacies of the developer's report and suggesting that incorrect peak hours have been used which results in a significant under estimation of the traffic flows. I have also received a copy of a letter from

Pinsent Masons on behalf of SMAG which at Section 4 also comments upon the inaccuracies of the developer's report.

The Highway Authority has carefully considered all representations and makes the following comments:

Current trip traffic on Creedwell Orchard is surveyed at around 40 movements in the am peak and 35 in the pm peak, figures which are consistent with the number of dwellings at present. From the TRICS calculations it can be seen that the proposed development would roughly double the number of movements associated with the road at those times. The technical note has not demonstrated that the traditional am and pm hours are the busiest on the surrounding network. There is evidence from other submissions (opposing the proposal) that later morning and earlier afternoon are significantly busier. A maximum 80 movements per hour are recorded along Creedwell Orchard. In the absolute worst case based upon evidence from all parties and SCC, hourly movements could increase from around 80 to about 130. In practice it is unlikely that this figure would be reached because the peak time for housing development should not coincide with the network peak. Some on-street parking is present and this currently results in a small amount of interference to traffic when vehicles are travelling in both directions. The increase in traffic would increase with the frequency of which this occurs. There is nothing to suggest however that queuing back onto Silver Street or Fore Street would be a regular occurrence. Estimating the traffic impact due to the narrowing of the road due to on-street parking is comparable to considering the capacity of a single track country lane with passing places in that there are narrow stretches with wider passing places at either end and at intervals along it. The best evidence available suggests that the capacity of such a road is generally well above 200 vehicles an hour. A previously proposed widening would not have allowed two vehicles to pass alongside parked vehicles but it would have increased the ease with which this could occur. The result of not carrying out the widening will be slightly greater delay at the busiest times but I consider it extremely unlikely however that the traffic impact would be severe. It should be pointed out that the proposal for a single access would ensure that the development traffic is on the existing network for the shortest possible time. Current policy would suggest that engineering based mitigation should be a last resort. It's worth considering requiring the developer to find alternative methods of mitigation. This could include additional infrastructure (support for alternative modes) or the widening of travel plan measures to the surrounding community in order to partially offset the traffic impact.

We conclude that the submission by Entran is weak and contains flaws which have previously been pointed out by the County Council and objectors. Nonetheless this conclusion focuses on what we consider to be the likely effects of the proposal. The removal of a requirement to widen Creedwell Orchard would make it more difficult to pass parked cars. The new development would increase traffic along the road, the worst case possibly is considered to be an increase from 80 to 130 movements per hour. This would inevitably increase delay with drivers having to wait for more traffic coming in the opposite direction. We do not consider however that this is likely to exceed the capacity of the road and the impact could not be considered to be severe. It is suggested that the developer in line with current policy should investigate alternative mitigation measures which reduce the need to travel through the use of the private car. This could be done across a wider area thus serving to help offset the additional impact of not widening the road. Any new

planning permission will have to consider travel planning and parking.

2. Road Layout and Highway Details

The developer's report considers Creedwell Orchard and Creedwell Close and compares it with the latest guidance on the design of Estate Roads as set out in Manual for Streets and Manual for Streets 2. It comments and concludes that the existing road geometry accords with the prevailing highway design criteria and is therefore suitable to cater for the existing and proposed development traffic. Pinsent Masons on behalf of SMAG challenges the developer's report and comments amongst other things on the 6m dimension of the new Estate Road shown on Figure 2. The Highway Authority has carefully considered the various representations and makes the following comments:

Road geometry and in particular road widths have come full circle. It is true that the existing road widths were at one time superceded. However the current Manual for Streets guidelines clearly show that 4.8m is an acceptable road width to cater for mixed traffic including some delivery and service vehicles. It is true to say that 5.5m width will allow 2 large vehicles to pass each other. This however is likely to be a rare occurrence. In respect of the proposed 6m wide Estate Road, the dimensions of any new internal estate road will be dealt with either at Reserved Matters stage or under any new Planning Application. The road width will depend upon the potential traffic and the expected levels of on-street parking.

The Highway Authority concludes that in respect of the Highway Network that Creedwell Orchard and Creedwell Close are acceptable to serve the development.

In conclusion the Highway Authority does not object to the application to vary the Section 52 Agreement.

MILVERTON PARISH COUNCIL – Initial comments (21st May 2012):

"The Parish Council wishes to draw to your attention to the fact that it owns a small parcel of the land within the area of the Agreement and is therefore a party to it. There are also several other freehold owners as well as S Notaro.

This S52 Agreement is a Planning Obligation formed as a contract that runs with the land and which is enforceable both jointly and severally on all of the original owners and all subsequent owners. S Notaro as a subsequent part owner is unilaterally seeking a variation.

...[Quoting extracts from the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992]...

The Parish Council wishes to inform you that it has had no communication from S Notaro regarding any variation to this agreement or its terms and therefore advises Taunton Deane Borough Council that it believes that is acting *ultra vires* by consulting over any unilateral application for amendment....

Furthermore S Notaro as the applicant specifically mentions in their letter requesting variation that a new planning application pertaining to the site in question will be

forthcoming which will directly provide for one of the requirements of the S52 agreement. Milverton Parish Council has serious concerns regarding the appropriateness of determining this request for variation prior to sight of the forthcoming planning application. We are of the opinion that the existing S52 agreement would be a significant material consideration in determining any future application on that site.

Can you please detail what steps are being taken to ensure that there is no possibility of any decision on this application or subsequent related application for variation altering the grounds on which any subsequent planning application will be judged?"

Subsequent detailed comments (18th August 2012):

Notwithstanding the Parish Council's view that it is a party to the S52 agreement and therefore needs to consent to this change, I will set out some other concerns for the Committee's consideration.

1. Procedure

Your letter indicated that this application would be carried out under the Town And Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992. However, in discussion with the Clerk you indicated that there no legal procedures to cover the variation of S52 agreement. As a result you had felt the fairest way would be to use the nearest equivalent procedures ie the 1992 Regulations. The Parish Council feels that this was a reasonable way to proceed under the circumstances.

However, having decided to embark on a legal process it is incumbent on the public authority to ensure that the procedures laid out are adhered to as closely as possible. The 1992 Regulations **require** the applicant to notify all parties affected by the proposed change, in writing, at least three months before submitting their application. This did not happen and so it is possible that owners with an interest in this matter may be unaware of the changes proposed.

Whilst the Parish Council acknowledges the difficulty presented to Taunton Deane by a lack of relevant legislation, this should not lead to the authority using a pick and mix approach to deciding this matter. If you are going to 'piggy back' on a procedure it must surely be followed to the letter or else it becomes a pointless exercise? The process is therefore flawed and should be repeated with all relevant parties being given the opportunity to be engaged.

The Parish Council wonders if this can be explained by the fact that both the applicants and Taunton Deane share the view that the S52 can simply be amended by Taunton Deane granting consent in writing? This view would seem to be totally at odds with a consultation under the 1992 Regulations and the Parish Council would like to understand this apparent anomaly. It is presumed that you discussed this interpretation and process with your legal colleagues and Councillors would therefore

be grateful for a copy of the internal advice you received together together with any

relevant correspondence or commitments made to the applicant about how this would be handled.

Under the circumstances the Parish Council takes the view that Taunton Deane has engaged in a flawed process to resolve this matter and **objects** to the variation being sought under the current circumstances.

2. Prematurity

The Parish Council is well aware that the applicant intends to submit a new planning application on the Creedwell site. The Parish Council also takes the view that the chances of the 'extant' permission being build out are zero, not least because a full set of plans no longer exists and Taunton Deane deem the ones available insufficient to establish the plot layout (Letter T Meeres to Richard Buxton cc Milverton Parish Council 24 January 2011 Para 15).

Development on this Creedwell site is contentious. Until the advent of the Core Strategy and, despite various attempts to get it included, it has never featured in any Taunton Deane development plan. The last attempt through the Development Plan system was in 2004 when the Inspector roundly rejected the site as unsustainable. This plan led system has been circumvented by claiming (and convincing) Taunton Deane that the 1979 consent had indeed been properly started. Using the Certificate of Lawful Use gained as a justification Mr Notaro now states that he intends to apply for a new consent to build 72 houses. However, as it is based on the 'extant' permission dating back decades he is arguing that modern policies do not apply. The Parish Council understands that Taunton Deane has already conceded key points and for example there will be no requirement to provide Affordable Housing.

The Parish Council is not against some development on this site as long as it is well designed and proportionate in scale. There is therefore concern about a proposal to build 72 houses which would increase the village by over 10% and consequently considerable worry about traffic and parking in particular.

It would seem that Taunton Deane feels it has little or no ability within the planning system to control development on this site but the S52 still remains a valid document to help deliver appropriate traffic management and play area provision. An agreement now to remove the traffic provisions, based on a 2 day survey and in advance of any detailed plans from the applicant would appear to be totally premature and relinquish the last vestige of control that Taunton Deane as Planning Authority has over development of this site.

The Parish Council has noted with dismay that developers are openly challenging Local Plan policies on the basis that they may win at appeal because there is not an adequate housing supply in the area. Therefore if this agreement were lifted there would be nothing to stop a speculative 120-150 house application using the extant permission as a lever. It is therefore the Parish Council view that a decision on the S52 at this stage is premature and that discussions about varying it should be part and parcel of an open and transparent planning application process for a known proposal.

The Parish Council therefore **objects** to the consideration of the variation at the present time.

3. Partiality

The final point that the Parish Council would like to make is that by acting unilaterally to change the terms of the contract, Taunton Deane is favouring Notaro over and above the other parties to it and thereby depriving Milverton Parish Council and others of their property rights through a share of the windfall that Notaro stands to make from the change to the traffic terms. Already the Parish Council has had to incur costs in this matter to preserve its property rights and the loss of any potential benefit would further impact on the charge payers of Milverton.

There is no doubt that the S52 binds all owners of land within the red line and this includes the Taunton Deane, the Parish Council, Notaro and several private individuals. Whilst the lifting of the traffic obligations might be regarded as a benefit to some, the fact is that the amendment facilitates development of the part of the site which confers a much greater benefit on Mr Notaro. This benefit will come at no cost to him and a development will proceed without any benefit to the other parties except Taunton Deane who will be handsomely rewarded when, by this change, it becomes the sole owner of legitimate access to the field and sells it as a ransom strip.

The S52 regards all owners of land within the red line as 'the developer' and they are all bound jointly and severally. By unilaterally altering the contract Taunton Deane are effectively allowing Mr Notaro to profit at the expense of his contractual partners including the Parish Council which is of course a public body. Councillors would welcome your view on the legality of one public body depriving another of a legitimate source of income whilst enriching itself.

SOMERSET COUNTY COUNCIL RIGHTS OF WAY – An application has been received to register the site as a Town or Village Green. The application will now duly be considered.

Representations

WARD MEMBER – CLLR G. WREN

- Queries the legal basis for Notaro's request and TDBC's ability to consider the application.
- It is unwise to discuss the amendments to the S52 agreement before Notaro's new proposal has been made public. The S52 includes important aspects such as traffic management and a play area. A later amendment also restricted the number of houses that could be built. Notaro has said that it can build out the extant permission, but has indicated that it intends to bring forward a different scheme, however, details of this new scheme are as yet unknown.
- I understand that the prevailing view amongst Council officers is that the existence of the extant permission means that none of the Council's current

planning policies (affordable housing, S106 contributions etc.) can be enforced. This would appear to give Notaro 'carte blanche' to build whatever it likes. This agreement therefore seems to be the only constraint on the development of this site. If TDBC were to abandon this agreement now, it would lose any control or opportunity to negotiate over the development. Under the circumstances the only sensible course of action would be to agree to consider the variation (subject to being legally able to) as part of proper negotiations over the new proposal, coupled with an undertaking to do so once the planning permission is issued and a substitute S106 is in place.

90 letters of OBJECTION have been received raising the following issues:

Procedural

- The legal basis of treating the request to vary the S52 as a planning application for determination by the Planning Committee is questionable. The variation of the agreement requires a deed of variation that must be entered into by all land owners. Private residents in Creedwell Close and Creedwell Orchard now own part of the affected land.
- The S52 is a covenant and proper legal requirements for all interested parties to consent cannot be set aside by clauses that suggest that the Council can unilaterally agree variation in writing.
- The effect of varying the S52 is to allow development of the site to recommence. It had previously stalled because the developer did not control the access and was not able to widen the road. Therefore, allowing the variation is akin to granting planning permission afresh and all material considerations, including the principle of the development must be reconsidered.
- No ownership certificates have been received, which would have been required if the Council were truly treating this application in the same way as a request to vary a S106 agreement.
- The application is premature and should be considered alongside the forthcoming application for the redesigned residential development.
- The decision to sell the access land makes it difficult for TDBC to objectively judge this application.
- It is not certain that the certificate of Lawfulness is legally valid. Therefore no decisions that depend upon it should be made until the situation is clarified. The application relates to a non-existent planning permission and to allow it would be tantamount to granting a new permission.
- Planning applications should relate to a specific operation for which there is a positive intention that it will be carried out. This application is purely gamesmanship, is not genuine or in good faith and should therefore be rejected.

Reasons for the agreement

- Rescinding the conditions of the S52 will deny the Council the control it explicitly wishes to exercise. It may compromise safety and the protection of the conservation area.
- The agreement was entered into to ensure that the development did not prejudice the free flow of traffic or the conditions of general safety along the

neighbouring highways. This request prejudices both of those things.

- The agreement is the most important safeguard on the original permission to prevent the developer avoiding current planning policy requirements.

Particular objections to the current proposal

- The traffic estimates used in the application are understated. The survey effort was superficial and avoids the true peak hours. Figures from the Milverton Traffic Action Group (MTAG) based on 12 hour surveys over three different years show that the true peak traffic flows are as much as 50% higher than the applicant's assessment would indicate. The peak period is between 10.00 and 12.00, not 07.30 – 09.30 and 16.30-18.30 as suggested by the applicant, due to the presence of the Doctor's surgery. An earlier afternoon peak between 15.00 and 16.00 is a direct result of the school and its significant rural catchment.
- A 12 hour survey is required to properly ascertain traffic movements, such as has been conducted by MTAG in the past and recently (12th June 2012).
- There are problems with the TRICS information upon which the Entran paper has relied. The sample data sets chosen for comparison means that the sampling is not statistically valid. The locations chosen for comparison are not comparable to Milverton as a settlement or the site, which includes a doctors surgery. The sample data sets are also, at best, 4 years old and cannot be regarded as the most up to date, in accordance with best practice guidance.
- No quality audit has been provided as recommended in Manual for Streets 2 for conservation areas.
- Creedwell Orchard is too narrow for two vehicles to pass when vehicles are parked, which is a regular occurrence.
- There is no recognition of how the entrance to Creedwell Orchard is used as a passing place. Lorries frequently have to reverse into it to allow other vehicles, sometimes including other lorries to pass.
- Only one access point to the site is now available, placing great pressure on a single point opposite the access to the surgery car park and effectively creating a crossroad on an already very narrow road.
- If it can be argued that a change in policy allows a more lenient approach to consideration of the highway network, should it not also be argued that a change in planning policy makes the development unacceptable, so the request should be refused?
- Creedwell Orchard actually joins Fore Street, not Silver Street as suggested in the application. Fore Street is even narrower than Silver Street, at only 4.5m at the junction. No mention is made of this in the submission.
- Allowing the application to proceed smacks of TDBC being prepared to facilitate the developer to proceed unfettered.
- The required visibility splays pay no regard to the gradients of the surrounding roads.

Comparisons to 1974

- The development would generate far more traffic than was the case in 1981 when permission was refused for only 44 dwellings on the site. Since this time, the Medical Surgery has been built in 1986 and people now expect to have at least one and very likely more cars for each family.
- There are already traffic problems in Creedwell Orchard.

Problems with the development overall

- The Council has, for many years, considered the Creedwell Orchard site to be totally inappropriate for a lesser development than is currently proposed. The impact on the adjoining conservation area would be considerable and negative. The Council's Growth and Development Manager has already accepted that it conflicts with current, adopted, planning policy.
- The Prime Minister has already said that 'big plonking housing estates' should not be added to small villages. This should apply to this proposal.
- Additional traffic will cause grid lock within the village and make the highway very dangerous, particularly for pedestrians. Emergency services may get delayed to a critical extent. Traffic already becomes grid locked and vehicles are forced to reverse in convoy to unblock the road.
- Queuing traffic exiting and waiting to enter Creedwell Orchard will cause pollution and health problems.
- If permission is granted for 72 dwellings, as well as conflicting with the current planning policies it would have an adverse impact on the quality of life of existing residents, providing no positive improvements in the quality of the built natural or historic environment.
- The impact of the additional housing on the primary school would be considerable and negative. The school is already at capacity with three temporary classrooms.
- The size of the development is inappropriate for the size of the village. It is too much in one place and will be a visual disfigurement to a village that has grown in keeping with its community for several centuries.
- The type of housing proposed is out of character. Milverton is a heritage village with a need for sympathetic development.
- This application is more to do with satisfying people's desire to live in the rural community which is not a material planning consideration.
- Until recently residents could wander off the footpath when the land was lying fallow. It was the closest thing the village had to a village green, there is nothing to replace it within close proximity.
- There may be significant archaeological artefacts in the field.
- Milverton's position a local service centre should be considered. If the roads are overloaded even further people from the rural hinterland will not use its services, to the detriment of the village as a whole.
- If parking restrictions in the centre of Milverton are required as part of the proposal, or as a consequence, then this should be put properly in the public domain and scrutinised. TDBC have a duty to anticipate these problems.
- The Highway Authority's own publication "Estate Roads in Somerset; Design Guidance Notes" indicate that cul-de-sac developments should not exceed 100 dwellings. Creedwell Orchard already contains 109 and no evidence has been submitted as to why this should be set aside.
- The site is unsuitable for development, will cause flood risk and impact adversely on the conservation area.
- The Entran report cannot reasonably be seen as relevant for the road safety and traffic burden which the ultimately submitted development proposal is likely to impose on the road network.
- The development would hinder access needed to empty septic tanks at Weekhays, Houndsmoor Lane, which also serve Linley and The Anchorage on Burgage Lane.

Forthcoming applications

- There has been no substantial evidence submitted that the applicant will, or indeed, can build out the extant permission. The Council should be very wary of accepting evidence to vary the S52 based on the so called 'extant' permission when the developers true intentions for the site cannot be known.
- This application should not be considered when only an indicative plan is available. The proposal may change and numbers of dwellings may increase in the future.
- The ultimate scale of development proposed by the current applicant is not known. The District Valuer's sale price, 70% above the negotiated sale price, may prompt the applicant to seek a higher housing density. In that event, the current Entran paper would be rendered valueless.

Other matters

- The play space should have been delivered two years after commencement. As this has been shown to be the case, there would appear to be a clear breach of the original permission. Query whether the highway works should have also been completed.
- Object to the removal of the play space from the scheme.
- It beggars belief that a certificate of lawfulness was issued.

1 letter of SUPPORT has been received commenting that it will do Milverton good to have more people living in the village.

PLANNING POLICIES

DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,
S&ENPP49 - S&ENP - Transport Requirements of New Development,

DETERMINING ISSUES AND CONSIDERATIONS

This report will consider the legal basis for varying the Section 52 agreement and the material considerations that should be considered in doing so.

The legal background, basis for variation and relevant considerations

This is not an application for planning permission, rather it is a request to vary the obligations of an extant planning permission which could, theoretically, be built out at any time. A Section 52 agreement, made pursuant to Section 52 of the Town and Country Planning Act 1971 is similar to a modern day Section 106 agreement in that it allowed the Local Planning Authority to secure obligations that could not be delivered by planning condition. However, unlike Section 106 agreements, such as have been attached to planning permissions since 1990, there is no ability to make a formal 'planning' application to vary the agreement. The request to vary the

provisions can only be made by the agreement of the Council, by exchange of letters and/or deeds of variation.

The agreement was entered into in the Council's capacity as Local Planning Authority, not as landowner, and it is, therefore, in this capacity that any variation to the agreement must be considered, based upon the planning merits of such a request. It has been suggested that third parties – those who now own former Council property on Creedwell Orchard – also have an interest in the land to which this agreement relates and, therefore, must also be party to any decision to vary the agreement. The Council has taken counsel's advice on this matter and has been firmly advised that this is not the case. The Council can, unilaterally, agree to any variation of the terms of the agreement.

The planning permission to which the request relates – referenced 23/74/0011 – was implemented within the required time period. The issue of a Certificate of Lawfulness in 2007 now confirms this as the legal position and status of the permission. It is, therefore, legally possible for the developer to recommence that development and complete 74 of the dwellings on the site (6 of the permitted 80 dwellings were to be sited on land no longer owned by the applicant and developed more recently as part of Colesmore).

Theoretically, the applicant could purchase all of the necessary land to complete the required access and road widening works, fulfilling the terms of the obligation. Therefore, it cannot be said that the development permitted cannot be completed and occupied. In this context, when considering whether to vary the obligations, the Council must consider whether those requirements still serve a useful purpose and, in its capacity as Local Planning Authority, this must be assessed in planning terms.

The particular obligations at question relate to highways matters. They were entered into because the Council were concerned to ensure that "satisfactory means of access to the land should be provided" (S52 agreement, recital (6)). In considering whether to vary the agreement as requested, therefore, the Council must consider whether a satisfactory means of access to the land can be provided without undertaking the works originally required.

It has been suggested that in addition to these highway matters, the Council should also consider the wider implications of the development because it is 'unlocking' a permission that otherwise cannot proceed. Not only, therefore, is it allowing a development considered by many local residents to be inappropriate to continue, but it is also giving the applicant a stronger 'fall back' position in the event that he wishes to make a subsequent application for a different development. However, as noted above, it is not strictly true to state that the permission is 'locked'. It is theoretically possible for the required land to be purchased and the obligations fulfilled – such is a matter of land ownership, not planning merit. There is no planning reason that the development cannot be completed. Legal advice has also been sought around this matter, with Counsel concluding that the fact that the developer's 'fall back' position may be strengthened is not a matter that should be considered in deciding whether to vary the agreement. The only matter for consideration, therefore, is the highway safety implications of the requested variation.

The timing of the request

It has been suggested by the Ward Member and others that the request should not be considered in advance of the applicant publicising his detailed proposals for the site. It is no secret that the applicant wishes to seek permission for a different housing scheme to that for which permission already exists and public meetings/exhibitions have been held to discuss the proposals. There is concern that releasing the obligations of the Section 52 agreement will influence the shape of those proposals, particularly that it will give a fall-back position where contributions are not required to affordable housing, education and the like. It is also suggested that in preventing development proceeding, the Council is in a stronger position to influence any future development and can ensure that the 1970's scheme is not built out.

As discussed above, however, the resultant strengthening of the 'fall-back' position should not be considered. The Council, in its capacity as 'Local Planning Authority' must also act reasonably as a public body and cannot be seen to be preventing development that is already permitted and should otherwise be allowed to proceed. Whilst the developer may well seek an alternative scheme in the future, there is no reason to prevent them from completing the already permitted 1974 scheme, which he has a right to do as confirmed by the 2007 Certificate of Lawfulness.

The issue for debate - Highway safety and the necessity of the road widening works

1970s highway guidance, and to some extent planning policy, was designed around ease of movement and the need to accommodate the ever increasing use of motor vehicles. New roads, including residential estates were designed to accommodate all necessary two-way traffic with junctions and road widths in excess of 5m provided for ease of movement. This view prevailed well into the 1990s and has resulted in the types of road layouts to which we have become accustomed in modern housing developments. The road designs were retrofitted into existing streets where they joined existing main roads/village streets in order that developments could be accessed conveniently and this was, accordingly, the requirement of the Local Planning Authority when the permission was granted in 1975.

Throughout the early part of this century, there was increasing concern about the impact that such highway design was having on the character of existing settlements and the unimaginative 'highway-led' design solutions that were appearing in new housing development at the time. This led to a radical re-think of the way that highway design should be approached in residential areas, culminating in the publication of 'Manual for Streets' in 2007. The guidance was revised in 2010 with the publication of 'Manual for Streets 2'. The new guidance suggested that, in some places, it would be more appropriate to reduce visibility requirements, to slow traffic speeds. It acknowledged that visibility splays at junctions need not be based upon the maximum speed limit, but could be based on actual vehicle speeds in the locality. It also suggested that in some situations, full two-way road capacity may not be required provided that, generally, reasonably large vehicles such as refuse lorries could pass parked or slow moving cars on the streets. Such, the guidance indicates, can be achieved with narrower 4.8m carriageways. The highway guidance and standards for residential streets are, therefore, considerably different, and less onerous, to those prevailing in 1975.

Putting the history to one side, the applicant has produced details on traffic movements within the area to assess whether, using today's guidance, the existing highway network is capable of accommodating the likely increase in traffic that would result from the development. The work has been limited to the impact on Creedwell Orchard and its junction with Fore Street because that is as far as the previously required road works extended. The applicant's transport consultants, Entran, have produced a report ("the Entran report") that indicates that there is sufficient capacity within the existing highway network to accommodate the development proposed without the need for road widening. They have also shown that the existing junction of Creedwell Orchard and Fore Street complies with Manual for Streets guidance in terms of its visibility splays.

The Save Milverton Action Group (SMAG), in association with the Milverton Traffic Action Group (MTAG) and with input from Paul Lacey, a highway consultant, has produced a counter report ("the SMAG report") that has suggested that the Entran report incorrectly identifies peak traffic in terms of its timing and volume. The Local Highway Authority agree that there are significant shortcomings in the Entran report and that its findings in terms of peak traffic are flawed. They have therefore given their guidance taking account of the SMAG report's findings.

The SMAG report, based upon observations on various dates over 4 years, places peak traffic flow at a different time to Entran. This seems most likely to be due to the presence of the doctor's surgery, public car park and Milverton's role as a small local service centre. However, likely peak flow associated with the development is more likely to accord with the typical times suggested by Entran, such that it does not occur at the same time as the peak flow elsewhere on Creedwell Orchard.

SMAG has also challenged the anticipated trip flow analysis from the development, which they consider to be higher than suggested by Entran. Again, the Local Highway Authority have also taken account of SMAG's higher estimates in reaching their view.

In short, even accepting the 'worst case' scenario put forward by SMAG, the Local Highway Authority are confident that the existing highway network is capable of accommodating the traffic likely to arise from the development without the widening works previously required.

Conclusion

Based on the evidence supplied by Entran, together with the counter evidence provided by SMAG, the Local Highway Authority have considered the likely impact on Creedwell Orchard and its junction with Fore Street. They have concluded that the development would not have a severe impact on this part of the highway network and, therefore, no works are required to Creedwell Orchard or its junction with Fore Street in order to accommodate the development.

In light of the above, there is no reasonable planning ground to resist the variation to the Section 52 agreement that has been requested. True, it would allow development to continue (subject to purchase of the land physically required for access) but this is the developer's right, given the extant permission. Also true, it

may strengthen the applicant's fall back position in the event that a further application is submitted, although Counsel has advised that this is not a matter that should be considered in respect of this request.

With regard to the above, therefore, it is recommended that the agreement is varied through the removal of Clauses (1) and (2) of schedule I detailed in the opening paragraphs of the report.

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

CONTACT OFFICER: Mr M Bale Tel: 01823 356454

46/12/0012

MR F EDNEY

ERECTION OF SIX NO. B1 COMMERCIAL UNITS AND FORMATION OF VEHICULAR ACCESS AT SITE AT FORMER BRICKYARD, HIGHER POOLE, WELLINGTON

Grid Reference: 315058.121855

Full Planning Permission

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval

The proposal is considered not to have a detrimental impact upon visual or residential amenity nor harm the existing highway network and is therefore considered acceptable and, accordingly, does not conflict with Taunton Deane Core Strategy Policies DM1 (General Requirements), CP8 (Environment) and Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review..

RECOMMENDED CONDITION(S) (if applicable)

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

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

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

(A3) DrNo 1921-01 location plan
(A3) DrNo 1921-02 site/block/roof plan
(A3) DrNo 1921-03 floor plans
(A3) DrNo 1921-04 units A, B and C proposed elevations
(A3) DrNo 1921-05 Units D and E proposed elevations
(A3) DrNo 1921-06 Unit F
(A3) DrNo 1921-07 indicative site sections

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

3. Prior to their installation, samples and/or details 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 DM1 of the Taunton Deane Core Strategy.

4. (i) Prior to its implementation, 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 Core Strategy Policy DM1.

5. Prior to the commencement of the development, a 'Measures Only' Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. Such Travel Plan shall be implemented in accordance with a timetable that shall be agreed as part of the travelplan.

Reason: To ensure a transport choice is provided and to encourage staff to travel to and from work by means other than the private car.

6. Prior to first occupation or first use of the development hereby permitted, secure, covered parking spaces for not less than 2 staff and visitors' bicycles per unit shall be laid out, constructed and drained in accordance with a detailed scheme that shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be retained.

Reason: To ensure a transport choice is provided and to encourage staff to travel to and from work by means other than the private car in accordance with the NPPF.

7. The proposed access, including drainage and visibility splays, shall be constructed in accordance with details shown on the submitted plan, drawing number 1921-02, and shall be available for use before first occupation of the development hereby permitted. Once constructed the access shall thereafter

be maintained as such, including that there shall be no obstruction to visibility greater than 900mm above the adjoining carriageway level within the visibility splays indicated.

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

8. Any entrance gates erected shall be hung to open inwards, shall be set back a minimum distance of 6 metres from the carriageway edge and shall thereafter be maintained in that condition at all times.

Reason: To allow a vehicle to wait off the highway while the gates are opened or closed and thus prevent an obstruction to other vehicles using the highway. In the interests of highway safety in accordance with Policy 49 of the Somerset and ENP Joint Structure Plan Review.

11. No site clearance works or development (or specified operations) shall take place between 1st March and 1st September in any given year without the prior written approval of the Local Planning Authority.

Reason: To ensure that wild birds building or using their nests are protected and the Authority will require evidence that no breeding birds would be adversely affected before giving any approval under this condition bearing in mind that all wild birds, their nests and eggs (with certain exceptions) are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended), in accordance with Policy CP8 (Environment) of the Taunton Deane Core Strategy and the NPPF.

12. The development hereby permitted shall not be commenced (including any ground works or site clearance) until the applicant has undertaken a reptile survey of the site carried out at the appropriate time of year. The results of the surveys shall be submitted to and approved in writing by the Local Planning authority before any work commences on site.

If appropriate, the survey should include details of a scheme to avoid harm to any reptiles. Details of the scheme should include:

- Methods for the safe trapping and translocation of any reptiles from areas where they are likely to come to harm from construction activities.
- Identifying refuge or receptor areas for reptiles and providing protection to these area from construction activities.
- Provision of information to all construction personnel about the scheme, including nature conservation and legal implications.

The agreed scheme shall be fully implemented in accordance with the agreed details and timings.

Reason: To ensure the protection of any reptiles that may be present on the site in accordance with Policy CP8 (Environment) of the Taunton Deane Core Strategy and the NPPF.

13. The applicant shall undertake all the recommendations made in Country Contracts report dated February 2012.

The works shall be implemented in accordance with the approved details and timing of the works, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect wildlife in accordance with Policy CP8 (Environment) of the Taunton Deane Core Strategy and the NPPF.

14. Noise emissions from any part of the premises or land to which this permission refers shall not exceed background levels by more than 3 decibels expressed in terms of an A-Weighted, 2 Min Leq, at any time during the days and times indicated when measured at any point at the facade of any residential or other noise sensitive boundary.

Mon-Fri 0800 hrs to 1800 hrs
Sat 0800 hrs to 1300 hrs

At all other times including Sundays and Bank Holidays, noise emissions shall not be audible when so measured.

Noise emissions having tonal characteristics, e.g. hum, drone, whine etc, shall not exceed background levels at any time, when measured as above.

For the purposes of this permission background levels shall be those levels of noise which occur in the absence of noise from the development to which this permission relates, expressed in terms of an A-Weighted, 90th percentile level, measured at an appropriate time of day and for a suitable period of not less than 10 minutes.

Reason: To minimise the impact of the development in accordance with Policy DM1 of the Taunton Deane Core Strategy.

15. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions (a) to (c) below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition (d) has been complied with in relation to that contamination.

a) Site Characterisation

An investigation and risk assessment, must be completed to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written

report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages.
- If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants.
- An assessment of the potential risks to
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwater and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

b) Submission of Remediation Scheme

If any unacceptable risks are identified as a result of the investigation and assessment referred to in a) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

c) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

d) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk

assessment must be undertaken in accordance with the requirements of section a), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of section b), which is subject to the approval in writing of the Local Planning Authority.

e) Verification of remedial works

Following completion of measures identified in the approved remediation scheme a verification report (referred to in PPS23 as a validation report) must be produced. The report should demonstrate the effectiveness of the remedial works.

A statement should also be provided by the developer which is signed by some one in a position to confirm that the works detailed in the approved scheme have been carried out (The Local Planning Authority can provide a draft Remediation Certificate when the details of the remediation scheme have been approved at stage b) above).

The verification report and signed statement are subject to the approval in writing of the Local Planning Authority.

f) Long Term Monitoring and Maintenance

If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared and submitted to the Local Planning Authority for approval until the remediation objectives have been achieved.

All works must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policies DM1 of the Taunton Deane Core Strategy and the NPPF.

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 at **Burton Place, Taunton, TA1 4DY. Tel No 0845 345 9155.** Application for such a permit should be made at least four weeks before access works are intended to commence.
2. The Applicant is advised that the Highway Service Manager, at Burton Place, Taunton Tel No 0845 345 9155, must be consulted with regard to the required reinstatement of the verge/footway crossing at the access which is to be closed.

3. The applicant shall ensure that all vehicles leaving the site are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. In particular (but without prejudice to the foregoing), efficient means shall be installed, maintained and employed for cleaning the wheels of all lorries leaving the site, details of which shall be fully implemented prior to construction , and thereafter maintained until first occupation.
4. 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 they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation.
5. You are advised to consider undertaking a Construction Environmental Management Plan during construction of the site. The plan should include:
 - Construction vehicle movements;
 - Construction operation hours;
 - Construction vehicular routes to and from site;
 - Construction delivery hours;
 - Expected number of construction vehicles per day;
 - Car parking for contractors;
 - Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;
 - Measures to avoid traffic congestion impacting upon the Strategic Road Network.

PROPOSAL

Planning permission is sought for the erection of the land for 6 commercial units (B1 use). The proposed units each have an internal floor area between 80-90 m2.

The proposal also incorporates the formation of a new access. The existing access will be closed off into the site and a new access provided in the centre of the site with security gates set back 6.0m from the carriageway. A security fence is proposed along the north boundary of the site, set back a distance between 2-3m to allow for landscaping.

A turning area and parking for 19 cars would be provided within the site.

SITE DESCRIPTION AND HISTORY

The context of the site and its environs is that it used to be part of the former brick works and yard. The roadside boundary of the site is delineated by a red brick wall and this is replicated elsewhere along the highway. The original brick works factory has now been separated off into various parcels of land and uses. To the rear (south) of the site is the re-cycling centre. To the front (north) of the site is a row of

terraced brick built properties which presumably were historically workers cottages to the former brick yard. These dwellings remain in residential use.

Planning history

46/88/0001 - Erection of workshop building and siting of portakabin office on land to the west of the site.

46/89/0032 - Use of land for stationing mobile home as office accommodation on land to the south of the site

46/90/0009 - Use of land as a waste disposal transfer station on land to the south of the site.

46/94/0006 - Extension of existing waste skip yard on land to the south west of the site.

46/10/0002 - Formation of access and use of land for storage at former brick yard, Higher Poole, Wellington. Application refused on 7th June 2010. The application was later dismissed at appeal.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SCC - TRANSPORT DEVELOPMENT GROUP - Following comments:

- Site located in Higher Poole on an unclassified highway with a national speed limit.
- Outside of any development limit, likely to result in staff being dependent on private vehicles, a matter for the Local Planning Authority to decide benefit.
- Not previously refused on highway grounds.
- Acceptable visibility splay and entrance gates are set back.
- Parking provision acceptable, with 19 spaces, 2 more than Somerset County Parking Strategy, justified to prevent on street parking. A disabled space should be provided.
- Cycle storage should be provided.
- Turning area acceptable, HGVs not anticipated to visit regularly.
- Recommend conditions

WEST BUCKLAND PARISH COUNCIL - Objects:

- Overdevelopment of the site.
- Detrimental effect on the amenity of the neighbouring properties.
- Access road unsuitable to carry additional vehicle movement that would be created.
- Within 2 miles of the site there is plenty of under utilised business space that has already been developed.
- Potential loss of trees which act as a buffer/screening of existing industrial units behind this site.

LANDSCAPE - Following comments:

- Subject to details of landscaping the proposals are acceptable.

NYNEHEAD PARISH COUNCIL - Objects:

- Accept site is in a residential area; proposed development unacceptable because road access is unsuitable for additional traffic it would generate.
- Road has not been improved to cope with additional traffic arising from development on the road and congestion caused by change in opening hours at waste recycling site.
- No more development should take place until a new access from Chelston estate is provided, as has been proposed in the past.

ENVIRONMENTAL HEALTH - NOISE & POLLUTION - Following comments:

- The application is for B1c light industrial use. The application form does not give any details about the proposed opening hours, the businesses that may be on the site or any plant or equipment that may be used. There are residential properties on the opposite side of the road to the site and there is a mixture of other commercial uses adjacent and in the surrounding area.
- Without any detail of the type of business or equipment on site I can only make general comments regarding noise.
- Planning guidance states that B1c use is one that “can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit”.
- This should mean that the businesses on site should be restricted in their type and operation. If any business on the site does cause problems with noise (or other issues) that are in “detriment to the amenity” they would be operating outside the allowed uses at the site.
- With any commercial use there is likely to be some noise from activities on site. This could be restricted by ensuring that they meet the criteria for B1c use. A planning condition could also be used to restrict noise (example below – this is more suitable for controlling noise from plant/equipment on site). There could also be a restriction on the hours of operation.
- The noise from vehicles accessing the site will be audible at the residential properties on the other side of the road at Higher Poole. This is more likely to disturb residents at night and could be reduced by restricting the hours of operation on site.
- Recommend a condition for noise levels outside of specified working hours.

ENVIRONMENTAL PROTECTION - CONTAMINATION - Following comments: -

- Request condition regarding contaminated land.

BIODIVERSITY OFFICER – Following comments:

- Remnant brick walls define the footprint of the former industrial buildings whilst the remainder of the site is covered by ruderal, scrub and grassland habitats.

- The wildlife report found: - no evidence of bats but considered the site to provide limited bat foraging resource; no evidence of badger's activity within site but evidence of a path through a hedge on the opposite side of the road; some nesting potential and foraging for birds; good potential for reptiles.
- Condition recommended re survey for reptile survey, no works during nesting bird season unless agreed and recommendations of submitted survey.

Representations

SIX LETTERS OF OBJECTION raising the following:

- Increase in traffic, road already congested; queues to recycling centre outside of our properties (Higher Poole) as centre sometimes has to close for 20 minutes.
- Unable to park in front of house (Higher Poole).
- Unsafe for lorries turning into site, almost against front of doors to Higher Poole; unable to turn if cars park to front of properties; insufficient room to negotiate safe exit.
- Access for emergency services.
- Highway safety for children due to increase in traffic and closeness to properties at Higher Poole.
- No speed limit along road; vehicles travel very fast when it is not blocked or congested.
- No demand for units; empty units not being used in 13 other locations (list of sites provided by objector).
- No change since previous refusal and appeal.
- Increase in business units, in a residential area, leaving and arriving at different times would cause more disruption.
- Taller buildings than dwellings at Higher Poole, 8.5m high and approx 12m from the nearest property, and would not be screened, unlike Wellington Skips that put up a fence and trees to screen and shield; would impact on outlook, currently we can spot rabbits and birds that will be replaced by a tiny tree and metal.
- Loss of natural light.
- Land acts as a buffer.
- Existing business units are not in direct view.
- Disturbance during construction; many residents work shifts; building process would create alto of noise/waste/dust affecting our lives and health
- Likely security/flood lights would affect properties and occupiers and my daughters sleeping pattern.
- Noise from security alarms.
- Land once used by residents for recreational uses and allotments, no commercial use for over 30 years.
- Trees and shrubs already removed by applicant, removing wildlife that lived there. If application turned done, wildlife may return.
- Land does not form part of the development of Wellington.
- Loss of historic boundary wall, well over 100 years old.
- Negative effect on value of properties.
- No street lights or footpaths making it extremely dangerous for cyclists and pedestrians after dark.

ONE LETTER OF REPRESENTATION raising no observations/comments.

PLANNING POLICIES

DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,
CP2 - TD CORE STRATEGY - ECONOMY,
CP6 - TD CORE STRATEGY - TRANSPORT AND ACCESSIBILITY,
CP8 - TD CORE STRATEGY- ENVIRONMENT,
S&ENPP49 - S&ENP - Transport Requirements of New Development,
NPPF - National Planning Policy Framework,

DETERMINING ISSUES AND CONSIDERATIONS

The main issues for consideration are the principle of the development, highway safety, the effect on the character and appearance of the area and residential amenity.

Principle

The site is within the open countryside, in terms of planning policy. However, it clearly relates to the other employment/business units at the former brick works. Therefore, the character of the area is one of commercial activity within a broader countryside setting, albeit that there are a handful of residential properties directly opposite the site. Policy DM2 of the Core Strategy indicates that small scale employment buildings may be acceptable adjacent to the limits of a settlement. This site does not adjoin a settlement, rather it is in an isolated countryside location. However, the surrounding land uses indicate that the development could be acceptable in principle, and the previous appeal decision did not specifically conclude that the development was unacceptable in principle; rather the consideration was based on an inability to identify the likely harm to neighbouring residents or the character of the area and there was no clear economic benefit to weigh against this.

The previous application was for an undefined 'storage' use. It did not contain specific details of the nature of the storage, where the storage would occur, be stored and to what height, and was concluded that it would be most probable that the activities would do nothing but harm the character and appearance of the locality.

Concerns were also raised regarding the access being opposite the residential properties. However, the likelihood of additional harm to residential outlook and reasonable living conditions was based on the absence of details regarding the activities of the site. This application seeks to clarify how activities would be carried on at the site and, if this can be seen to have limited harm on the surrounding area, it is considered that, on balance, the development can be considered acceptable in principle.

Highways

In terms of highway safety – the concerns of local residents are noted. However, the Highway Authority does not raise an objection to the proposed access point in principle and as such it is not considered reasonable to substantiate a refusal reason

on such grounds.

Visibility splays have been provided for the site, beyond that would be required based on the surveyed traffic speeds, and the proposed entrances gates have been set back to allow vehicles to wait off the highway. Sufficient space has been provided within the site for turning and parking; the Highway Authority has not anticipated that any HGVs would regularly visit the site.

Visual/residential amenity

The siting of the proposed 6 units has been spread within the site to minimise any impact upon the Higher Poole cottages. Three units (A-C) are located to the west of the site, units E-D opposite 21 Higher Poole (end of the terrace) and a single unit (F) to the east of the site.

Units A-C measure 20.6m x 6.2m and has a ridge height of 8.4m. This building is not sited in front of any of the properties at Higher Poole, it is sited off to the side of 14 Higher Poole (beginning of the terrace), with the closest distance between being 13.8m and the distance to the centre of the proposed building (highest point) being 16m away. Given that the proposed building is set-off at an angle to the side of No. 14, and the distance between the proposed building and No. 14, there is not considered to any detrimental loss of light.

Units E-D measure 13.6m x 13.2m and have a ridge height of 8.4m. These units are sited in front of No 21 Higher Poole, set back by a distance of 16.8m. To the east of this unit there is a parking area before unit F and to the west of the building there is a parking/turning area. Given the distance from the proposed building to the residential property and the openness of the site, the proposed units are not considered to cause any undue loss of light to No. 21.

Unit F is sited to east of the site, close to the edge of the boundary shared with the Waste Recycling Centre. This unit is set away from the row of residential properties, with gable facing onto the roadside with a garage and open fields on the opposite side of the road.

Whilst it is acknowledged that the occupiers of Higher Poole will have a different outlook, the siting of the buildings and proposed landscaping is as such that it is considered that the proposals will not cause any detrimental loss of light and any impact from the siting of the buildings would be minimal.

To safeguard any possible harm to the future residential amenity of the occupiers of Higher Poole, a condition will secure open hours of the proposed units and a further condition will be required regarding noise levels.

The proposed security fence has been set back to allow for tree planting to the front of the site. This would allow the security fencing and part of the new units to be screened from ground floor level. Some additional planting is also proposed within the site. It is also considered that the proposed layout of the submitted application retains the sites role as a 'buffer' by maintaining a large proportion of the site, opposite the residential properties, as a parking/turning area.

Wildlife

The Biodiversity Officer has agreed with the findings and recommendations of the submitted wildlife survey and the proposed mitigation should be made a condition of this approval; this will include requesting a further retile survey.

Conclusion

The proposal is a different scheme than the previous application, providing more detail and overcoming the concerns raised within the Appeal Decision. Furthermore, the layout of the site minimises any harm on the residential properties and would not cause any detrimental loss of light. The proposal is therefore considered acceptable.

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

CONTACT OFFICER: Mr D Addicott Tel: 01823 356463

38/12/0244

MR & MRS D WHITE

ERECTION OF DWELLING WITH ASSOCIATED GARAGE AND PARKING PROVISIONS, WITHIN THE GARDENS OF HAWKSWORTH HOUSE AND LAND TO THE NORTH, AT 1 HOLWAY AVENUE, TAUNTON, AS AMENDED

Grid Reference: 323419.124041

Full Planning Permission

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 access would be satisfactory, adequate parking and turning is provided and the development would not have a detrimental impact on the amenity of surrounding residential properties and the proposal is considered in accordance with Policies CP4, CP6, CP8 and DM1 of the Taunton Deane Core Strategy and retained Policies STR4 and 49 of the Somerset and Exmoor National Park Joint Structure Plan Review and policy M4 (Residential Parking Provision) 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 01 Location Plan

A4) DrNo 02 Block Plan

(A1) DrNo 03 Rev B Existing Site Layout Survey Drawing

(A1) DrNo 09 Rev F Proposed Site Layout Sketch Scheme 05 Design Drawing

(A1) DrNo 10 Rev C Proposed Plans, Elevations and Section A-A, Sketch Scheme 05

A4) DrNo 011A Block Plan

Design Drawing

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 DM1 of the Taunton Deane Core Strategy.

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 building(s) 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 Core Strategy Policy DM1.

5. The window(s) in the first floor side elevations (south west and north east) shall be glazed with obscure glass and be fixed or limited opening to be agreed in writing by the Local Planning Authority and shall thereafter be so retained. There shall be no alteration or additional windows in these elevations without the further grant of planning permission.

Reason: To ensure the privacy of the adjoining occupiers in accordance with Taunton Deane Local Plan Policy H17(A).

6. The dwelling shall not be occupied until turning and parking spaces shown on drawing 09F are provided and the parking spaces shall be retained and only used in connection with the development hereby permitted.

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

7. A method statement to avoid construction work impact on tree roots and branches and details of the foundation design shall be submitted to and approved in writing by the Local Planning Authority prior to work commencing on site.

Reason: In the interests of protecting trees in the area.

Notes for compliance

PROPOSAL

The proposal is to erect a 5 bedroom detached dwelling on land to the rear of 1 Holway Avenue and 45 South Road with access via an existing track off South Road serving existing properties and a parking area.

SITE DESCRIPTION AND HISTORY

The site lies on the eastern side of South Road within the existing built up area of the town and is accessed by a single vehicular width track. The site straddles the conservation area boundary which runs along the rear of the Holway Avenue gardens. So the existing parking area lies within the conservation area while the garden to the south does not.

There have been no previous planning applications on the site.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SCC - TRANSPORT DEVELOPMENT GROUP - The proposed development is situated in a residential area of Taunton within development limits, therefore the principle of development is acceptable in this location.

The site is located to the rear of 1 Holway Avenue, an unclassified highway to which a 30mph speed limit applies. However vehicular access to the proposal is situated off South Road, a Class 2 highway, to which a 30mph speed limit applies. South Road is designated as a County Route under Policy 51 of the Somerset & Exmoor National Park Joint Structure Plan Review. It was observed from my site visit that there is an abundance of vehicles parked on the highway at this location.

The proposal seeks to erect a dwelling with associated garage and parking. Having carried out a site visit on 9 July and studied the drawing accompanying the application I have the following highway and transport observations.

The site is located approximately 30 back from the public highway at the end of a private track. Whilst on site it was noted that the track also serves additional dwellings. The track is estimated as 3.5m wide with no passing places along its duration. The proposed access which will be retained as part of the development lacks sufficient width to accommodate additional vehicle movements associated with the proposed dwelling. It is noted from the submitted drawings that there is has been no improvements to the existing access. The Authority note from the red line drawing that land either side of the access is not in control of the applicant. Therefore it is questionable if any improvements can be accommodated as part of the scheme.

The Highway Authority would wish to see the width of the access a minimum of 5m to ensure vehicles entering the site can do so without having to wait on the public highway causing an obstruction to other road users.

The retained access provides limited visibility encouraging the driver to edge onto the carriageway to achieve visibility, especially to the north. Additionally the level of

vehicles parked along the highway either side of the access pose as a physical obstruction to visibility again causing a vehicle emerging onto South Road to edge further onto the carriageway.

There has been a reported personal injury accident in this location within the last five years relating to a vehicle emerging onto the South Road.

Drawing No. 09 details the proposed internal site layout. Firstly vehicle turning is inadequate as it lacks sufficient area to accommodate suitable vehicle turning onto a Class 2 road. To enable turning within the site vehicles need to be able to enter, turn and leave all within a three point turn; if any more movements are required then it is likely that drivers will not attempt this and will just reverse into/out of the site.

It is unclear the existing use of the site. The Design and Access Statement states that the area is currently used for vehicular parking but it is unclear as to who it is provided for. Therefore it is assumed that the proposal for a dwelling will mean that off street parking provision will be unavailable. Again it is unknown to who the parking area is provided for at present but I can comment that a new dwelling will generate 6-8 movements, according to TRICS database. Clarification is needed on the use of this parking area.

Commenting further on the scheme Taunton has been identified as a Zone A for parking provision therefore Somerset County Council – Parking Strategy (adopted March 2012) states the requirement for 3 spaces for houses of 4 bedrooms or more. The site is currently in line with the standards, albeit constricted as shown on the submitted drawing. It is noted from Drawing No 09 that the proposed property is provided with a garage, the Somerset County Council – Parking Strategy provides minimum dimensions for garages, both single and double. These dimensions are as follows:

Single 6m x 3m and double 6m x 6m.

The garage does not comply with the required minimum dimensions for new garages. In addition as part of the newly adopted Parking Strategy, new residential dwellings need to provide a minimum of 1 cycle space/storage facility per bedroom. These are based on dimensions of 2m by 1m and will allow the occupiers of the proposed dwellings to use alternative sustainable modes of transportation. Again it is not clear from the submitted information that cycle provision will be made available for cycle storage facilities.

Once additional information has been received the Highway Authority will comment further on the scheme, if however this is not forthcoming it may be necessary to recommend refusal of the application.

15/8 Additional Comments

I refer to the above-mentioned planning application received in my department on the 9th July 2012. The Highway Authority requested additional information on the 24th July 2012 relating to current use of the site, vehicle turning and cycle provision. Having received the relevant information on the 31st July 2012, I have the following observations on the highway and transportation aspects of this proposal:-

The proposed development is situated within a residential area of Taunton within development limits therefore the principle of development is acceptable in this location.

This site is located to the rear of 1 Holway Avenue, an unclassified highway to which a 30mph speed limit applies. However, vehicular access to the proposal is situated off of South Road a Class 2 highway, to which a 30mph speed limit applies. South Road is designated as a County Route under Policy 51 of the Somerset and Exmoor National Park Joint Structure Plan. It was observed from my site visit that there is an abundance of vehicles parked on the highway in this location.

The proposal seeks to erect a dwelling with an associated garage and parking. Having carried out a site visit on the 9th July 2012 and studied the drawings accompanying the planning application, I have the following highway and transportation observations.

The site is located approximately 30m back from the public highway, at the end of a private track. Whilst on site it was noted that the track also serves additional dwellings. The track itself is estimated to be 3.5m in width, with no passing places along its duration.

Existing Use

The Highway Authority queried the use of the land at present as it would see a loss of vehicle parking. However, having received additional information from the agent acting on behalf of the applicant, the site is currently used as a private vehicle parking area. To which provides parking licences for five no. local residents to park on this private section of land. It is to my understanding that the licences could be terminated within a one month notice period, regardless of any planning application submitted. Therefore it would be unreasonable for the Highway Authority to object that the proposed development would be likely to encourage the parking of vehicles on the public highway.

Given that the proposal is for a single residential dwelling, it is considered that the site will see a reduction in vehicle movements. Referring to TRICS database the estimated vehicle movements for a single residential unit are approximately 6-8 movements per day. As a result it would therefore be unreasonable for the Highway Authority to recommend that the development would see an increase in vehicle movements associated with existing access, albeit substandard.

Vehicle Turning

My letter dated to the Local Planning Authority dated 24th July 2012, indicated that submitted drawing No. 09 detailed the internal site layout, it was considered that vehicle turning is inadequate as it lacks the sufficient area to accommodate suitable vehicle turning onto a Class 2 road.

To enable turning within the site vehicles need to be able to enter, turn and leave all within a three point turn: if any more movements are required then it is likely that drivers will not attempt this and will just reverse into/out of the site.

However, I am in receipt of an amended drawing (No. 09/E), which shows that albeit constricted, a three point manoeuvre is possible within the site. In reality vehicles are likely to make more manoeuvres within the site, which in this instance is considered acceptable, as vehicles are unlikely to reverse approximately 30metres back along a single width access track onto the public highway. As a result I consider that drawing No. 09/E provides satisfactory

vehicle turning. It is imperative that this area remains free from obstruction, to which a suitable condition will need to be imposed.

Garage Dimension

Drawing No. 09/E provides details of the proposed garage within the site. The Highway Authority are satisfied that the garage dimensions are now that of the Somerset County Council – Parking Strategy (3m x 6m).

Cycle Provision

It is noted from drawing No. 09/E that sufficient cycle storage facilities have been provided within the site. I am satisfied that the level of parking provision provided for the development, is in line with the Somerset County Council – Parking Strategy.

In light of the above, the Highway Authority has no objection to this proposal subject to the following conditions:-

The area allocated for parking and turning on the submitted plan, drawing number 09/E, shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order), the use of any existing garage, or garage hereby permitted, as part of this development shall not be used other than for the parking of domestic vehicles and not further ancillary residential accommodation, business use or any other purpose whatsoever.

HERITAGE - In my opinion, the proposal will not detrimentally affect the setting of the Conservation Area, due to its hidden nature and the fact that the site is already surrounded by buildings.

LANDSCAPE OFFICER - Further to the revised report from Swan Paul Partnership I wish to make these further comments.

My main concerns are still the impact of the proposed building and trenching works on the RPA's of the Oak and Birch trees and the impact of the proposals on the loss of amenity value of the Birch tree and wider conservation area.

If permission is to be granted it is important that the foundations are designed to minimise root disturbance and a method statement is agreed to avoid construction work impacts on the tree roots and branches.

Boundary treatment on the tree side should be no more than fencing as brick or stone walls will require footings that could also damage the tree roots.

Representations

Ward Cllr Objection – Firstly it is incorrect to refer to this as being in Holway Avenue, the access will be from South Road and part of the site is within the South Road

conservation area. The conservation area status should bring protection to this area and the preservation of the character and traditional nature of large family houses with family size gardens is important to maintain the conservation area in its current form. The loss of back gardens for development is wrong and the government have given powers back to the local authorities to stop this kind of development. The neighbouring family homes all enjoy gardens that back onto other gardens, to build a house in these gardens will be detrimental to the amenity of the other gardens in the area and will result in the loss of the private nature of these gardens and loss of privacy. The proposed new house will overlook many of the neighbouring properties and be overbearing due to its size and bulk within the garden setting. I feel that the proposed house is too large for site and will not provide adequate garden for a house of this size. The wider impact of this proposal on the existing properties cannot be underestimated. The unmade parking area within the conservation area provides off road parking for many residents. An aspect of protecting conservation areas is that development should not increase car movements, this proposal will greatly increase car movements as a 5 bedroom house will have at least 3 cars, and the loss of the parking area will result in South Road having to cope with more vehicles trying to park on the street. I cannot see any positives to this proposal at all and support the neighbours in their wish to retain the integrity of the conservation area and keep the privacy of their back gardens intact.

11 letters of support (only 1 from immediate area) on grounds of needed family home in the town centre, accessible by a variety of means, design in keeping with the area, sustainable location within easy reach of facilities and tidies up previously developed land. Removal of parking will improve road safety on South Road.

13 letters of objection from local residents on grounds of
Adverse impact on amenity of neighbours.

Loss of privacy with around 20m from the rear of the new dwelling to the back of the neighbour's dwelling with large area of glazing

Overlooking from windows of Tauntfield Lodge, Tauntfield Mews, 45 South Road and 1 and 3 Holway Avenue.

The new dwelling would be overlooked and impact on occupiers privacy.

Increase in density.

Adverse impact on silver birch tree.

Overshadowing of back gardens and impact on hedge.

Disturbance of wildlife habitat such as badgers, fox, squirrels, bats, birds and insects.

The area is used by foraging badgers.

Impact on sewer

The subdivision of the existing garden is inconsistent with the character of the adjoining properties.

The proposal does not maintain or enhance the character and appearance of the conservation area and would be out of keeping and not a positive incursion.

The garage proposed is in the conservation area on land that has not been developed before and is therefore not brownfield.

This is 'garden grabbing' and gardens are not previously developed land.

The loss of green space and places for children to play.

It would create two large family houses with small gardens.

It is a harmful effect on a large number of local residents.

Loss of quality of life.

No need for large 5 bedroom houses.

Inadequate turning space.

Vehicles travel along South Road faster than the 30mph speed limit, there are no traffic calming measures and the road junction with the track is dangerous.

Lack of visibility.

Negative effect on residents of 47-55 who have rented the land for parking for many years but have one month notice to terminate.

It would force resident parking onto the street where parking is already under pressure and may lead to pressure to remove such parking for safety reasons.

Vehicles parked on the road are exposed to theft and vandalism.

Suggested conditions by the Highway Authority are unenforceable.

The access is inadequate for construction vehicles and delivery lorries

Some residents need cars for work if can't park nearby would be forced to change career or move house.

Loss of house values and loss of Council tax

Possible covenant on the land restricting the building of dwellings.

PLANNING POLICIES

STR2 - Towns,

STR4 - Development in Towns,

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

CP1 - TD CORE STRAT. CLIMATE CHANGE,

CP4 - TD CORE STRATEGY - HOUSING,

CP6 - TD CORE STRATEGY - TRANSPORT AND ACCESSIBILITY,

CP8 - TD CORE STRATEGY- ENVIRONMENT,

SP1 - TD CORE STRATEGY SUSTAINABLE DEVELOPMENT LOCATIONS,

DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,

M4 - TDBCLP - Residential Parking Provision,

EN14 - TDBCLP - Conservation Areas,

T1 - TDBCLP - Extent of Taunton,

LOCAL FINANCE CONSIDERATIONS

The development of this site would result in payment to the Council of the New Homes Bonus.

1 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£1,079
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Somerset County Council (Upper Tier Authority)	£270
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6 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£6,474
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Somerset County Council (Upper Tier Authority)	£1,619
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DETERMINING ISSUES AND CONSIDERATIONS

The main considerations with this proposal are the impact on the character of the area, the impact on amenity of neighbours and access parking and highway safety.

CHARACTER OF THE AREA

The application site lies on the edge of the South Road Conservation Area with the boundary running through the site along the existing rear boundary of 1 Holway Road. There is built residential development around the site other than the commercial office building to the north-east. The provision of a dwelling here is not considered to detract from the character of the area and this view is also held by the Conservation Officer. The loss of the car park use is not something that can currently be controlled and the provision of a garage, parking and turning space on that part of the land in the conservation area is not considered to be detrimental to the character of this area.

AMENITY

Window to window distances of first floor bedrooms with adjacent properties are around 20m or more, other than with the applicant's property to the rear which is 16m and the property at No.3 Holway Avenue which is around 18m. Overlooking from bedroom windows at this distance is considered to be acceptable and not grounds to refuse the proposal. The first floor windows to the western side elevation facing 45 South Road serve a bathroom and stairs and would be obscure glazed. The terrace at first floor level to the front is also designed so as not to give rise to any significant overlooking with parapet walls and it is largely being set behind the roof of the proposed garage. The rooflights in the bedroom are set at a high level to prevent looking down into adjacent gardens.

ACCESS

The dwelling will be served by an existing access which is narrow with limited visibility at the junction with South Road. This access however is currently used by 3 residential properties plus the car park on the application site. The parking area currently is licensed for 5 vehicles, however this can be terminated at any time regardless of any planning application and consequently the Highway Authority consider it unreasonable to object on the ground that the development would encourage parking on the highway. The Highway Authority accept that the proposal will reduce the traffic using the access and raise no objection on this basis.

The garage is 6m x 4m and is considered of adequate size for a vehicle and cycle parking is also provided on site. Adequate parking and turning is provided within the site to the satisfaction of the Highway Authority and subject to conditions with regard to parking/turning and garage use.

OTHER ISSUES

The proposed dwelling is in close proximity to two trees off site and concern has been raised over the impact on these trees. The nearest is a silver birch which lies in the adjacent garden and lies outside the conservation area. The Landscape Officer considers that it is important that any foundations are designed to minimise disturbance and a method statement should be agreed to avoid construction impacts on tree roots and branches. It is considered that this should be a condition to be imposed together with one on boundary treatment.

The proposed drainage is intended to utilise the existing drains in the area and

Wessex Water has raised no objection to the proposal.

The matters of a possible covenant and land ownership are private civil issues and do not affect the planning considerations of the proposal.

SUMMARY

The proposed dwelling is set back from the road and is not considered to harm the character of the conservation area and is designed at a sufficient distance so as not to cause a significant adverse affect on neighbours. The access is narrow with poor visibility but already serves a number of dwellings as well as a car park area and the provision of a house here would result in less traffic and the Highway Authority do not raise an objection and the application is therefore 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

MJT BUILDING AND CIVIL ENGINEERING CONTRACTORS LTD

DEMOLITION OF BUILDINGS AND ERECTION OF 7 NO. RESIDENTIAL DWELLINGS WITH ASSOCIATED GARDENS, PARKING AND ACCESS ROAD AT 7A - 13 STAPLEGROVE ROAD, TAUNTON AS AMENDED

Grid Reference: 322475.125021

Full Planning Permission

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval

Subject to the provision of Section 106 Agreement to provide an affordable housing unit permission be granted

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 while there are issues over flood risk, the development would not have a detrimental impact on the amenity of surrounding properties and is considered in accordance with Policies SP1, CP4 and DM1 of the Taunton Deane Core Strategy and retained Policies of the 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:

(A3) DrNo 10 Plot 7 Proposed Plans and Elevations

(A2) DrNo 09 Plots 5 & 6 Proposed Plans and Elevations

(A1) DrNo 07 Rev C Proposed Site Plan

(A1) DrNo 03 Existing Topographical Survey

(A1) DrNo 08 Plots 1-4 Proposed Plans and Elevations

(A1) DrNo 11 Rev B Proposed Site Plan - Plot 1 to 4, Proposed & Existing Street Elevation

(A1) DrNo 12 Proposed SitePlan- Plots 5,6 & 7 Proposed and Existing Street Elevation

(A4) DrNo 06 Rev B Proposed Block Plan

(A4) DrNo 02 Block Plan

(A4) DrNo 01 Location Plan

(A1) DrNo 13 Rev A Proposed Landscaping 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. The boundary treatment shown on drawings 11B and 13A shall be completed before **the building(s) are 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. The development hereby permitted shall not be commenced until details of a strategy to protect bats and birds has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of Country Contracts submitted report, dated May 2012 and include:
 - Details of protective measures to include method statements to avoid impacts on protected species during all stages of development;
 - Details of the timing of works to avoid periods of work when the species could be harmed by disturbance;
 - Measures for the retention and replacement and enhancement of places of rest for the species.

Once approved the works shall be implemented in accordance with the approved details and timing of the works unless otherwise approved in writing by the Local Planning Authority and thereafter the resting places and agreed accesses for bats and birds shall be permanently maintained. The development shall not be occupied until the scheme for the maintenance and provision of the new **resting places** and related accesses **have** been fully implemented

Reason: To protect bats and birds and their habitats from damage bearing in mind **these** species **are** protected by law.

6. A further wildlife survey shall be carried out if no demolition of the buildings on site has occurred within two years.

Reason: In the interests of wildlife protection.

7. Prior to the commencement of development the applicant shall investigate the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses. The applicant shall:
- (a) Provide a written report to the Local Planning Authority which shall include details of the previous uses of the site for at least the last 100 years and a description of the current condition of the site with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site.
 - (b) If the report indicates that contamination maybe present on or under the site, or if evidence of contamination is found, a more detailed site investigation and risk assessment shall be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance (or guidance/procedures which may have superseded or replaced this). A report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.
 - (c) If the report indicates that remedial works are required, full details shall be submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or at some other time that has been agreed in writing by the Local Planning Authority. On completion of any required remedial works the applicant shall provide written confirmation that the works have been completed in accordance with the agreed remediation strategy.

Reason: To ensure that land contamination can be dealt with adequately prior to the use hereby approved by the Local Planning Authority in accordance with with the NPPF requirements and Policy DM1 (General Requirements) of the Taunton Deane Core Strategy.

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

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

9. No demolition of buildings on the site shall commence until a contract had been let for the construction of the residential development.

Reason: To protect the character and appearance of the site adjacent to the conservation area.

10. The proposed windows shown on drawing 11B shall be vertical sliding sash only.

Reason: In the interests of protecting the character of the area in accordance with Core Strategy Policy DM1.

11. No dwelling shall be occupied until space has been laid out within the site in accordance with the plan number 7C for the parking of cars and the said spaces shall be thereafter retained.

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

12. The development shall provide for secure cycle storage facilities for each dwelling, details of which shall be submitted to and approved in writing by the Local Planning Authority. Such facilities shall be provided prior to the occupation of any dwelling to which it relates and shall thereafter be retained for those purposes.

Reason: To ensure that adequate facilities are included for the storage of cycles, in accordance with policy S1 of the Taunton Deane Local Plan and policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.

13. Details of flood protection and resilience measures for the properties shall be submitted to and approved in writing by the Local Planning Authority and thereafter be carried out prior to occupation of any dwelling.

Reason: In the interests of flood protection.

PROPOSAL

The proposal is to demolish the existing vacant buildings on the site at 7a - 13 Staplegrove Road and to provide 7 new dwellings with associated parking accessed via Wood Street and Yarde Place at the rear. The development will provide 4 x 4 bedroom houses, 2 x 3 bedroom houses and 1 x 1 bedroom flat.

A commercial marketing report and Flood Risk Assessment have been submitted with the application.

SITE DESCRIPTION AND HISTORY

The site currently consists of a terrace of single and two storey buildings fronting onto Staplegrove Road and single storey commercial structures backing onto Yarde Place. The frontage has first floor flats and commercial ground floor use.

Previous applications on the site include an outline 38/05/0303 for Redevelopment to provide 4 commercial/retail units and erection of 24 flats with associated parking and formation of access off Wood Street 7-11B Staplegrove Road, Taunton - Refused 29 September 2005.

Outline Application 38/05/0506 for Redevelopment to provide 4 commercial/retail units and erection of 19 flats with associated parking and formation of access off Wood Street 7-11B Staplegrove Road, Taunton - Granted 16 February 2006.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SCC - TRANSPORT DEVELOPMENT GROUP - Although the proposals are acceptable in principle, there is considered to be a shortfall in cycle parking provision. It is acknowledged that a cycle parking area is proposed adjacent to the vehicular entrance. However this area is very cramped and no details of the level of cycle parking have been provided. Given the size of the cycle store, I would assume that no more than 2 bicycles could be stored.

Referring to the Somerset County Council Parking Strategy (March 2012), parking at a ratio of one space per dwelling is required. This would equate to a total of 23 cycle parking spaces. In this instance it is considered that it would be excessive to provide this level of parking, however, given the sustainable location of the site and low level of vehicular parking, additional cycle parking should be provided. Therefore an amended plan is required, indicating the suitable cycle parking for at least 11 bicycles.

COMMUNITY LEISURE - No observations as the net gain of 5 dwellings falls below the threshold for contributions.

ECONOMIC DEVELOPMENT - The property occupies a secondary location on the edge of the town centre which has meant that a commercial use has been difficult to sustain. As a result the 4 units have become dilapidated and now reflect very badly on the rest of that part of the town. Improving them through redevelopment is the only viable option and would serve at least to bring them back in to economical use. I am, in principle, opposed to any loss of retail floorspace anywhere in the town centre but if the applicant can demonstrate that this property has been marketed fully and openly for a reasonable period and without consequent interest in taking it for retail use, I would consider it unreasonable to resist their redevelopment to an alternative use. I have met and discussed the proposed development with the applicant and his commercial agent and have myself tried to introduce prospective retailers to the units but to no avail.

ENVIRONMENT AGENCY - We OBJECT to the application because as currently proposed the residual flood risks at the site will not be safely managed and the development will not be appropriately flood resilient or resistant. The application is therefore contrary to NPPF paragraph 103.

According to our latest flood modelling for this area the site would be subject to

0.5m of flooding for a 1 in 100 year event with defences and 1.2m of flooding for a 1 in 100 year plus climate change event with defences. The proposed mitigation to raise finished floor levels to a minimum of 15.1m AOD to protect the development will not ensure that the properties and occupants remain safe for the lifetime of the development.

In order to resolve our objection, the FRA must be revised to state that the entire development will be raised 600mm above current ground levels, to around 15.6m AOD for plots 1 to 4. From the FRA it looks like current ground levels of plots 5 and 6 is higher than the rest of the site, we would therefore be able to agree that plot 5 and 6 be raised a minimum of 300mm above current ground level (or above 15.6m AOD, whichever is the higher) if 600mm is not achievable.

Whilst we support the intention to include flood resilience to a level of 16m AOD we would prefer that flood resistance measures (such as flood boards) are used instead. This in combination with raising the site would significantly reduce flooding at the site and would ensure the occupants remain safe even in extreme events.

Whilst not a matter of objection for us, you must ensure that the flood risk sequential and exception tests are satisfied prior to recommending approval of this application.

BIODIVERSITY - Country Contracts carried out a wildlife survey of the site in May 2012 and the findings were as follows.

Bats - the surveyor found no evidence of bats in either building. The buildings do have crevices and gaps in roofing materials which could be exploited by crevice dwelling bats. Recent bat activity surveys completed in the area did not record any bat activity. I agree a precautionary approach is needed in the demolition of the buildings and support the provision of a bat box prior to demolition and of bat roosts to be incorporated in the new buildings as recommended in 6.4.

Birds - The surveyor found no nesting birds in or on any of the buildings. Vegetation at the rear had been largely reduced and remains as brash. There was some buddleia growing higher up on derelict sections of buildings which could provide a nesting site. Clearance of vegetation must take place outside of the bird nesting season. I suggest a condition to address wildlife protection/mitigation and further survey if no demolition within two years.

SOMERSET WILDLIFE TRUST - We agree with the Biodiversity Officer and that it should be a condition if planning permission is granted that (a) demolition of buildings should be carefully monitored to ensure that bats and nesting birds, if any, are not disturbed and (b) provision is made for bat boxes etc within the new buildings. We also agree that the survey should be repeated if work on site does not start within 2 years of the date of the original survey.

HOUSING ENABLING - The housing enabling lead supports this application based on need and the comments do not reflect the suitability of the site in terms of planning.

The affordable housing requirement for this scheme is one affordable unit for discounted open market sale (70% of the open market value). The affordable housing should meet the Homes and Communities Agency Design and Quality Standards 2007, or meet any subsequent standard at the commencement of development. Details of the affordable housing unit must be submitted to and approved in writing by the Housing Enabling Lead at Taunton Deane Borough Council.

ENVIRONMENTAL HEALTH - Thank you for consulting on the above Application. I

have the following comments to make. A contaminated land condition is required due to the nature of the site.

Representations

1 objection on grounds that the properties fronting Staplegrove Road are too high and contrary to policies S2(A) and H3(B) of the Local Plan. Flood prevention would not be necessary if commercial were retained or perhaps an alternative flood prevention system should be employed. If allowed double yellow lines should be imposed to the north of Yarde Place, there should be a restriction on working hours to avoid night time and Sunday working to disturb residents, the pavement onto Staplegrove Road should not be blocked or closed and all access should be from Yarde Place.

1 letter of concern over impact on side window of existing property and boundary treatment to existing residential properties off Wood Street.

5 letters of support as any schemes of rejuvenation should be welcomed, the family houses on the approach to the town centre are in keeping, an improvement on derelict shops and parking is provided.

1 further letter of support on the basis of the revised plan.

PLANNING POLICIES

EN23 - TDBCLP - Areas of High Archaeological Potential,

EN14 - TDBCLP - Conservation Areas,

EN28 - TDBCLP - Development and Flood Risk,

T1 - TDBCLP - Extent of Taunton,

STR2 - Towns,

STR4 - Development in Towns,

S1 - TDBCLP - General Requirements,

S2 - TDBCLP - Design,

M4 - TDBCLP - Residential Parking Provision,

SP1 - TD CORE STRATEGY SUSTAINABLE DEVELOPMENT LOCATIONS,

CP8 - TD CORE STRATEGY - ENVIRONMENT,

CP4 - TD CORE STRATEGY - HOUSING,

DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,

NPPF - National Planning Policy Framework,

LOCAL FINANCE CONSIDERATIONS

The development of this site would result in payment to the Council of the New Homes Bonus.

1 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£5,395
Somerset County Council (Upper Tier Authority)	£1,349

6 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£32,372
Somerset County Council (Upper Tier Authority)	£8,093

DETERMINING ISSUES AND CONSIDERATIONS

The main considerations with the proposal are the loss of commercial use, the flood risk issue, design and impact on the character of the area and street scene and need to secure a suitable regeneration scheme.

The site has sat unused and deteriorating since the last permission on the site in 2006. A commercial report has been submitted with the application which identifies the site as being tertiary frontage, boarded up for around five years and the shops not missed. In light of future developments the report concludes it is considered that 'any form of retail here will be doomed to perpetuate the failed retailing that has taken place here in the past'. The redevelopment of this site in this instance without any commercial use is also considered unreasonable by the Economic Development Manager. Consequently it is accepted that the redevelopment of the site in a viable manner would require a residential scheme in this location.

The NPPF seeks to support sustainable development and also seeks to direct development to areas away from flood risk. This is also reflected in the Local Plan policy EN28 and Core Strategy policy CP8. The site is identified as being in a flood risk area, however there is already an existing residential use on the site and if a change of use of existing buildings were proposed no FRA would be required. The demolition and redevelopment of the site requires a FRA and the initial scheme submitted designed the scheme to be protected from flooding with floor levels 1.2m higher than existing. There are already residential properties in the area and the raising of floor levels as initially proposed to help protect the site would in my view, result in any flood water being dispersed elsewhere to other properties. If the Environment Agency objection is supported it would mean the site could not be suitably and viably redeveloped.

The applicant's FRA considers the site the only one available within the parameters of the North Town Primary school area and given other risks in the area to meet the Sequential Test. The site is a highly sustainable location and is a brownfield site and the regeneration of this site would result in a public benefit and it is accepted that there are no reasonable alternatives in this instance. The development therefore meets parts 1 and 2 of the Exception Test. The third part of the test is to provide a development that will be safe and will not increase flood risk elsewhere. The initial scheme provided a significant increase in site level to protect the site with ramping of land and raising of floor levels and while this could be provided to satisfy the Environment Agency it is considered that this would disperse potential flood water elsewhere. Consequently if there were to be a flood the properties would be affected and it is considered that it would be more appropriate if they were affected in a similar way to other properties in the area.

Another issue to be considered here is the design of any scheme. The frontage to Staplegrove Road is a terrace that reflects the design of the listed terrace further along the road. The initial proposal of raised floor levels and a ramped access would set a ridge level higher than adjacent properties and provided an access that would be out of keeping with the character of the street scene. Consequently the applicant was requested to revise the scheme so that access is provided at pavement level with a lowered ridge level, front boundary wall for defensible space and only a 1m set back to the dwellings. At the rear the development maintain over 22m window to window distance. Boundary walls are to be retained where possible and new brick walls are to be provided to the boundary of the existing two Yarde Place properties.

The applicant has also agreed to address the neighbour concern in respect of a first floor window. The revised scheme gives a better design, although this is at the expense of the flood protection measures.

The proposal is in a central location and is considered an appropriate sustainable redevelopment of a brownfield site. There is provision for car parking for the houses and there is considered to be adequate space for cycle parking which can be conditioned if all other matters are considered to be acceptable.

The wildlife survey has not identified anything of significance on site, although there is a duty to try and improve biodiversity where possible. With this in mind the condition suggested by the Biodiversity Officer addresses this and is considered to be necessary and appropriate. A condition to require a further survey if work is not carried out within a two year period of the previous survey is also considered necessary.

The development is above the trigger of Core Strategy policy CP4 for affordable housing and there will therefore be a requirement of an affordable housing unit which will need to be secured through a Section 106 Agreement.

In summary the issues here are ones of sustainable regeneration against flood risk. It is considered that in order to provide a suitable regeneration of this site within the centre of Taunton the revised scheme is considered suitable in design terms and the sustainable redevelopment of the site is considered to outweigh the objection of the Environment Agency in this instance.

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

25/12/0021

BARRATT HOMES EXETER

ERECTION OF 32 NO. DWELLINGS WITH ASSOCIATED GARAGES AND LANDSCAPING AT THE OLD CIDER WORKS, NORTON FITZWARREN

Grid Reference: 319736.125623

Full Planning Permission

RECOMMENDATION AND REASON(S)

Recommended Decision: Subject to the formal comments of the Environment Agency and clarification over outstanding Highways issues: Conditional Approval

The proposed development is considered to be an acceptably designed re-plan of the extant planning permission for this site, not impacting unreasonably upon the visual or residential amenities of the area or highway safety and providing for adequate parking provision in accordance with retained Policy M4 of the Taunton Deane Local Plan. The proposal is, therefore, considered to be acceptable in accordance with Policy DM1 (General Requirements) of the Taunton Deane Core Strategy, Policy 49 (Transport Requirements of New Development) of the Somerset and Exmoor National Park Joint Structure Plan Review and advice contained in the National Planning Policy Framework.

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:

(A3) DrNo 1127/39/03 Elevations and Plans
(A3) DrNo 1127/39/02 Elevations and Plans
(A3) DrNo 1127/39/01 Elevations and Plans
(A3) DrNo 1127/38/10A Elevations
(A3) DrNo 1127/38/02 First Floor Plan
(A3) DrNo 1127/38/01 Ground Floor Plan
(A3) DrNo 1127/37/11A Elevations
(A3) DrNo 1127/37/10A Elevations
(A3) DrNo 1127/37/01 Ground Floor Plan
(A3) DrNo 1127/36/11A Elevations
(A3) DrNo 1127/36/10A Elevations

(A3) DrNo 1127/36/02 First Floor Plan
(A3) DrNo 1127/35/10A Elevations
(A3) DrNo 1127/35/02 First Floor Plan
(A3) DrNo 1127/35/01 Ground Floor Plan
(A3) DrNo 1127/34/11A Elevations
(A3) DrNo 1127/34/10A Elevations
(A3) DrNo 1127/34/03 First Floor Plan
(A3) DrNo 1127/34/02 Ground Floor Plan
(A3) DrNo 1127/34/01 Ground Floor Plan
(A3) DrNo 1127/33/10A Elevations
(A3) DrNo 1127/33/03 Second Floor Plan
(A3) DrNo 1127/33/02 First Floor Plan
(A3) DrNo 1127/33/01 Ground Floor Plan
(A3) DrNo 1127/32/12A Elevations
(A3) DrNo 1127/32/11A Elevations
(A3) DrNo 1127/32/10A Elevations
(A3) DrNo 1127/32/02 First Floor Plan
(A3) DrNo 1127/32/01 Ground Floor Plan
(A3) DrNo 1127/31/15A Elevations
(A3) DrNo 1127/31/14A Elevations
(A3) DrNo 1127/31/13A Elevations
(A3) DrNo 1127/31/12A Elevations
(A3) DrNo 1127/31/11A Elevations
(A3) DrNo 1127/31/10A Elevations
(A3) DrNo 1127/31/04 First Floor Plan
(A3) DrNo 1127/31/03 First Floor Plan
(A3) DrNo 1127/31/02 Ground Floor Plan
(A3) DrNo 1127/31/01 Ground Floor Plan
(A3) Parking Schedule
(A3) DrNo 1127/07/02 Wall and Railing Details
(A3) DrNo 1127/07/01 Fence Detail
(A3) DrNo 1127/06A Site Context Plan
(A3) DrNo 1127/05A Materials Layout Plan
(A3) DrNo 1127/04 Site Location Plan
(A3) DrNo 1127/03A Storey Heights Plan
(A1) DrNo 1127/02/02A Street Scenes Sheet 2 of 2
(A1) DrNo 1127/02/01A Street Scenes Sheet 1 of 2
(A2) DrNo 1127/01B Site Layout Plan

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

3. Any boundary walls shall be constructed of the same materials as the dwelling to which they relate unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that appropriate materials are used in the construction of the boundary walls, in the interests of the visual amenities of the area in accordance with Policy DM1 of the Taunton Deane Core Strategy.

4. The section of the relief road immediately to the south of the development hereby permitted shall be constructed at least as far as would allow access to

the development hereby permitted via the said road prior to the occupation of any of the dwellings hereby permitted.

Reason: To ensure that access to the site is gained via the relief road so as not to put additional loading on the existing junction of the site with the B3227 to the north above and beyond that which was expected when the original development was conceived, in the interests of highway safety in accordance with policy DM1 of the Taunton Deane Core Strategy and Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.

5. The LAP indicated on the site layout plan hereby permitted shall be laid out in accordance with details that were approved in respect of application 25/06/0020 on 24 November 2011. The site shall be enclosed by railings as indicated on drawing 1127/07/02 and shall be available for use prior to the occupation of 80% of the dwellings hereby permitted unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that adequate children's play facilities are available for the residents of the development hereby permitted in accordance with retained Policy C4 of the Taunton Deane Local Plan.

6. No dwelling shall be occupied until that part of the service/estate road that gives access to it and any associated parking facilities have been provided in accordance with the details shown the plans hereby permitted.

Reason: To ensure that adequate facilities exist for the traffic likely to be attracted to the site in the interests of highway safety in accordance with Policy DM1 of the Taunton Deane Core Strategy.

7. Conditions as may be recommended by the Environment Agency.

Notes for compliance

PROPOSAL

This application seeks to 're-plan' part of the Old Cider Factory development at Norton Fitzwarren. The area of the site in question was formerly to be developed by Strongvox but is now to be built out by Barratt, who have developed much of the remainder of the site. The basic building positioning, scale and layout would remain the same, as would the existing road layout. There would be no increase in numbers of dwellings on the site, and four less parking spaces would be provided as a consequence of the re-plan.

SITE DESCRIPTION AND HISTORY

The site is a residential development site in the centre of Norton Fitzwarren.

Permission (reference 25/06/0020) was granted in 2007 for the redevelopment of the former cider factory to provide 389 dwellings, a village centre, part of the Norton Fitzwarren relief road and employment buildings.

The part of the site in question is in the southeast corner of the site at the point where the proposed relief road crosses the Halse Water. Beauford park mobile home site lies on the opposite side of the river to the northeast. A public footpath from Prowses Meadow to the north passes through this part of the site and continues over the relief road and railway line to the south.

This part of the site originally proposed a mix of 2 and 2.5 storey dwellings with a 3 storey block of flats at either end of a stretch of terraced dwellings that were to run along the new relief road. Those 3 storey blocks of flats are outside the current application site so will be developed as per the original permission.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SCC - TRANSPORT DEVELOPMENT GROUP – make the following comments:

- Visibility splays are required at various points on the site and have been agreed as part of the Section 38 Agreement technical audit process.
- Drive lengths need to be 6m or 10.5m across the site.
- Any proposed lighting units should not interfere with vehicle accesses.
- Planting adjacent to the prospective public highway boundaries will need to be supported by the submission of a planting schedule to SCC.

Conditions are recommended requiring vehicle wheel washing facilities to be installed; access drives to incorporate pedestrian visibility splays; surface water not to be disposed of onto the highway; access roads to be constructed prior to occupation; gradients of drives not to be greater than 1 in 10; and areas of hardstanding in front of garages to be at least 6m in length.

NORTON FITZWARREN PARISH COUNCIL – Raise the following concerns:

- Seek assurance that the relief road to the south of these properties will be completed prior to commencement.
- The 3-storey flats at the eastern end are reduced to 2-storey as they will overshadow properties on Beauford Park.
- Query whether the northern bank of the Halse Water by Beauford Park can be strengthened.
- Seek confirmation that landscaping would be carried out along the Halse Water between the site and Beauford Park.
- Appropriate safety fencing should be installed around the play area due to its proximity to the river.
- Clarification is sought as to the affordable houses on site.
- The pedestrian crossing over the relief road is not shown on the plans.
- Parking should not be allowed on the relief road and a speed limit of 30mph should be enforced.
- A screw auger should be used when pile driving to prevent vibration to the

adjacent dwellings.

SCC - RIGHTS OF WAY – The recently diverted public footpath T18/4 dissects the site and has been taken into account in the layout. The width of the path is 3 metres.

My colleague (Transport and Development Group) has already referred to requirements for visibility splays where there are junctions with the access road and the footway. I understand that rights for cyclists are to be achieved over part of the footpath and consideration will need to be given as to the best method of securing those higher rights.

The site layout plan also indicates bollards and chicanes, presumably requirements for public safety. These will require separate authorisation under S66 Highways Act.

Presuming the vehicular access across the footpath will remain unadopted, the applicant needs to be confident that they have the necessary authority to convey private vehicular rights over the public footpath to all those that may require those rights otherwise future vehicular use across the footpath could be committing a criminal activity.

The health and safety of walkers must be taken into consideration during works to carry out the proposed development. Makes comments about the requirement for additional authorisation from SCC in certain circumstances.

Representations

Ward Councillor – Ken Hayward – raises the following concerns:

- The pedestrian crossing across the relief road is not shown on the plan. This should be provided in the location previously agreed. The relief road and this crossing should be provided prior to the commencement of this proposed development.
- The 3-storey flats at the eastern end will overshadow Beaford Park and should be reduced to 2-storeys.
- The northern bank of the Halse Water is collapsing and undermining the gardens of the properties in Beauford Park. It is believed that flood mitigation works carried out to date have contributed to this problem. A condition should be attached stating that the river bank should be reinforced with gabion cages and the bank landscaped.
- The proximity of the proposed play area to the river. There is no detail of any appropriate safety fencing around the proposed play area.
- There is no detail of landscaping to be carried out along the southern bank of the Halse Water.
- As we cannot anticipate the relief road being completed right through to the B3227 west of the village for the foreseeable future, new residents may choose to park along the new road as far as it is constructed. No parking should be established along the length of the road from Silk Mills through to Station Road from Day One.
- Conditions should be attached to control dust, vibration and hours of working

during the construction phase.

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

- Query whether the relief road has been abandoned – there does not appear to be sufficient space for the road in the development.
- The relief road must be provided prior to the commencement of development.
- Dwellings will face directly onto the relief road and railway line which is undesirable.
- The proposals are an overdevelopment of the site. There are already too many houses on the site. The re-plan is too dense.
- The plans also show 18 flats, which is a total of 50 dwellings, not 18 as suggested.
- 42 parking spaces for the development and the two off-site blocks of apartments (a further 18 dwellings) is not acceptable. The lack of parking at the northern end of Station Road is a good example of the problems at this site.
- More parking than the statutory minimum should be provided.
- It is not accepted that this development will have no impact on increasing the flood risk to existing properties, especially in Station Road. The flood relief work must be completed.
- The security of Beauford Park residents must be respected.
- The consortium are yet to fulfil their obligations regarding the relief road and bridge.
- The Consortium must not be allowed to build any higher than the 2-2.5 storey dwellings indicated on the plans.

1 letter raising NO COMMENT on the basis that the application seems to be just altering the appearance of what has already been passed.

PLANNING POLICIES

T5 - TDBCLP - Housing Allocations (Norton Fitzwarren),
S&ENPP49 - S&ENP - Transport Requirements of New Development,
M4 - TDBCLP - Residential Parking Provision,
DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,
C4 - TDBCLP - Standards of Provision of Recreational Open Space,

DETERMINING ISSUES AND CONSIDERATIONS

The principle of the development is established by the previous grant of planning permission and cannot be revisited as a consequence of this application. The proposal indicates no increase in dwellings so the main considerations relate to the amended layout and design.

In layout terms, the general arrangement of dwellings is very similar to that previously approved. In particular, the previous proposal for terraced housing along the relief road at the southern end would remain unaltered, albeit there would be some variation to the detailed design of these dwellings. Within the site more detached and semi detached dwellings are proposed, which is also akin to the

previous permission. Access to parking courts will be from the already approved estate road and these will serve the dwellings along the relief road that have no private vehicular access.

In total, 76 parking spaces are indicated on the plans to serve the 50 dwellings in this area (32 within the application site and 18 flats off-site, but served from within). This is a reduction of 4 parking spaces from the 80 shown on the original permission, but is still provision at a rate in excess of 1.5 per dwelling, the maximum standard set by retained policy M4 of the Taunton Deane Local Plan.

On close inspection, it does not appear that all of the comments of the Local Highway Authority have been taken into account in the detailed layout submitted. At the time of writing, it is understood that most of these comments are more properly addressed through the Section 38 road adoption agreement, but clarification is being sought and if amendment is necessary, members will be updated at the meeting.

In terms of the detailed design, the proposed dwellings are generally well proportioned and are compatible with those that have been built on the remaining part of the estate. The materials palette will remain the same as those previously approved and built. Various amendments have been made to the detailed design through consideration of the application and they are now considered to be appropriate for the site, in the context of the existing permission.

The Local Highway Authority have recommended various conditions. However, it is considered that vehicle cleaning facilities can be adequately managed as part of the wider site construction, a surface water drainage strategy exists for the whole site, and the site is flat, so drive gradients will not be steep. The recommended conditions are therefore not considered necessary. Concern has been raised by local residents that the foundations should be screw driven rather than piled. However, this was not a requirement of the previous condition and is not considered a matter that should be controlled through the planning process. There has also been concern raised about the two blocks of flats at either end of this parcel of the development. However, these do not form part of this application.

Concern has been raised over the impact that the development (as a whole) has had on erosion on the banks of the Halse Water. The Environment Agency do not consider this to be the case. In any case, the site wide flood risk, channel improvement and drainage strategies have all be dealt with by the original planning permission and it is not considered that these matters carry significant weight in dealing with this re-plan of a small part of the overall site. The final comments of the Environment Agency are awaited, but given that this is simply a re-plan they have verbally confirmed that they do not expect to raise any objection to the scheme.

With regard to the above, the proposal is considered to be acceptable and it is, therefore, 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 1998.

CONTACT OFFICER: Mr M Bale Tel: 01823 356454

23/12/0026/LB

MR M J KING

REPLACEMENT OF WINDOWS AND DOORS AND ENLARGEMENT OF WINDOW OPENING TO THE EAST ELEVATION TO FORM A DOORWAY AT PRESTON FARM, PRESTON BOWYER, MILVERTON (RETENTION OF WORKS ALREADY UNDERTAKEN)

Grid Reference: 313769.126259

Listed Building Consent: Works

RECOMMENDATION AND REASON(S)

(A) Recommended Decision: Refusal

The window finish harms the appearance and the significance of the listed building and is contrary to Policy 9 of the Somerset and Exmoor National Park Joint Structure Plan Review, Core Policy 8 (Environment) of the Taunton Deane Core Strategy 2011- 2028 and Section 12 of the National Planning Policy Framework in respect of proposals relating to listed buildings. It therefore fails to preserve the listed building and conflicts with the duty outlined at Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

(B) That a Listed Building Enforcement Notice is served requiring the painting of the windows and that the Solicitor to the Council be authorised to take prosecution action in the event that the notice is not complied with.

PROPOSAL

Replacement of windows and doors, enlargement of existing window opening to east elevation to form doorway.

SITE DESCRIPTION AND HISTORY

The farm is situated on a sharp bend of the busy B3227 on the eastern edge of Preston Bowyer village, between Hillcommon and Milverton. Preston Farmhouse is a grade II listed building probably originating in the C17 but subsequently much altered and extended to give its current C18/C19 appearance. The former windows were all C20 and of no historic significance and included an unauthorised PVCu window that was the subject of a planning enforcement case (E14/23/2009). In 2011, an application (23/11/0013/LB) was approved to replace these windows with painted double glazed units. This current application seeks to change the finish of the windows from the approved black paint to a woodstain.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

MILVERTON PARISH COUNCIL - The Parish Council understands that this application refers to the need for consent to stain the window frames as opposed to painting them. The Parish Council also understands that TDBC has no view in relation to the colour of the paint merely that it requires paint above woodstain, so for example brown paint would be acceptable. The parish council supports the application and wishes to express its grave concern that planning legislation is being used inappropriately to control minor matters of a cosmetic nature.

Representations

CLLR GWIL WREN, WARD MEMBER - I support the above application to retain the woodstain finish on the window frames.

CLLR TONY MCMAHON, COUNTY COUNCILLOR - I have received a number of correspondences relating to the above and have viewed the said windows many times. I have to agree that initially they did not seem to be a faithful replacement of the previous black-framed windows. However, having now become accustomed to them I believe they enhance the property and are an improvement on their predecessors. I understand that you cannot allow a precedent to be established but would request that in applying the need for black window frames you then qualify it with a 'no need for enforcement until replaced or the owner decides so to do.'

A total of 32 letters of support have been received. In summary, these state that the stained windows represent an improvement over the previous metal Critall windows, that they enhance the building and should be allowed to remain. Some respondents stated that a paint finish would not be as durable as staining.

PLANNING POLICIES

NPPF - National Planning Policy Framework,
S&ENPP9 - S&ENP - The Built Historic Environment,
CP8 - TD CORE STRATEGY- ENVIRONMENT,

DETERMINING ISSUES AND CONSIDERATIONS

This application arises from the recently approved application (23/11/0013/LB). This included replacing the existing metal (and unauthorised PVCu) windows. The application stated that the new windows would be painted black to match the then existing windows. Listed building consent was granted on this basis and a condition was also included in the decision notice to this effect. Contrary to this consent, the windows were subsequently installed with a light-oak coloured stain finish. This deviation from the consent was not authorised and under Section 9 of the Planning (Listed Buildings and Conservation Areas Act) 1990 constitutes an offence. The applicant has therefore submitted this current retrospective application to regularise the situation.

The requirement for black painted windows was firstly, because the former metal windows were painted this colour and secondly, because a painted finish is traditional on farmhouses of the C18/C19. The windows predating the metal windows would have almost certainly been softwood and historically these would always have been painted. Staining window frames is a relatively recent practice that became popular in modern buildings in the late C20. In the C16 and C17, external joinery would often have been protected by limewash and from the C18 painted. The facade of Preston Farmhouse is C18/C19 in appearance and the approved windows are broadly in keeping with this, although Taunton Deane Borough Council allowed double glazing in this case.

Stained windows are therefore historically inaccurate and not appropriate on listed buildings of a C18/C19 appearance. The requirement for a painted finish in these circumstances is endorsed by all the national conservation bodies and this advice is consistently applied by local planning authorities, including Taunton Deane. For example, the 2004 guidance from the Georgian Group states that 'Stained or varnished hardwood windows are becoming far more common. But whilst they are certainly better than plastic or metal examples they are still historically incorrect in a Georgian facade. If you have to use hardwood windows, make sure they are painted.'

I note the public support for this application but it should also be borne in mind that as the works have already been undertaken the comments relate to the perceived improvement from the former metal and PVC windows. None of the respondents have had the opportunity to view the new windows with the agreed black finish. Indeed, there were no negative responses from any party to this aspect of the original application. Regarding the longevity of paint, which is questioned by some respondents, there are various traditional types currently available, such as linseed paint, which will last a minimum of 14 years before repainting is required and are more environmentally friendly than wood stain.

While the windows themselves remain acceptable, I cannot endorse their current unauthorised finish. This is out of line with the previously granted consent and the traditional painted finish expected on a historic building of this period. The window finish detracts from the character and appearance of this listed building and is contrary to Policy 9 of the Somerset and Exmoor National Park Joint Structure Plan Review, CP8 of Taunton Deane Core Strategy 2011- 2028, and Section 12 of the National Planning Policy Framework in respect of proposals relating to listed buildings.

I therefore recommend that: a) this application is refused on the grounds that it fails to preserve or enhance the character and appearance of this listed building; and b) that enforcement action is taken under Section 38 of the 1990 Act to ensure that the window finish complies with the earlier consent.

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

CONTACT OFFICER: Mr N Pratt Tel: 01823 356492

08/12/0013

GLENMILL HOMES

ERECTION OF SINGLE STOREY DWELLING AT LAND TO THE NORTH OF MAIDENBROOK FARMHOUSE, TUDOR PARK, PRIORSWOOD, CHEDDON FITZPAINE (AMENDED SCHEME TO 08/11/0032)

Grid Reference: 324609.126466

Full Planning Permission

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval

The proposal would not affect the character of the Listed Building and is therefore considered acceptable and, accordingly, does not conflict with NPPF section 12, Policy 9 of the Somerset and Exmoor National Park Joint Structure Plan Review and Taunton Deane Local Plan Policies S1 and S2. The development now contributes to the character of the area around the Listed Building and the scheme is not considered to be to the detriment of this site when seen from the adjacent highway. The addition of a garage and installation of rooflights, following the recent approval of application 08/11/0032, is considered to be acceptable and not to be to the detriment of neighbours.

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:

(A3) DrNo 5403/79 Sketch Elevations as Proposed
(A3) DrNo 5403/78 Sketch Elevations as Proposed
(A3) DrNo 5403/77 Sketch First Floor Plan as Proposed
(A3) DrNo 5403/76 Sketch Ground Floor Plan as Proposed
(A3) DrNo 5403/72 Sketch Elevations as previously Approved
(A3) DrNo 5403/71 Rev A Sketch Elevations as previously Approved
(A3) DrNo 5403/70 Rev A Sketch Floor Plan as previously Approved
(A3) DrNo 5403/68 Rev E Site Plan as previously Approved
(A3) DrNo 5403/75 Site Plan
(A4) Location Plan

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

3. No development, excluding site works, shall begin until a panel of the proposed stone/brickwork measuring at least 1m x 1m and which contains an area of brick surround to stonework, a brick cill, and an external corner, has been built on the site and both the materials and the colour and type of mortar for pointing used within the panel have been agreed in writing by the Local Planning Authority. The stone to be used shall be the local stone as described in the agent's letter dated 26/04/12 as described in application 08/11/0032. The development shall be completed in accordance with the agreed details and thereafter maintained as such, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of preserving the setting of the listed building and any features of historic or architectural interest that it possesses, in accordance with Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy 9 of the Somerset and Exmoor National Park Joint Structure Plan Review and guidance contained in NPPF.

4. No works shall take place until samples of the roofing slates and ridge tiles to be used in the construction of the works hereby approved 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: In the interests of preserving the setting of the nearby listed building and any features of historic or architectural interest that it possesses, in accordance with Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy 9 of the Somerset and Exmoor National Park Joint Structure Plan Review and guidance contained in NPPF. (For the avoidance of doubt as the originally submitted forms state clay tiles.)

5. All guttering, downpipes and rainwater goods shall be constructed of cast iron and shall be painted black as described in the agent's letter dated 24/04/12 ref (260412) as submitted on application 08/11/0032, and thereafter maintained as such unless otherwise agreed in writing by the Local Planning Authority prior to the commencement of development.

Reason: To safeguard the setting and architectural and/or historic qualities of the Listed Building which is in close proximity in accordance with Taunton Deane Local Plan Policy S2 and the NPPF.

6. Prior to commissioning, specific details of the following shall be submitted to and approved in writing by the Local Planning Authority, with such approved details being strictly adhered to in the implementation of the approved works, unless any variation thereto is first agreed in writing by the Local Planning Authority:

windows including sections; doors; finished treatment for all external joinery; rooflights; boundary walls; fencing; siting of meter boxes; ventilation terminals for kitchen, utility room and bathroom.

In addition, the bargeboards, soffits and eaves shall all be painted black as stated in agent's letter dated 26/04/12 as submitted for application 08/11/0032.

Reason: To ensure the use of materials and details are appropriate to the character of and the siting in relation to the Listed Building which is in close proximity, in accordance with Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy 9 of the Somerset and Exmoor National Park Joint Structure Plan Review and guidance contained in NPPF.

7. The applicant shall undertake all the recommendations made in ACE Consulting's report dated July 2011. The works shall be implemented in accordance with the approved details and timing of the works unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect amphibians and their habitats from damage bearing in mind **this** species **is** protected by law.

8. 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 have been submitted to and approved in writing by the Local Planning Authority, and thereafter retained for so long as the development remains in existence.

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 the NPPF.

9. The dwelling hereby permitted shall not be occupied until a properly consolidated and surfaced parking and turning space for vehicles has been constructed within the site, in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. Such turning space shall be kept clear of obstruction at all times.

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 the NPPF.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) the use of the garage hereby permitted shall be limited to the domestic and private needs of the occupiers and shall not be used for any business or other purpose whatsoever.

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

11. (i) The the whole landscaping/planting scheme including the orchard planting shown on the submitted plan 5403/75 shall be completely carried out within the first available planting season from the date of commencement of

the development.

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

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

12. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (“the 1995 Order”) (or any order revoking and re-enacting the 1995 Order with or without modification), no development of the following types - extensions, conservatories, dormers, solar panels, chimneys, flues, satellite dishes, porches, boundaries, outbuildings, sheds, oil tanks, additional windows, rooflights/velux windows, replacement of windows and/or doors, rendering, cladding or painting of external stonework, other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.

Reason: To protect the character of the area in accordance with Policy S1(D) of the Taunton Deane Local Plan and having regard to the proximity of the Listed Building in accordance with the guidance within section 12 of the NPPF.

13. The boundary treatment shown on drawing 5403/75 shall be completed before the dwelling is occupied and thereafter maintained as such, unless otherwise agreed in writing by the Local Planning Authority

Reason: In the interests of the amenities of the neighbouring residents and the area as a whole in accordance with policy S1 of the Taunton Deane Local Plan.

14. The dwelling shall not be occupied until the sewage disposal and surface water drainage works have been completed in accordance with the details which shall have been submitted to and approved by the Local Planning Authority.

Reason: To prevent discharge into nearby water courses in accordance with Policy EN26 of the Taunton Deane Local Plan.

15. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In order to prevent excess water being discharged onto the public highway in accordance with Taunton Deane Local Plan Policy EN26.

16. The proposed rooflights shall be "conservation" type rooflights only, details of which shall be submitted to and approved in writing by the Local Planning Authority, and thereafter installed and maintained.

Reason: To ensure the details are appropriate to the character of and the siting in relation to the Listed Building which is in close proximity, in accordance with Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy 9 of the Somerset and Exmoor National Park Joint Structure Plan Review and guidance contained in NPPF.

Notes for compliance

1. 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 they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation.

PROPOSAL

The current application is for the erection of an 'L' shaped building measuring approx. 20.3m by 17.2m. This building will have a double garage and an additional bedroom and bathroom in the roofspace. This results in three additional rooflights in the western slope of the roof. The ridge of the roof is 6m above ground level; this is the same height as the previously approved dwelling. All other aspects of the proposal remain the same as the recently approved plans.

SITE DESCRIPTION AND HISTORY

The site is just to the south of the A3259 and to the north of Maidenbrook Farm, it is to the west of The Gatehouse, a modern detached property, and an open area just to the east of a line of TPO trees. The site itself is between a newly planted hedge (for The Gatehouse), and a north-south hedge. There is a listed pond to the north and east of the site. The site itself is flat, with vehicular access from Tudor Park. This road has been finished to base level only and the drain covers etc are raised.

In support of the application the agent comments that the setting of the Listed Building and farm complex has changed over the years; with the former agricultural land 'lost' to housing development, that the original farmhouse has been subdivided into two dwellings, "the subdivision and urbanisation of the rear garden area (west)", the formation of the estate road, the converted outbuilding and newly erected buildings, as well as the extant permission (granted in 2002) for a double garage on the application site.

History:

08/11/0032 application to erect a single storey 'L' shaped dwelling, amended to a building approx. 17 by 17m and comprising living, kitchen/diner, 3 beds and integral garage, with a 2.1m high wall proposed to run from the northern wall into the eastern and western boundaries. This was approved on 20/06/12.

08/09/0010 Erection of single storey dwelling, refused on 20/11/09 on basis of juxtaposition with the A3259, the adjacent farmhouse and barn conversions and would be out of character with the character of the area and detrimental to the setting of the Listed Building, and secondly that the dwelling would be on land considered to be important to maintain the character of the transition zone between undeveloped area and the developed area.

08/05/0034 Erection of dwelling and garage on land north of Maidenbrook Farmhouse, refused 28/01/06, and dismissed on appeal;

08/05/0022 Erection of higher roof and conversion of barn to dwelling at The Wagon House, Tudor Park, approved 10/11/05;

08/05/0014 Erection of a dwelling to land to the west of farmhouse, refused 03/11/05, dismissed on appeal on 28/01/06;

08/05/0012 Erection of 5 dwellings and garages, approved 10/10/05;

08/04/0004 Variation of condition 2 to permit submission of reserved matters for an additional 6 years, refused 19/03/04;

08/01/0016LB Division of farmhouse into two units, conversion of barns and outbuildings to form dwellings, approved 04/03/02;

08/01/0015 Conversion of farmhouse and outbuildings to form 7 residential units, approved 05/05/01.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

CHEDDON FITZPAINE PARISH COUNCIL - previous application (08/11/0032) approved in June 2012, at that time TDBC had considered the case and sensitively approved the application. Amended application, now extends those guidelines, the PC see no reason to accept any increase in size to either the house or garage from the recently granted application and therefore object to this application.

The site has been considered previously in 2005 and 2009 and the comments from the Planning Inspector are noted. His comments at para 2.3 and 2.4 raise concerns about considering the impact on the nearby Listed Building, and that it would result in an urbanisation of the area out of keeping with and detrimental to the character and appearance of the area and contrary to Taunton Deane Local Plan Policies S1(D) and S2(A).

The County District and Parish Councillors express their severe concern over the prolonged difficulties in concluding the development as a whole and the subsequent inability by the developer to satisfy all his existing obligations under the S106 Agreement and complete all outstanding Highway works so that it is at a standard whereby the Estate road can be adopted by the Local Authority.

SCC - TRANSPORT DEVELOPMENT GROUP - Previous comments from

08/11/0032 apply to the current application.

Previous comments:- The proposed development seeks to erect a single storey dwelling with associated parking within the Maidenbrook Farmhouse/Tudor Park site.

The proposed dwelling will be located at the end of an access track. The track and proposal has been subject to previous planning applications 08/2005/015 and 08/09/0010, which was refused and dismissed at appeal. The Highway Authority raised no objection to this proposal subject to conditions.

It was noted whilst carrying out a site visit that the internal layout of the site is below any standards set by Somerset County Council to adopt as part of a Section 38 Agreement.

In terms of detail the Highway Authority would require that the access road to the dwelling should be constructed to a suitable adoptable standard to match the existing estate road layout. The improvement of the access road as a result of the proposed dwelling will result in the formation of a junction with the existing estate road. This junction should provide visibility splays of dimensions of 2.4m x 22m will need to be provided in either direction. In addition there should be no obstruction to visibility greater than a height exceeding 300mm above adjoining carriageway level within these visibility splays.

The proposal will utilise access to the adopted highway via the existing estate road layout. The proposal will provide turning within the curtilage of the unit. As well as providing parking in the form of a double garage. This provides space for two vehicles, which is in keeping with Local Plan Policy M4. The internal dimensions of the garage meet the guidelines set out in the Local Transport Plan.

Therefore taking into account the above information I raise no objection to this proposal. Conditions suggested.

DRAINAGE ENGINEER - I refer to my previous objection to planning application 08/11/0032 and object to this application. No details are given as to how the pond is to be maintained, together with details of the control structure/device that splits watercourse flows through this development. These should be forwarded for approval before any planning permission is given.

ENVIRONMENT AGENCY - the site is outside the scope for comments

LANDSCAPE LEAD - No further landscape comments.

BIODIVERSITY - see previous comments, the applicant shall undertake all the recommendations made in the ACE consulting report dated July 2011.

HERITAGE LEAD - no objections subject to conservation type roof light only.

Representations

none received.

PLANNING POLICIES

T1 - TDBCLP - Extent of Taunton,
STR2 - Towns,
STR4 - Development in Towns,
EN13 - TDBCLP - Green Wedges,
EN12 - TDBCLP - Landscape Character Areas,

DETERMINING ISSUES AND CONSIDERATIONS

In considering the Planning Inspector's report (October 2006) re the dwelling to the north of the Listed Building (08/05/0034), there was great weight placed on a line of substantial evergreen Leylandii trees set inside the pond that formed part of the boundary with the road; he saw the mature boundary trees and the substantial hedgerow to the west (which formed the western side of the original entrance drive), as an important part as a transition zone between the development to the south of the road and the open countryside to the north. He also noted, that in the 1996 permission, a condition required the provision of landscape buffers of between 5m and 12m along the A3259 boundary and around the boundaries of the Listed Building and its curtilage. He considered that the loss of this leylandii row to allow daylight to the proposed dwelling would be detrimental to the landscape character of the area.

Since the Inspector's decision, the line of Leylandii has been removed due to two trees falling during high winds and the others having been felled as it was thought to prudent on safety reasons. This results in an open aspect to the north.

The Inspector considered the two storey dwelling as a similar design to the Gate House was an incongruous into the setting of the Listed Building, and as a suburbanisation of its semi-rural setting. In conclusion, he felt that a comprehensive design for the area to the north and west of the Listed Building that addresses the complex problems created by the Listed Building, nearby structures and existing features.

Having regard to the current situation, this was assessed at the time of the recent application, (08/11/0032) and it was considered that the site was in an area of change, and the area to the northwest is the authorised Nerrols Farm expansion, with the land immediately to the north identified as an open space based on the watercourse. When that development starts and is eventually completed, this area of Taunton/Cheddon Fitzpaine will be very different from the semi 'rural' feel it currently has, and it is in this light that the re consideration of this site has taken place, along with the setting in relation to the Listed Building, the overall historic characteristics and the planning history including the Inspector's decision.

It was considered that as fundamental changes had taken place in this area over recent years and more changes will be taking place in the immediate area, that the principle of a suitably designed building could be acceptable, subject to several issues being satisfactorily addressed. Thus the application for the three bed, single garage development was approved following detailed scrutiny.

This amended application has a double garage which has little impact on the immediate area or the neighbours, and three new rooflights, which are considered not to be to the detriment of the listed building or the character of the immediate area.

The comments of the Parish Council and Drainage Officer are noted, however the concept of developing the site has only recently been agreed. It is not considered that the comments raised raise any issues which were not considered previously. The provision of an additional garage changes the footprint of the building slightly, but does not result in an unacceptable building or detriment to neighbours.

Whilst the Drainage Office is not satisfied with the details in relation to the pond, this area is not within the control of the applicant. The drainage arrangements for this area are linked with the highway drainage, and possible longer term developments in the area. It will be at this time that the longer term elements of the pond and its maintenance will be addressed. The Landscape Officer is satisfied with the pond remaining intact, he considers that the submitted details are acceptable, and he has been closely linked with ongoing discussions regarding the drainage, landscaping and wildlife issues. Thus whilst the Drainage Officer objects, it is not within the scope of the current application to rectify the drainage issues of the pond.

In conclusion, the application as submitted 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

02/12/0011

MR B FORSEY

ERECTION OF EQUESTRIAN MANAGERS DWELLING AND DOUBLE GARAGE AT THREE OAKS RACING STABLES, COMBE FLOREY ROAD, ASH PRIORS (RESUBMISSION OF 02/12/0005)

Grid Reference: 315010.129666

Full Planning Permission

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval

The site lies in a countryside location, where it is the policy of the Local Planning Authority to resist new housing development unless it is demonstrated that the proposal serves a genuine appropriate rural need. Although marginal, given the circumstances, it is considered that there is a need for a worker to reside on the holding in order to sustain the business and the financial information submitted shows the business to be profitable and have a clear prospect of remaining so. The dwelling proposed is deemed commensurate to the needs of the holding and it is not considered that this need can be accommodated by another dwelling either on the unit or in the surrounding area. The proposed rural workers dwelling is situated in close proximity to the stables to enable quick access to deal with emergencies. Subject to landscaping as conditioned below, it will have no significant adverse impact on the character of the landscape and it is located a sufficient distance from neighbouring properties to avoid any adverse impact upon their residential amenities. As such, the proposal is in accordance with the guidance contained in Policies DM1 (General Requirements) and CP8 (Environment) of the Taunton Deane Core Strategy 2011-2028, Policy STR6 of the Somerset & Exmoor National Park Joint Structure Plan Review and Paragraph 55 of the National Planning Policy Framework 2012.

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:

(A3) DrNo 1349-100 A Location Plan
(A3) DrNo 1349-101 A Site Plan

(A3) DrNo 1349-102 A Proposed Floor Plans
(A3) DrNJo 1349-103 A Proposed Elevations
(A3) DrNo 1349-104 A Proposed Garage- Plans and Elevations

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

3. Prior to the commencement of the erection of any part of the buildings, samples of the materials to be used in the construction of the external surfaces of the development hereby permitted shall 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 surrounding landscape in accordance with Policies DM1 and CP8 of the Taunton Deane Core Strategy.

4. The windows and doors hereby permitted shall be timber and thereafter maintained as such.

Reason: To protect the character and appearance of the surrounding landscape in accordance with Policies DM1 and CP8 of the Taunton Deane Core Strategy.

5. (i) The landscaping/planting scheme shown on the submitted plan 1349-101A and detailed in Part 6 of the Design and Access Statement shall be completely carried out within the first available planting season from the date of commencement of the development.

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

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Policy CP8 of the Taunton Deane Core Strategy.

6. The dwelling shall not be occupied until works for the disposal of (i) sewage and (ii) surface water have been provided on the site to serve the development hereby permitted, in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent discharge into nearby water courses in accordance with Policy CP1 of the Taunton Deane Core Strategy.

7. The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, at Three Oaks Racing Stables or in the locality in

agriculture, as defined in Section 336(1) of the Town and Country Planning Act, 1990, or in forestry or a dependent of such a person residing with him or her or a widow or widower of such a person.

Reason: The site is in an area where the Local Planning Authority's policy is to restrict new residential development to that essential to meet the needs of rural workers to live permanently at their place of work in accordance with the advice contained in paragraph 55 of the NPPF.

8. The temporary dwelling identified on drawing 1349-100A shall be removed and the land restored to its former condition, within two weeks of the date that the dwelling hereby permitted is first occupied.

Reason: The site lies in a location where the local planning authority would not look favourably upon further residential units, as set out in paragraph 55 of the NPPF.

9. 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, other alterations (including balconies, windows, chimneys, flues, antennae) or curtilage structures (of the types described in Schedule 2 Part 1 Class A-E of the 1995 Order), other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.

Reason: To ensure that the character of the dwelling and the appearance of the surrounding landscape is not harmed, in accordance with Policies DM1 and CP8 of the emerging Taunton Deane Core Strategy.

Notes for compliance

1. With reference to Condition 3 requiring sample materials, the Landscape Officer is of the opinion that the roof should be dark grey in colour to reduce the landscape impact, particularly given the close proximity of the Public Footpath.
2. Wessex Water do not object, providing there is no impact on Wessex Water infrastructure. It is the applicant's responsibility to ensure that the proposed scheme would not affect such infrastructure.

PROPOSAL

Three Oaks Racing Stables has been operating as a race horse training enterprise since 2003. It is located to the north of Ash Priors, accessed by an unmade track and extends to 3.55 acres, with an additional 6.62 acres rented adjacent to the stables. In addition to the applicant and his wife being employed full-time on the

holding, a further three part-time local stable hands are employed.

To the south of the site is a residential property, whilst to the north, east and west are agricultural fields. A public footpath passes to north of the site and the land rises in this direction. The site comprises a large stable building (permitted in 2004) accommodating 10 race horses, two tack rooms and a feed room; a horse walker and a mobile home.

Planning permission was initially granted for the mobile home in December 2005 and subsequently renewed in May 2009. Earlier this year, a planning application sought planning permission for a permanent equestrian managers four bedroom dwelling and double garage to the north-west of the stables building. This was withdrawn following concerns raised by the case officer and landscape officer.

This application is now a resubmission of the withdrawn application and seeks permission for a four bedroom detached dwelling for an equestrian manager. It would be of red brick with a clay tile roof, stained timber doors and windows with stone heads and cills. It is now proposed to position the building to the north of the stables, with a double garage to the north of this. An area of tree planting has already been carried out to the east of the site and it is proposed to undertake further hedgerow and tree planting to the north and west.

It has been stated that a four bedroom house is required to accommodate the owner/manager of the stables, his wife, daughter, an elderly relative; and provide a guest room for accommodation for race horse owners when they visit their horses, which at times would be used by a stable girl, training at the yard.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SCC - TRANSPORT DEVELOPMENT GROUP - The application is for the erection of a Manager's dwelling at Three Oaks Racing Stables, in Ash Priors. Access to the site would continue to be gained via the existing private access. Visibility from this access onto the highway is considered to be substandard. However, given that the site already has permission for a temporary dwelling (02/09/0005), it is considered that the current proposals would not result in an intensification of the use of the access.

Internally the provision of the double garage and turning area is considered to be acceptable. 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, no objection, recommend condition.

ASH PRIORS PARISH COUNCIL - No comments received

LANDSCAPE LEAD - Subject to final details of planting, this is a more acceptable scheme with less landscape impact.

Subsequent comments received – A slate roof would help to reduce the visual impact given the Public Footpath so close by and conversely tiles would stick out.

Grey tiles however would be acceptable in terms of landscape impact. Landscaping details set out in Part 6 of Design and Access Statement sufficient.

DRAINAGE ENGINEER - Foul sewage to be disposed of by septic tank and connection is to be made to existing drainage system. More information should be submitted for approval before any permission is given. With regard to surface water disposal, I note that soakaways and suds are to be used to dispose of surface water. Details need to be submitted. Object until such approval is given.

WESSEX WATER - No objection in principle, providing there is no impact on Wessex Water infrastructure.

Representations

Four letters of support/no objection received on the grounds of:

- Mr Forsey has good business, been running it for over four years, suitable to area, natural progression and necessary for him to have permanent dwelling.
- Care has been taken to keep building as discrete as possible. Will look very in keeping
- Horse training business is an asset to the village.

One letter received stating no comments.

PLANNING POLICIES

EN12 - TDBCLP - Landscape Character Areas,
S1 - TDBCLP - General Requirements,
S2 - TDBCLP - Design,
S7 - TDBCLP - Outside Settlement,
H13 - TDBCLP - Agricultural or Forestry Workers,
STR6 - Development Outside Towns, Rural Centres and Villages,
S&ENPP5 - S&ENP - Landscape Character,
DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,

DETERMINING ISSUES AND CONSIDERATIONS

The applicant has been running the business on this site since 2003 and has undertaken investment into a large stable building and electronic horse walker. When planning permission was originally sought for the mobile home, it was envisaged that the yard would have 8-10 horses in training by year three. As this was not achieved, the temporary permission was renewed to allow extra time to establish the business and there are now 10 horses in training on the site, with the applicant and his wife working full time, along with a further three part-time staff. It is further proposed to expand the business to 14 race horses and the option of a broodmare on site to establish a breeding enterprise is also currently being considered.

Over time the applicant has increased the quality and racing potential of the horses he trains, attracting other owners with higher standards of horses, requiring a greater level of care and training and consequently acquiring increased training fees, further

enhancing the business. The attractiveness of the services available have been improved further still by the extra benefits offered through yard sponsorship. However, by virtue of the high value of the race horses, any degree of mortality that might otherwise be accepted in livestock rearing is unacceptable and in order to prevent this, to provide the intensive level of care required and deal with emergencies, it is stated that there is a need to live on site. Furthermore, in the absence of someone residing on site, it is difficult to offer the same level of service as other race horse training yards and therefore remain an attractive and competitive business.

Evidence has been submitted to indicate that the business achieved a reasonable level of profit in 2007-2008 and 2008-2009. During the processing of the last application concern was raised regarding the significant reduction in profits during the year of 2009-2010, although the latest application has been accompanied by a letter from the accountant providing an explanation for the lower profits in that year. Furthermore, the latest set of accounts for 2010-2011 indicate that the profit was again along the lines of previous years and the future expansion proposed would further improve the profitability of the business.

As such, it has been demonstrated that the business has been profitable for the last four years and in view of the yard sponsorship, increased training fees and future expansion plans, has a clear prospect of remaining so. The dwelling originally submitted under the previous application was excessive in size and exceeded the level of floor area considered commensurate to the functional requirement of the holding. The size of the dwelling has been reduced under this application and although this remains a sizeable property, in view of the fact that the fourth bedroom would be used to accommodate race horse owners visiting their horses and a stable girl training at the yard, it is considered acceptable.

Whilst it is usual to position the mobile home on the same site that any future dwelling would be proposed, the applicant did not consider the same site appropriate due to potential noise and disturbance. However, the proposed site does lie directly adjacent to the main stable building, enabling the owner to access the stables quickly when necessary. The proposed dwelling and garage would therefore be screened from the south by the existing building. Tree planting has already taken place to the east of the site and over time as this establishes, this would prevent views from the east, whilst a native hedgerow to the east and west, along with further tree planting to the north would help integrate the building and domestic curtilage into the surrounding rural landscape.

Although the dwelling would be visible from the public road to the north-west of the site and the public footpath to the north, it would be viewed against the backdrop of the stable building and would not therefore appear prominent in the landscape with the use of appropriate materials. The use of red brick is considered acceptable, as is the use of tiles and stained timber fenestration. However, the colour of the tile has not been specified and the Landscape Officer is of the opinion that this should be a dark grey so as to blend in with the roof of the stables building, in order to minimise the impact on the surrounding countryside. Being to the north of the stable building, the dwelling would be a sufficient distance from neighbouring properties to avoid any impact upon their amenities.

The site lies on the north of Ash Priors and no information has been provided of any properties on the market in close proximity to the site. Whilst there may be

accommodation in the adjacent village, it is anticipated that these would be beyond the affordability of an equestrian worker. Furthermore, it is acknowledged that it would be unlikely to represent a suitable alternative to deliver the unique level of stock care that the race horse business requires to maintain and attract clients.

The County Highways Authority (CHA) do not object to the use of the substandard access on the basis that the proposed dwelling would not be considered to significantly intensify the use of this access beyond that of the current situation. As such, the proposal is not deemed to result in harm to highway safety. The CHA suggest a condition to prevent surface water being deposited into the highway. However, as there are no alterations proposed to the access and it has been used for some years, it does not seem reasonable to now attach such a condition.

Whilst it is considered that the functional need at the current time is marginal, it is deemed just sufficient to justify a permanent dwelling to enable an established rural business to continue, that would otherwise not be in a position to offer the same level of service as other race horse training yards, and would therefore find it difficult to compete with those where there is someone resident on site. On balance, in order to sustain the business, it is therefore considered that, in this case, given the circumstances, a need for a rural worker to live permanently on site has been established, as set out in Paragraph 55 of the National Planning Policy Framework. Furthermore, the development with which it would be associated would be within the exceptions set out in Policy S7 of the adopted Local Plan, not only in terms of being for a form of activity usually associated with a rural area, but also in terms of contributing to the vitality and viability of the rural economy.

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

CONTACT OFFICER: Mrs K Walker Tel: 01823 356468

E/0135/38/12

CAR BUSINESS RUNNING FROM PRIVATE RESIDENCE AT 10 FULLANDS ROAD, TAUNTON

OCCUPIER:

OWNER: MR B GODDARD
10 FULLANDS ROAD, TAUNTON, TA1 3DD

PURPOSE OF REPORT

To consider whether it is expedient to serve an Enforcement Notice requiring the cessation of a car sales business being operated from a residential dwelling.

RECOMMENDATION

The Solicitor to the Council be authorised to serve an Enforcement Notice and take Prosecution action subject to sufficient evidence being obtained that the Notice is not complied with.

The Enforcement Notice shall require:-

- the cessation of car sales from the residential property.

Time for compliance - 6 months from the date of the notice coming into effect.

SITE DESCRIPTION

The semi-detached property is of white render under a tile hipped roof part way along Fullands Road. It is set in a row of a mixture of detached and semi-detached dwellings of varying styles.

BACKGROUND

A complaint was received in July 2012 and a site visit was carried out. It was established that a car selling business was being operated from the property. I advised the owner that he would need to relocate his business as it would be unlikely to be acceptable if he were to submit a Planning application for consideration to continue operating from a residential property. The owner advised that he was looking for alternative premises but had started this business from home to see if he could make a success of it as he was being made redundant in September 2012. The owner is actively looking for alternative premises and Matt Parr (Economic Development Project Officer) is also trying to help find alternative premises.

DESCRIPTION OF BREACH OF DEVELOPMENT CONTROL

The owner has set up a car sales business from a residential property which constitutes a change of use from residential to mixed use residential/commercial.

RELEVANT PLANNING HISTORY

A Planning application for an extension to the property was approved on 02/09/2010 under 38/10/0250.

RELEVANT PLANNING POLICES

National Policy, Guidance or Legislation

PPG18 – Enforcing Planning Control

Adopted Taunton Deane Core Strategy

DM1 - General Requirements

DETERMINING ISSUES AND CONSIDERATIONS

The property lies within a wholly residential area, with no evidence of business use in close proximity to the site. As there is only limited car parking space within the curtilage of the dwelling, the selling of cars from the property results in the cars being parked on the adjacent highway. Being for sale, these cars are not simply parked for brief periods as may be the case with visitors to dwellings along this road, but instead remain there for longer periods, causing an obstruction to the free flow of traffic. This problem is exacerbated by potential customers coming to view cars for sale, resulting in further parking on the highway and disturbance to neighbouring properties by comings and goings as a result of this business.

As such, the business use of the premises is deemed to result in harm to highway safety and nuisance to the occupiers of neighbouring properties, to the detriment of their residential amenities.

It is considered that there are many alternative sites around the Borough, suitable for car sales, within industrial estates for example, that would not result in harm to highway safety or to the residential amenities of nearby properties.

It is therefore considered that enforcement action should be taken to cease the use of this residential property for car sales.

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

PLANNING OFFICER: Mrs K Walker
PLANNING ENFORCEMENT OFFICER: Mrs A Dunford

CONTACT OFFICER: Mrs A Dunford, Telephone 01823 356479

E/0025/07/11

**UNAUTHORISED MOBILE HOME ON LAND TO REAR OF LANGS FARM,
BRADFORD ON TONE**

OCCUPIER:

OWNER: MR D K HOWELL
LANGS BARN, LANGS FARM, BRADFORD ON TONE
TAUNTON

PURPOSE OF REPORT

To consider whether it is expedient to serve an Enforcement Notice requiring the cessation of the land for residential purposes.

RECOMMENDATION

That the Solicitor of the Council be authorised to serve an Enforcement Notice and to take prosecution action, subject to sufficient evidence being obtained that the notice has not been complied with.

The Enforcement Notice shall require:

- The cessation of the residential use of the site and removal of the unauthorised chalet.

Time for compliance: 6 months from the date on which the Notice takes effect.

The site lies to the North of Lang's Farm which is adjacent to the highway that runs from Oake to Bradford on Tone. Access to the site is off a track which runs to the West of the site. The mobile home/chalet is sited next to the agricultural barn.

BACKGROUND

A complaint was received in January 2011. A site visit was carried out and contact was made with the owner Mr Howell. Mr Howell advised that he had decided to opt out of conventional living and now lives as a traveller. A letter was sent to Mr Howell in May 2011 outlining the options he had. Mr Howell called at the office and spoke with the Senior Enforcement Officer to advise he was submitting a Planning application. To date this has never been received.

DESCRIPTION OF BREACH OF DEVELOPMENT CONTROL

The site is in open countryside and accessed along a track off the main road between Oake and Bradford on Tone. The erection of the chalet (approximately 4mtrs wide by 12mtrs long with a pitched roof) is considered to constitute a building operation and does not fall within the definition of a caravan.

This is also considered to be a change of use of land for residential purposes for which no planning application, including any supporting evidence has been submitted.

In order to remedy the breach it would be necessary to cease the occupation of the building for residential purposes and remove the building from the site.

RELEVANT PLANNING HISTORY

There are no planning applications for this site.

RELEVANT PLANNING POLICIES

Taunton Deane Local Plan

S1 – General Requirements

S2 – Design

S7 – Outside Settlements

Somerset and Exmoor National Park Joint Structure Plan Review

STR1 – Sustainable Development

STR2 – Development outside Towns, Rural Centres and Villages

49 – Transport Requirements of new development.

National Planning Policy

PPS7 – Development in the Countryside

PPG18 – Enforcing Planning Control.

DETERMINING ISSUES AND CONSIDERATIONS

The site is in the open countryside where planning policies place a strict control on new development. As such, new residential development, be that in a permanent dwelling or temporary caravan/chalet, is considered to be unacceptable and contrary to Policy S7 of the Taunton Deane Local Plan. Collectively, such sporadic development could have a detrimental impact upon the open character and landscape in such rural locations.

In discussion with the owner/occupier of the site, your Enforcement Officers have been advised that the owner has opted out of conventional living to live as a traveller. However, planning policies cannot be set aside simply because somebody has decided that they no longer wish to live a conventional lifestyle. No evidence has been submitted to suggest that the owner is seeking an exception to planning policy on the basis of claiming Gypsy or Traveller status within the meaning of Circular 01/06. As such, it must be concluded that the current occupation of the chalet is unacceptable.

Given the isolated nature of the site, and strong tree cover in the vicinity the unauthorised chalet is not prominent in the local landscape, nor is it considered to have an unacceptable impact on the amenities of nearby property.

The access to the site is via a long loosely surfaced track from the main public highway between Bradford on Tone and Oake. Visibility to the left (towards Bradford on Tone) is severely restricted by the presence of three large trees on the highway verge. However, the track formerly provided access to the agricultural barns also on the site and, in this context, it seems unlikely that there would be significant additional loading on the local highway network. It is not, therefore, considered

appropriate to take enforcement action on the basis of the poor visibility at the access.

However, the development is considered to be unacceptable in principle and it is recommended that enforcement action is taken for the following reasons:

- The residential use of the site results in sporadic development in the open countryside that, collectively, would be detrimental to the visual amenities of the area contrary to Policy S1 of the Taunton Deane Local Plan.
- The residential use of the site results in an unsustainable form of development that would mean that occupiers of the site are heavily reliant on the private car for most of their day to day needs. As such the proposal is contrary to Policies S1 and S7 of the Taunton Deane Local Plan and Policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review.

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

Members may recall the above report at committee on 29th February 2012 when Enforcement action was approved to issue a Notice to cease using the land for residential purposes.

The Enforcement Notice was served and an appeal was lodged and as part of the preliminary appeal procedure the appellant has submitted 3 statutory declarations showing the chalet has been there for more than four years. If this is the case it would be immune from enforcement action.

We have assessed the statements against the facts that we have to hand and there is nothing substantive to disprove the appellants claim that the use has been in existence for more than four years. There is no option but to withdraw the notice.

PLANNING OFFICER:

PLANNING ENFORCEMENT OFFICER: Mrs A Dunford

CONTACT OFFICER: Mrs A Dunford, Telephone 01823 356479

APPEALS RECEIVED : FOR COMMITTEE AGENDA : 26 September 2012

Proposal	Start Date	Application/Enforcement Number
HIGH SPIKED FENCE ERECTED IN FIELD ADJACENT TO BROAD LANE, NORTH CURRY	04 SEPTEMBER 2012	E/0322/24/10
VEHICLES FOR SALE AND OPERATION OF CAR MAINTENANCE AND REPAIRS AT THE GABLES, WELLINGTON ROAD, BRADFORD ON TONE, TAUNTON	05 SEPTEMBER 2012	E/0310/05/11
UNAUTHORISED MOBILE HOME ON LAND TO REAR OF LANGS FARM, BRADFORD ON TONE	11 SEPTEMBER 2012	E/0025/07/11 AND 07/12/0006

APPEAL DECISION FOR COMMITTEE AGENDA – 26 SEPTEMBER 2012

APPEAL	PROPOSAL	REASON(S) FOR INITIAL DECISION	APPLICATION NUMBER	DECISION
APP/D3315/F/12/2175000 AND APP/D3315/F/12/2175246	ALTERATIONS TO SHOP FRONT AT 21 EAST STREET, TAUNTON	N/A	E0102/38/11	Regarding Appeal 2175000, the Inspector found that the works have materially affected the external appearance of the listed building and thereby also affected its character. Listed building consent is therefore required. The appeal was DISMISSED and the listed building enforcement notice upheld. With regard to Appeal 2175246, the Inspector found that the works do not preserve the character of the listed building and consent will therefore not be granted. The appeal was DISMISSED.
APP/D3315/A/12/2173543	CHANGE OF USE OF LAND TO SITE 3 NO. MOBILE HOMES, 3 NO. PITCHES FOR TOURING CARAVANS, 3 NO. UTILITY SHEDS, 1 NO. DAY ROOM AND THE REPOSITIONING OF STABLE BLOCK, FOR USE BY ROMANY GYPSY FAMILIES AT ALTONA PARK, HILLFARRANCE	The proposed development by reason of the large site area, visual appearance and prominent position in the landscape would have a detrimental impact on the rural setting and appearance of the area contrary to Taunton Deane Local Plan Policies H14 and EN12 and Core Strategy Policy DM3, in particular from local public footpaths and	27/11/0018	The Inspector concluded that overall the modest degrees of harm would be outweighed by the factors which support the granting of planning permission for the proposed development. The extent of harm to the landscape would not be unacceptable (Core Strategy Policy DM1). The Inspector further considered the need for the site provides a significant justification for permission and so it is necessary to restrict its occupation to gypsies

		<p>the nearby rail network. The site is not considered to be in a sustainable location and therefore the provision of further development (in particular due to its scale) outside of the existing site area would be contrary to the provisions of Core Strategy Policy DM3 which seeks to site gypsy and traveller sites in sustainable locations closer to services and facilities. The proposal would also comprise an inefficient use of land in an area where development should be strictly controlled and as such would be contrary to planning guidance contained in PPS1, PPS3 and PPS7.</p>		<p>and travellers. In the interests of the area's character and appearance, conditions are needed restricting the number of caravans and in respect of details of the development, the maintenance of landscaping, and the prevention of commercial activities. The appeal was therefore ALLOWED and planning permission granted for change of use subject to conditions as set out.</p>
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TDLP = Taunton Deane Local Plan **SENP** = Somerset & Exmoor National Park

