

You are requested to attend a meeting of the Planning Committee to be held in The John Meikle Room, The Deane House, Belvedere Road, Taunton on 30 January 2013 at 17:00.

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### Agenda

- 1 Apologies.
- 2 Minutes of the meeting of the Planning Committee held on 12 December 2012 (attached).
- 3 Public Question Time.
- 4 Declaration of Interests.  
To receive declarations of Disclosable Pecuniary Interests or personal or prejudicial interests, in accordance with the Code of Conduct. The usual declarations made at meetings of the Planning Committee are shown in the attachment.
- 5 42/12/0058 - Erection of dwelling in rear garden and formation of new access at Ashridge, Honiton Road, Trull (Amended scheme to application 42/12/0039).
- 6 38/12/0468 - Erection of two storey extension to front of 77 Lyngford Road, Taunton.
- 7 30/12/0048 - Change of use of covered part of store to plumbers store and office at Fosgrove Lane, Pitminster.
- 8 30/12/0046 - Variation of Condition No. 6 of application 30/02/0013 to site an additional 2 No. mobile homes and 1 No. touring caravan for family members at Fosgrove Paddock, Fosgrove Lane, Pitminster.
- 9 27/12/0024/REX - Erection of a horticultural nursery to include poly tunnel and construction of access at land south of Harris's Farm, Hillcommon (to replace extant permission 27/09/0020/REX).
- 10 14/12/0036 - Outline application for residential development of 35 No. houses, Scout Hut, recreational open space and associated works at land south of Hyde Lane, Creech St Michael.
- 11 E/0172/17/12 - Occupied mobile home at Pond Cottage, Fitzhead Road, Fitzhead.

- 12 E/0072/38/10 - Untidy site at 18 Hoveland Lane, Taunton.
- 13 E/0008/30/13 - Unauthorised change of use of land for siting of touring caravan on land known as Gypsy Platt, Leigh Hill, Nr. Burnworthy.
- 14 E/0135/38/12 - Unauthorised use of property for the sale of motor vehicles at 10 Fullands Road, Taunton.
- 15 Application No. 42/12/0013 - Residential development at Amberd Lane, Trull. Report of the Legal Services Manager (attached).
- 16 Planning Appeals - The latest appeal decisions received (attached).

Tonya Meers  
Legal and Democratic Services Manager

04 March 2013

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

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

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

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

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

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

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

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



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

**For further information about the meeting, please contact the Corporate Support Unit on 01823 356414 or email [r.bryant@tauntondeane.gov.uk](mailto:r.bryant@tauntondeane.gov.uk)**

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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 – 12 December 2012

Present: - Councillor Nottrodt (Chairman)  
Councillor Coles (Vice Chairman)  
Councillors Mrs Allgrove, Bishop, Bowrah, Denington, C Hill,  
Mrs Hill, Miss James, Mrs Smith, Tooze, Watson, Ms Webber,  
A Wedderkopp, D Wedderkopp and Wren.

Officers: - Bryn Kitching (Development Management Lead), Gareth Clifford (East Area Co-ordinator), Anthony Pick (Major Applications Co-ordinator), Judith Jackson (Legal Services Manager), Maria Casey (Planning and Litigation Solicitor), and Tracey Meadows (Corporate Support Officer)

(The meeting commenced at 5.00 pm)

### 139. Apologies/Substitution

Apologies: Councillors A Govier, Mrs Messenger and Morrell

Substitution: Councillor Ms Webber for Councillor Morrell

### 140. Declarations of Interest

Councillor D Wedderkopp declared a personal interest as a Member 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 Tooze declared a personal interest as an employee of UK Hydrographic Office and Councillor Wren declared a personal interest as an employee of Natural England. He also declared a prejudicial interest as the Clerk of Milverton Parish Council in respect of application No 21/12/0018 and he said that he would leave the room before this application was considered. Councillor Coles declared that he had a discussion with the applicant for application No 24/12/0044LB, however he did not feel that he had fettered his discretion.

### 141. 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 the **detailed plans be approved** for the under-mentioned development:-

#### **21/12/0018**

**Reserved Matters application for 'Appearance' and 'Scale' with regard to the development of the site for a garden centre pursuant to outline application 21/09/0019 at land east of Milverton Road, Wellington.**

## Conditions

(a) The development hereby permitted shall be carried out in accordance with the following approved plans:-

- (A1) DrNo 12109(L)002 A Existing Site Plan
- (A1) DrNo 12109(L)010 A Proposed Site Plan
- (A1) DrNo 12109(L)012 A Proposed Roof Plan
- (A1) DrNo 12109(L)013 A Proposed Elevations and Section

### (Notes to Applicant:-

- (i) Applicant's was advised that in accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has granted planning permission.
- (ii) Applicant attention is drawn to the conditions of the outline planning permission which are required to be discharged prior to the commencement of any works.
- (iii) Applicant was advised that any construction on the site shall adhere to the GS6 Health & Safety Guidelines on Avoidance of Danger from Overhead Lines. Advised to contact Western Power prior to the commencement of any works on the site).

### Reason for approving the detailed plans:-

The reserved matters of 'scale' and 'appearance' were considered to be acceptable in terms of the building dimensions and design and would accord with Policy DM2 General Requirements and DM4 Design of the adopted Taunton Deane Core Strategy.

- (2) That **planning permission be granted** for the under-mentioned Development:-

**38/12/0405**

**Conversion of garage to provide ancillary accommodation at 6 Compton Close, 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 2212\_01 Existing and Proposed Plan and Elevations
  - (A4) DrNo 2212\_02 Location Plan
  - (A4) DrNo 2212\_03 Site Plan
- (c) The area allocated for parking on the submitted plan, drawing number 2212\_03, shall be kept clear of obstruction at all times and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

(d) The accommodation to be provided within the development hereby permitted shall remain as permanent ancillary accommodation to the principal dwelling No 6 Compton Close and shall be occupied only by persons of the same household. There shall be no subdivision of this single residential planning unit.

**(Note to applicant:-** Applicant was advised that in accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission).

**Reason for granting planning permission:-**

The proposal was considered not to have a detrimental impact upon visual or residential amenity and was therefore considered acceptable and, accordingly, did not conflict with Policy DM1 (General Requirements) of the Taunton Deane Core Strategy.

(3) That **planning permission be refused** for the under-mentioned Development:-

**24/12/0044/LB**

**Erection of timber framed conservatory at Manor Farm Court Farm, Huntham Lane, North Curry**

**Reasons**

The proposed extension, by reason of its design and location, would disrupt the appearance and harm the significance of the 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, and guidance in 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.

**142. Appeals**

Reported that two appeals had been lodged and three decisions had been received details of which were submitted.

(The meeting ended at 6.15 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

42/12/0058

MRS M R KEYSELL

**ERECTION OF DWELLING IN REAR GARDEN AND FORMATION OF NEW ACCESS AT ASHRIDGE, HONITON ROAD, TRULL (AMENDED SCHEME TO APPLICATION 42/12/0039)**

Grid Reference: 321304.121971

Full Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

The proposal, for residential development, is located within defined settlement limits where the principle of new housing is considered acceptable and the development would not have a detrimental impact upon visual or residential amenity and is therefore considered acceptable. Therefore, the scheme accords with Policies DM1 (General Requirements) and SP1 (Sustainable Development Locations) of the Taunton Deane Core Strategy and retained 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:

(A3) DrNo 5312/12 Floor Plan  
(A3) DrNo 5312/13 Elevations  
(A4) DrNo 5312/1 Site Plan as Existing  
(A4) DrNo 5312/14 Site Plan  
(A4) Location Plan  
(A4) DrNo 5312/10 Sketch Elevations  
(A4) DrNo 5312/9 Sketch Floor Plan  
(A4) DrNo 5312/11 Sketch Elevations

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 ensure that the proposed development does not harm the character and appearance of the area 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 is occupied or in accordance with a timetable agreed in writing with the Local Planning Authority** and thereafter maintained as such, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the neighbouring residents in accordance with policy DM1(E) of the Taunton Deane Core Strategy.

5.
  - (i) Before any part of the permitted development is commenced, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority.
  - (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority.
  - (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not harm the character and appearance of the area in accordance with Policy DM1 of the Taunton Deane Core Strategy.

6. There shall be no obstruction to visibility greater than 900 millimetres above the adjoining road level forward of a line drawn 2.0 metres back and parallel to the nearside carriageway edge over the entire site frontage. Such visibility shall be fully provided before works commence on the development hereby permitted and shall thereafter be maintained 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.

7. Before the dwelling hereby permitted is first occupied a properly consolidated and surfaced access shall be constructed before it is brought into use. It shall be made of porous material (not loose stone or gravel), or alternatively provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the **dwelling hereby approved or within the curtilage of Ashridge. Details of which shall be submitted to and approved in writing by the Local Planning Authority.**

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

8. The car parking spaces and turning area shall be provided in accordance with approved plan drg no 5312/14 and shall thereafter remain available to the development hereby permitted at all times and the turning space shall be kept clear from 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 Retained Policy M4 of The Taunton Deane Local Plan.

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 or curtilage structures of the types described in Schedule 2 Part **1** Classes **A and B** of the 1995 Order other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.

Reason: In order to protect the amenities of neighbouring dwellings, in accordance with Policy DM1 of the Taunton Deane Core Strategy.

#### Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.
2. 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.
3. **WILDLIFE AND THE LAW.** The protection afforded to wildlife under UK and EU legislation is irrespective of the planning system and any activity undertaken on the tree(s) must comply with the appropriate wildlife legislation.

**BREEDING BIRDS.** Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) and if discovered must not be disturbed. If works are to be carried out during the breeding season (from February to August, possibly later) then the tree(s) should be checked for nesting birds before work begins.

**BATS.** The applicant and contractors must be aware that all bats are fully protected by law under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Natural Habitats and Species (Amendment) Regulations 2012, also known as the Habitat Regulations. It is an offence to intentionally or recklessly damage, destroy or obstruct access to structures or places of shelter or protection used by bats, or to disturb bats whilst they are using these places.

Trees with features such as rot holes, split branches or gaps behind loose bark, may be used as roost sites for bats. Should a bat or bats be encountered while work is being carried out on the tree(s), work must cease immediately and advice must be obtained from the Government's advisers on wildlife, Natural England (Tel. 01823 285500). Bats should preferably not be handled (and not unless with gloves) but should be left in situ, gently covered, until advice is obtained.

## **PROPOSAL**

The proposal comprises the erection of a single storey dwelling to the rear of Ashridge, with a plot size approximately 21m x 19m. The dwelling has been designed with two 'wings', connected by an entrance hall, one 'wing' accommodates the living, dining and kitchen space while the other provides three bedrooms.

The two wings of the dwelling measures 13m x 6.5m and 12.5m x 4m and has a maximum ridge height of 4m. Materials for the dwelling are to be submitted and agreed.

Within the site there is sufficient space to provide an amenity area, car parking, cycle and bin storage.

A new access is proposed to serve Ashridge and the application site.

## **SITE DESCRIPTION AND HISTORY**

Ashridge is sited on Honiton road in Trull, which is within close proximity of Taunton. The site forms part of the garden of Ashridge and is bound by high mature hedgerows and the gable end of a neighbouring property. One side of the site adjoins open space that fronts onto a private road that leads to some properties sited off Honiton Road. There is an existing access/parking area that serves Ashridge.

An application for a larger dwelling (42/12/0039) was submitted and refused last year as the dwelling would "result in a cramped form of single storey development out of keeping with and detrimental to the character of the area".

## **CONSULTATION AND REPRESENTATION RESPONSES**

## Consultees

*SCC - TRANSPORT DEVELOPMENT GROUP* - Following observations: -

- Visibility splay can be reduced to 2m x 43m; substantially improved access from existing; condition visibility.
- Previous comments from 42/12/0039 suggested conditions for surfacing, surface water and use of garage.

*TRULL PARISH COUNCIL* - Following observations: -

- Object - overdevelopment of site, leaving little outside space and making maintenance of existing hedge impossible.
- Design is out of keeping with others in the vicinity.

*WESSEX WATER* - Following observations: -

- New water and waste water connections will be required from Wessex Water to serve this proposed development.
- Advise survey of site and plot any unrecorded former private sewers.

## Representations

Letter of objection from Ward Councillor: -

- Not satisfied with Highway comments; personally concerned with safety of entrance of proposed development and impact on highways and neighbours; safety concerns.
- Backland development; gardens removed as brownfield under NPPF, giving more control to Local Authorities.
- Precedent it may set in other parts of the village.
- Too close to boundaries of other properties, impacting on them more than is acceptable.
- Space left for proposed and existing would reduce garden amenity to an unacceptable level, out of keeping with surrounding properties.

25 Letters of objection from within Taunton Deane and 7 letters of objection from outside of Taunton Deane raising the following: -

- Garden grabbing
- Undermine Trull Action Plan Review 2010 by undermining essential character of the village.
- Access cramped.
- Impact of new access on busy stretch of road, could be hazardous.
- Out of keeping and character with the area.
- Cramped development.
- Contrary to Local and National planning policy.
- Backland development.
- Proposed dwelling has limited windows and would be dark.
- Sets a precedent.
- Proposed bungalow not attractive.
- Little garden/amenity space.
- Loss of privacy, further if hedgerows were removed.
- Cannot achieve visibility splay.
- Hedges may be reduced, making development more prominent.

- Garage removed from previous application so no storage.
- Loss of natural habitat.
- Wildlife survey should be done again.

## **PLANNING POLICIES**

DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,  
 CP8 - TD CORE STRATEGY- ENVIRONMENT,  
 SP1 - TD CORE STRATEGY SUSTAINABLE DEVELOPMENT LOCATIONS,  
 M4 - TDBCLP - Residential Parking Provision,  
 S&ENPP49 - S&ENP - Transport Requirements of New Development,  
 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)	£1079
Somerset County Council (Upper Tier Authority)	£270

### 6 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£6474
Somerset County Council (Upper Tier Authority)	£1619

## **DETERMINING ISSUES AND CONSIDERATIONS**

The main considerations are the impact on the character of the area, visual and residential amenity and highway safety.

### Character

Whilst the single storey dwelling is surrounded by two storey dwellings, single storey dwellings are found within the immediate area and within Trull. Single storey dwellings are sited on the opposite side of Honiton Road, a distance of 40m away from the boundary of Ashridge.

Ashridge and Dunsmuir form a group of two dwellings that are two storey, are sited onto Honiton Road and have large garden plots. This is not characteristic of the area and does not follow a distinctive or descriptive pattern of development. The rear garden is not 'land locked' as access can be provided to the side of the site where the boundary is adjacent to a private road, with the next dwelling sited along Honiton Road a distance of 26m away.

Due to the size of the plot and the proposed access and drive, the proposal is not considered to be 'garden grabbing' in the negative sense, as put forward by objectors to the proposal.

## Residential amenity

The proposed bungalow is set 17m away from Ashridge and a new high fence is proposed between the two properties, and given the low ridge height of the proposed dwelling there is not considered to be any harm to the amenity of Ashridge.

The proposed dwelling is sited approximately 15m away the neighbouring property of Dunsmuir. As there is an existing high hedge and the proposed dwelling has a low ridge height, the proposed dwelling is not considered to harm the residential amenity of this property. As the hedge is higher than the proposed dwelling the proposal will not cause any loss of light or cause any overshadowing.

Due to the proposed dwelling being single storey, any windows within the proposed dwelling will not cause any overlooking or loss of privacy.

A distance of 2m has been maintained between the boundaries of Dunsmuir and Blackdown House to allow for any maintenance.

## Visual amenity

The proposed dwelling is bound on three sides by residential properties and their boundaries. One boundary of the site is adjoined to open space adjacent to a private road, this hedgerow boundary is visible to users of Honiton Road. As the hedgerow is greater in height than the proposal, the proposed dwelling would not be visible to the public and is therefore not considered to harm the visual amenity of the area. Furthermore, the gable end of the proposed dwelling is set back approximately 7m from this boundary, further reducing any impact the proposal would have.

If the hedgerow was removed at any point in the future, a 2m high boundary would screen the majority of the dwelling.

## Highways

The proposal includes a new access into the site, shared with Ashridge, stopping up the existing access into Ashridge. The Highway Authority considered the new access will be substantially improved over the existing access and have agreed that the visibility splay to be reduced from 2.4 x 43m to 2.0m x 43, which would appear within the applicants control. The visibility splay, surfacing and surface water disposal will form conditions to this decision.

Pre-application discussions with the Highway Authority concluded that "On balance, it is considered that the improvement to the visibility would outweigh any concerns regarding the proximity of the private accesses".

Parking/turning within the site have been shown on the submitted drawings and there is sufficient space to accommodate cycle storage.

## Ecology

The application has been accompanied with a wildlife survey that has concluded there are no signs of badger activity within the site. Having regard to comments submitted by neighbouring properties, advisory notes will be attached to this approval.

## Landscape

The existing boundary hedgerows are to be maintained with some trees to be felled within the garden. Additional tree planting is shown on the submitted plans and landscaping will be conditioned on this application.

## Conclusion

Though the adjoining properties, including Ashridge are two storey, this is not characteristic for the whole of the immediate area where single storey dwellings can be found. Furthermore, the proposed dwelling can be sited without harm to visual or residential amenity whilst improving the access for Ashridge onto Honiton Road. The proposed dwelling has been reduced in size, allowing more space around the dwelling and a larger amenity area whilst still providing off road parking and a turning area. As such, the proposal is no longer considered to be cramped and the proposed dwelling 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**

38/12/0468

MISS L MEADOWS

**ERECTION OF TWO STOREY EXTENSION TO FRONT OF 77 LYNGFORD ROAD, TAUNTON**

Grid Reference: 323331.126154

Full Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

The proposed development would not harm visual or residential amenity, nor would it be damaging to the character of the main dwelling. Accordingly, the proposal does not conflict with Policy DM1 (General Requirements) of the Taunton Deane Core Strategy and retained Policy H17 (Extensions to Dwellings) 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:

(A3) DrNo 07 Proposed Floor Plans and Elevations  
(A3) DrNo 06 Existing Floor Plans and Elevations  
(A4) DrNo 02 Block Plan  
(A4) DrNo 01 Location Plan

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

**Notes to Applicant**

- . In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has granted planning permission.

**PROPOSAL**

The proposal is to erect a pitched roof two storey extension on the principal elevation of the property. It will measure 2.25m x 3.5m and replace an existing porch that is currently under the eaves of the roof slope. The extension will bring the side elevation in line with the front wall of the property. Materials will match the existing property.

The application is being presented to committee as the Applicant is related to a Member of Staff.

## **SITE DESCRIPTION AND HISTORY**

The dwelling is semi detached and finished with red facing brick under a tiled roof. It has a gable fronted principal elevation that matches the adjoining property. It is sited away from the road in a elevated position. There is an existing porch that has been previously added and the extension will replace this. The garden is enclosed by a 1.8m fence above a 1 metre brick wall right hand side of the front and a beech head to the left hand side.

A previous planning application has been presented for a single storey extension - this two storey extension will be built in lieu of the one previously approved

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*SCC - TRANSPORT DEVELOPMENT GROUP* - No observations

### **Representations**

49 Lyngford Road - No observations

## **PLANNING POLICIES**

DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,  
H17 - TDBCLP - Extensions to Dwellings,

## **LOCAL FINANCE CONSIDERATIONS**

N/A

## **DETERMINING ISSUES AND CONSIDERATIONS**

It is considered that the proposed extension is in keeping with the existing dwelling in terms of size and design. It will not project further than the front wall of the dwelling and will have no adverse impact on neighbouring properties.

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

**CONTACT OFFICER: Mrs S Melhuish Tel: 01823 356462**

30/12/0048

MR L FORGHAM

**CHANGE OF USE OF COVERED PART OF STORE TO PLUMBERS STORE AND OFFICE AT FOSGROVE LANE, PITMINSTER**

Grid Reference: 322481.121103

Full Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

The proposed use of the building as plumbers store and office would utilise an existing building in the countryside, which requires minimal alteration to convert it to the intended use. The proposal is not considered to have a detrimental impact on the rural character of the surrounding landscape or material harm on the residential amenities of nearby properties. Whilst the proposal would have some impact on traffic flows, the County Highways Authority raise no objection and it is not considered that the proposal would result in detriment to highway safety that would warrant refusal of the application. As such, the proposal is in accordance with the provisions of Policies DM1 (General Requirements), DM2 (Development in the Countryside) and CP8 (Environment) of the Taunton Deane Core Strategy and the relevant sections of 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:

(A1) DrNo 4234/12 Site Plan

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

3. 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. Such provision shall be installed before the change of use and thereafter maintained 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.

#### Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has granted planning permission.
2. If new water supply connections are required from Wessex Water to serve this development. Application forms and guidance information is available from [www.wessexwater.co.uk/developerservices](http://www.wessexwater.co.uk/developerservices). Further information can be obtained from the New Connections Team by telephoning 01225 526222.
3. As the proposal includes the use of a non-mains foul drainage system, the builder/developer should consult the literature prepared by the Construction Industry Research and Information Association (CIRIA) regarding on-site sewage disposal and septic tank systems. The relevant leaflets can be found on the CIRIA website. Alternatively advice can be obtained from the Environment Agency on foul drainage systems.

#### PROPOSAL

The existing building was originally erected as a general purpose agricultural building in 1999 under application 30/99/0006. It is situated on Fosgrove Lane at Poundisford, close to the junction with Red Lane. The site is surrounded by agricultural fields and a scattering of dwellings, with the closest being approximately 70 metres away. A well established hedge separates the site from the road and access is provided by a metal gate. Also within the site is a mobile phone mast.

This application seeks planning permission for the change of use of part of the agricultural building to a plumbers store and office for Otter South West Plumbing and Heating Contractors, who are currently located at Trinity Business Centre on South Street in Taunton. Otter South West are a team of twelve installers and technicians specialising in renewable energy installations. It is proposed to heat the office and store by air source heating with hot water from solar generation and photovoltaics. It is therefore intended to install solar and photovoltaic panels on a section of the roof, which can be carried out under permitted development rights, provided the appropriate criteria are met. It is also proposed to install a rainwater harvesting system and a low energy bio-pure treatment plant with sub-soil percolation system. The store would also be utilised for the setting up and trialing of new products, which is not possible in the existing premises. The building would remain largely as existing with the installation of one window in the front elevation, to provide light and ventilation to the office area.

Further information has been provided by the applicant stating that:

- The business employs 9 full time technicians/engineers and will not expand further as they feel it is at an optimum size to be managed and run efficiently by them.

- They have 5 vans for their staff, none of which are based at their premises and that arrangement will continue. The employees who have vans use them as their method of transport to and from work and will commonly go direct to their jobs on site in the mornings with their working partner unless they have reason to go the base for materials, information or special equipment which they did not routinely carry. At present if they have to go to the base they have to drive into the centre of Taunton, collect equipment or information as needed then mostly retrace their steps. Aside from travel and environmental reasons this is inefficient, costly, and adds unnecessarily to congestion in the town centre as most of their work (estimated at 90%) is south of Taunton. They will normally go straight home at the end of the working day.
- If there were suitable commercial premises available within Trull that would certainly be their first choice but there is nothing, hasn't been in the recent past and there is no anticipation of anything in the foreseeable future.
- Some goods, mostly general consumables, pipes fittings etc will be held in stock but site specific goods and equipment will normally be delivered direct to site by the merchant/supplier. There is no merit in having heat pumps, boilers or the like delivered to the depot only for them to be redelivered out to the job. This is costly and risks damage in handling and transport.
- The proposal and application relates to what is now the enclosed section of the building.

The agent has confirmed that there is not any essential ongoing or future requirement for agricultural use for the building sufficient to justify a replacement structure as unwelcome visitors and loss of equipment have made gainful use very difficult and trying in the past, given the intermittent activity at this location.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*SCC - TRANSPORT DEVELOPMENT GROUP* - The proposal is to convert an agricultural store to a plumbers store and office. The location is relatively remote and inaccessible by means other than motor vehicles, though it is likely that a plumber would be reliant on such to travel to client locations conveying tools and parts. The location is within 5km by bicycle of the County Town which distance is considered relatively acceptable for cycling too as an alternative to motor vehicles; the site is some distance on foot to the nearest road with a bus route.

In detail access is on the outside of a bend of the narrow rural lane to the southeast of Staplehay, so it has relatively good visibility in both directions for a driver emerging from the access. On the day of my site visit there appeared to be a slight ponding problem at the entrance and this should be rectified such that water from the site does not drain onto the public highway. Though the location is relatively unsustainable it will be for the Planning Authority to determine whether or not to grant permission for the use. In the event of permission being granted, suggest condition regarding surface water disposal.

### *PITMINSTER PARISH COUNCIL* - Objects

- Whilst Council would fully support a local and sustainable business operating within reasonable travelling distance from home, site is accessed by extremely narrow roads. Increasing road usage with commercial vehicles is wholly unsuitable.

- Planning Inspector in 2009 stated that Fosgrove Lane is far from ideal in highway safety terms as it is narrow, twisty, undulating and unlit. Development that could significantly increase the number of vehicles passing along the lane would be detrimental to the safe and free flow of traffic and the Council considers it should be resisted.
- Council has not been given evidence of demonstrable need for this application or that there are no other business facilities available.
- Granting change of use from agriculture to B1 use may set a precedent. Once granted, the rest of building would no doubt be granted consent.
- If planning officer minded to grant consent, Council feels that B8 storage only would be more appropriate.
- Provision of services to the site would cause additional pressure on the small hamlet.

## **Representations**

11 letters of OBJECTION received from 10 different households on the grounds of:

- Applicant states he requires site so he can be close to his customer base and current storage facility in Taunton not suitable. However, applicant's own website states "Based in Somerset, we cover a wide area of the M5 corridor into Wiltshire, Avon, Devon and Dorset" and Otter South West serve a client base up to 50 miles from junction 25 of the M5 motorway. Surely site tucked away down country lane will be most unsuitable for sending supplies to development on the M5 corridor and into Wiltshire and Dorset. This will result in much increased traffic down the narrow lanes that lead to the proposed site. An urban site would be much more appropriate.
- Building granted permission for agricultural purposes only. Approval would set precedent for a number of other potential buildings for commercial development in the countryside. Proposed business totally inappropriate for rural location where road structure, drainage and communications are not sufficient to support commercial use.
- Dwelling within 300 metres of building. Lane is narrow, single track, unlit, without footpath or passing places, has reduced visibility with Red Lane and used as cut through/school run from B3170. Road layout is effectively a four way junction with virtually no visibility. Road already extremely busy, especially in mornings, number of cars already too much for small narrow single track lane, without commercial traffic, which would slow down traffic flow in a difficult area. Roads cannot cope with more traffic. Position of business on narrow, winding country lane has significant implications for highway safety. Development on blind/dangerous bend with high hedges and reduced visibility where accidents/collisions frequently occur and would be likely to occur more frequently with the increase in traffic flow that would occur if proposal accepted, posing danger to traffic and pedestrians. Planning Inspector on a previous application half a mile along the lane commented "Fosgrove Lane is far from ideal in highway safety terms as it is narrow, twisty, undulating and unlit" and that "Development that could significantly increase the number of vehicles passing along the lane that would be detrimental to the safe and free flow of traffic should be resisted"
- Must be more suitable designated commercial areas that a business could use, offering purpose built premises, free flow of commercial traffic, better security, parking, deliveries, signage, lighting, fast internet, communications, etc. Around Taunton there are purpose built trading estates and storage facilities, should not be in an agricultural area. Otter South West as a business is well positioned to

- find more appropriate premises or development opportunities.
- Proposal will need significant changes to services, communications and infrastructure to function as a business, which is inappropriate, out of character to the locality and would add pressure to the small hamlet.
- Lane often blocked due to ice, snow or flooding and often blocked by multiple cars. Already dangerous riding horses up lane.
- Road and drainage is appalling, highlighted in recent flooding, covered in 3 inches of water across bend for some time.
- Area within the AONB (*NB Site is not within AONB*) and not in keeping with natural surrounding of agriculture and countryside. Area frequently used by horse riders, walker and cyclists.
- Neighbouring properties would be affected by a commercial concern.
- Proposal makes mention of a product display area, question whether possible without site becoming a retail site as well.
- No evidence of demonstrable need for this application or that there are no other business facilities available. Granting change of use to B1 may set precedent. Once change of use established, rest of building would no doubt also be granted consent. If minded to grant consent, B8 storage would be more appropriate.
- Application would probably be acceptable if it were a local and sustainable business operating within reasonable travelling distance from home.

2 letters of SUPPORT on the grounds of:

- Support local business within community
- Change in planning rules now means application fits the criteria exactly
- On exit of the site, view is uninterrupted in both directions. Current use means very large machinery going in and out, proposed use would mean a couple of small vans.
- Mr Forgham is an expert in renewable energy technologies, and building will be run with these.
- Renewable energy is the way forward and to have someone in community with this knowledge has to be a positive move.
- Can see the benefits of a local business trying to remain in it's original location, especially as promoting installation of environmentally friendly products and services.
- Building existing and unlikely to alter much in appearance. Mast is more unsightly.
- Two vehicle spaces indicate minimal impact from vehicle movements, which will be light commercial vehicles rather than heavy agricultural machinery for which building was initially approved.

## **PLANNING POLICIES**

DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,  
 DM2 - TD CORE STRATEGY - DEV,  
 CP8 - TD CORE STRATEGY- ENVIRONMENT,

## **DETERMINING ISSUES AND CONSIDERATIONS**

Policy DM2 of the Taunton Deane Core Strategy introduces a sequential approach for the conversion of existing buildings and requires it to be demonstrated that the

building would not be suitable for community uses, before utilising it for Class B business uses.

The supplementary information has indicated that there is no known community use or need in this area. Whilst no further evidence has been provided, it would be reasonable to consider that the nature of the building would not be one that would be well suited to such uses. In addition, due to the remote location, along with there being facilities already available within the closest villages and no further local needs identified, it is not considered that the building is required for this purpose. As such, the principle of the use of the building for plumbers store and office, which would fall within Class B business uses is considered an acceptable alternative use, in line with policy DM2.

The other criteria set out in Policy DM2 that are relevant to this application are now considered. The site is directly adjacent to a public road. It is acknowledged that this public road is a narrow, single track lane, but the policy simply requires that it is near a public road and makes no specification as to the nature of that road. Whilst it lies in a countryside location, the site is only approximately 1 km from the settlement of Trull and is therefore near the public services offered within that village. The existing building is already present within the landscape and the only external alteration is the addition of one window in the front elevation. As such, the building will remain very similar in appearance to the existing situation and is therefore compatible with the rural character of the area and will have no adverse impact on the landscape. It is acknowledged that it is likely to install solar and photovoltaic panels on the roof of the building, but it is pertinent to note that this can be undertaken under permitted development rights, without the need for planning permission, subject to the relevant criteria being met. The existing building is a general purpose storage building and there are therefore no architectural or historic qualities to be harmed.

A great deal of concerns have been raised on Highway Safety grounds. Whilst it is acknowledged that the proposal is likely to result in increased traffic flows to and from the site that would have some impact upon the country lane, it is important to note that the County Highways Authority does not raise objection to the proposal. It is considered that the site has relatively good visibility in both directions for a driver emerging from the site and no objection was raised regarding the narrow, single track lane. A concern was raised regarding the ponding of water on the highway and a condition has been attached concerning surface water disposal, so as not to exacerbate the current situation. As such, it is not considered that the proposal would result in significant detriment to highway safety that would warrant refusal of the application that accords with Policy DM2.

In terms of the impact on the residential amenity of neighbouring properties, the building, being approximately 70 metres from the nearest dwelling is considered a sufficient distance from neighbours to avoid any noise and disturbance from the proposed use. Whilst the proposed use would change the nature of the site, it is not considered that this would result in material harm to the living conditions of nearby residents.

The Parish Council commented that if minded to grant consent, B8 use would be more appropriate. It is important to note that the drawings show the main proposed use to be storage for the plumbing business with only a small area designated as an ancillary office, which is a common situation in many storage premises. As such, it is

considered that the main use would be a B8 storage use. It is also acknowledged that there are other more suitable sites for a use of this nature such as Industrial Estates and no evidence has been provided of demonstrable need for this use in this location or that there are no other business facilities available. This is however, not something that is required under policy DM2, which clearly allows for a use of this nature, where the sequential approach has been applied and the relevant criteria met.

**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**

30/12/0046

MR J BIRCH

**VARIATION OF CONDITION NO. 6 OF APPLICATION 30/02/0013 TO SITE AN ADDITIONAL 2 NO. MOBILE HOMES AND 1 NO. TOURING CARAVAN FOR FAMILY MEMBERS AT FOSGROVE PADDOCK, FOSGROVE LANE, PITMINSTER**

Grid Reference: 322891.120673

Removal or Variation of Condition(s)

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval for the following reason:

The proposal for two additional mobile homes and a touring caravan for family members is considered not to have a detrimental impact upon visual or residential amenity and is therefore considered acceptable given the lack of suitable alternative sites and, accordingly is considered in line with the NPPF 'Planning policy for traveller sites' and does not conflict with Policy DM1 (General Requirements) and Policy DM3 (Gypsy and Traveller sites) of the Taunton Deane Core Strategy.

**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 site shall be occupied by a single gypsy family group as set out under the current submission.

Reason: The Local Planning Authority do not consider that this site located in the countryside in this location would be suitable for an unrestricted use.

3. No trade or business or storage of goods or materials in connection with any trade or business shall take place at the site.

Reason: In the interests of the visual amenity of the area in accordance with policy DM1 of the Taunton Deane Core Strategy.

4. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any subsequent order amending or revoking and re-enacting that Order), the design, siting and external appearance of any ancillary building or structure, whether or not required by

the conditions of a site licence for the time being in force under Part I of the Caravan Sites and Control of Development Act, 1960 (revised 1977) shall be approved by the Local Planning Authority before such building or structure is erected or placed on the land.

Reason: To safeguard the amenities of the area in accordance with Taunton Deane Core Strategy policy DM1.

5. No more than one commercial vehicle shall be parked at the site at any one time.

Reason: In the interests of the visual amenity of the area in accordance with Taunton Deane Core Strategy policy DM1.

6. No caravans or mobile homes other than those hereby approved shall be sited on the land at any time without the prior written approval of the Local Planning Authority.

Reason: In the interests of the visual amenity of the area in accordance with Taunton Deane Core Strategy policy DM1.

#### Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.
2. You are advised that the boundary hedges should be allowed to grow and maintained at 2m or above.

## **PROPOSAL**

The proposal is to site two additional mobile homes and a touring caravan on the site to accommodate family members already resident on the existing traveller site.

## **SITE DESCRIPTION AND HISTORY**

The site is one that was granted use by a gypsy family in 1997 for a temporary 10 years (ref 30/97/0014). An application in 2002 (30/02/0013) granted permanent permission for a mobile home, 2 touring caravans and a utility block. The utility block was granted an extension in 2006 (ref.30/05/0036)

An application was made in 2007 for the provision of 4 separate gypsy pitches on adjoining land. This application 30/07/006 was refused and dismissed on appeal.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*SCC - TRANSPORT DEVELOPMENT GROUP* – comment:

The proposal seeks to allow new caravans to be placed on an existing Gypsy site at Fosgrove Paddock near Pitminster. The Paddock is accessed along the narrow and winding Fosgrove Lane. The lane links the B3170 Corfe Road south of Taunton and east of the M5 lanes to Poundisford, Pitminster and Trull which latter is also south of Taunton and to the west of the M5. As such though the lane is very narrow with informal parking places where it widens slightly or in field gateways and other accesses it is nevertheless quite well used. For much of its length pedestrians have no choice but to walk in the road.

The location is not close to a settlement providing shopping and services, schools etc. People dwelling here will have relatively high reliance on the private car to access such. However the proposal appears to be to accommodate an existing extending family. The access itself is consolidated, the gate is hung sufficiently far from the highway and visibility is quite good as the access is on the outside apex of a relatively tight bend.

In the event that the Local Planning Authority should choose to grant permission the Highway Authority has no additional highway conditions to request.

#### *SCC - RIGHTS OF WAY – Comment*

There is a public right of way that runs along the track south of Fosgrove Lane (T21/17). The health and safety of the public using the footpath must be taken into consideration during works to carry out the proposed development. Somerset County Council (SCC) may have some maintenance responsibility for the surface of the footpath, but only to a standard suitable for pedestrian use. The surface of the way must be reinstated following any disturbance that may occur from the development. It should be noted that it is an offence to drive a vehicle along a footpath unless the driver has lawful authority (private rights) to do so.

If it is considered that the development would result in any of the outcomes listed below, then authorisation for these works must be sought from Somerset County Council Rights of Way Group.

- A Public Right of Way (PRoW) being made less convenient for continued public use.
- New furniture being needed along a PRoW.
- Changes to the surface of a PRoW being needed.
- Changes to the existing drainage arrangements associated with the PRoW.

If the work involved in carrying out this proposed development would - make a PROW less convenient for continued public use (or) - create a hazard to users of a PRoW then a temporary closure order will be necessary and a suitable alternative route must be provided. A temporary closure can be obtained from Sarah Hooper on (01823) 483069.

*LANDSCAPE LEAD* - My main concern is the existing hedges are kept low and do not provide much landscape mitigation.

*PITMINSTER PARISH COUNCIL* - object:

### Character & appearance

1. Fosgrove Paddock is located in attractive open countryside to the south-east of Taunton. It is situated on the south side of Fosgrove Lane, a pleasant, narrow, rural lane lined with hedgerows. Apart from the six dwellings (which comprise Fosgrove) on the other side of the lane the surrounding land is in agricultural use. Development in the wider area is limited to scattered dwellings and farm buildings.
2. The proposed pitches would be located in the existing authorised site fronting Fosgrove Lane. They would be visible from the lane. More significantly, however, we consider that the proposed mobile homes and caravans (and potentially 2 washroom/dayroom facilities) would be prominent in views from the public footpath that runs along the eastern boundary of the paddock. Furthermore the new mobile homes and caravans (and potentially 2 washroom/dayroom facilities) would be evident in longer distance views from Fosgrove Lane as it rises to the west.
3. In our judgement the proposed mobile homes and caravans and any associated structures and vehicles, would intrude into the landscape and seriously detract from this attractive area of open countryside. We accept that during the summer months the existing vegetation and hedgerows would soften their impact. However the 3 mobile homes and caravans (and potentially 2 washroom/dayroom facilities) would still be visible from near and far, and appear out of place. Additional planting of appropriate indigenous species would be unable to mitigate the harmful impact of the development, particularly during the winter months. We are aware that Circular 01/2006 does not rule out gypsy sites within rural settings and that local landscape designations should not be used in themselves to refuse planning permission. However this does not obviate the need to assess the impact of a sizeable extension to an existing gypsy site on the open countryside and on landscape character.
4. We conclude therefore, that the development would seriously harm the character and appearance of the local area and its unsatisfactory visual impact could not be mitigated to an acceptable extent. As such the scheme is in conflict with the objectives of Policies EN12 and H14 of the Taunton Deane Local Plan, and Policy 5 of the Somerset and Exmoor National Park Joint Structure Plan Review.

### Highway safety

1. Fosgrove Lane is far from ideal in highway safety terms as it is narrow, twisty, undulating, unlit and without footways. Consequently development that would significantly increase the number of vehicles or pedestrians passing along the lane would be detrimental to the safe and free flow of traffic and should be resisted. In this regard an increase in the number of mobile homes and caravans at Fosgrove Paddock is a cause for concern. If each of the additional mobile homes was to be occupied by a gypsy household similar to the family that currently resides on the site the number of comings and goings along the lane would be significantly increased and aggravate road safety problems to an unacceptable extent.
2. The proposal, however, is advanced on the basis of family members. In the short term the occupation of the 2 mobile homes by Lorna and John Henry is unlikely to increase the amount of traffic on the lane given that they currently reside on

the site and they both own a car. However in the medium to long term as they themselves form households the comings and goings that they are likely to generate is likely to grow substantially and in our view is likely to amount to more than a modest increase. There is also Dean who will require a car in the future. The additional vehicular and pedestrian movements generated at this time would be to the detriment of road safety along the lane. Although we are aware that the applicant and his family have been on the site for some considerable time this does not alter our view as to the harm to highway safety that is likely to result in the future.

3. We conclude therefore, that in the medium to long term the proposal is likely to be harmful to the free and safe flow of traffic along Fosgrove Lane. This would be in conflict with the highway safety objectives of Policy H14 of the Taunton Deane Local Plan and Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.

#### Location in relation to services & facilities

1. In our view the site is not conveniently situated for the facilities and services that are likely to be needed on an everyday basis. The nearest villages, Corfe and Trull, are about 2km from the site whilst Taunton is farther away. We understand that most of the trips undertaken by the current occupiers of the site are taken in their own private vehicles. Given this and the unsatisfactory nature of Fosgrove Lane for walking or cycling we consider that the intended occupiers of the proposed mobile homes would also be heavily reliant on private vehicles to access necessary services and facilities. Lorna and John Henry are unlikely to increase vehicular movements. However in the medium to long term the households formed by Lorna and John Henry are likely generate significantly more trips from the site.
2. We are aware that Circular 01/2006 recognises that issues of sustainability should not just be considered in terms of transport mode and distance from services. However in our view the proposal, and in particular the comings and goings likely to be involved in due course, would generate a significant amount of additional vehicular use. We consider that there remains a need, given the strong emphasis in both national and local planning policy on the location of development and its influence on vehicular usage, to examine carefully the location of any proposed gypsy site in relation to facilities, including shops and health facilities. Certainly Circular 01/2006 makes it clear that in identifying gypsy and traveller sites in development plan documents access to local facilities is an integral part of the site selection process. We firmly believe that the site at Fosgrove Paddock performs poorly in terms of this aspect of the site selection process in terms of the distance to local facilities and the nature of the local road system.
3. We conclude, therefore, that the site is not reasonably related to services and facilities and that the proposal would be likely to encourage additional private vehicular usage in the medium to long term. As a result the proposal would not accord with the objectives of Policy H14 of the Taunton Deane Local Plan and Policy 36 of the Somerset and Exmoor National Park Joint Structure Plan Review.

#### Other matters for consideration

1. It is noted that the existing planning permission for the site allows two touring

caravans, one of which is not currently stationed on the land.

2. It should also be noted that application 30/2002/013 sought a mobile home and 3 touring caravans at Fosgrove Paddock. The decision on that application was changed to one mobile home and 2 touring caravans as TDBC considered 3 were too many for the site. The site is still the same size.
3. The access road floods and when in this state is impassible.
4. There is no plan showing the proposed layout of the site.

*CORFE PARISH COUNCIL* - No comment received.

## **Representations**

3 letters of SUPPORT one from local doctor and one advising of lack of alternative sites:

- Government guidance encourages small private sites and site well screened.

11 letters of OBJECTION on basis of:

- the site is on a dangerous narrow corner of Fosgrove Lane which has too much traffic for a country lane and seems to be a "fast rat run"
- it will increase traffic;
- it is on a sharp blind bend with poor visibility and the lane is often blocked in winter due to floods and ice;
- the road and drainage is insufficient to support further usage;
- there are accidents and mini traffic jams and the traffic levels should not be added to to increase risk;
- negative impact on horse riders, walkers and cyclists;
- it will effectively be a mobile home park on the edge of an AONB;
- impact on open countryside with new caravans/mobile homes visible by local residents;
- it will be visible from the public footpath and surrounding landscape and conflicts with policies EN12 and H14 of the Local Plan and policy 5 of the Joint Structure Plan;
- it will add separate additional dwellings and set a precedent;
- no details of siting or if sufficient space and a caravan is already located outside the residential curtilage;
- the site does not have the capacity to develop further;
- an appeal has been refused for a larger development but the reasons still apply, particularly the unsuitability of Duddlestone Lane, traffic, highway safety character and appearance and location in relation to services and facilities (contrary to policy H14 of the Local Plan and policy 36 of the Joint Structure Plan Review.
- it would be harmful to traffic along Fosgrove Lane, conflict with safety

objectives of policy H14 of the Local Plan and policy 49 of the Somerset & Exmoor National Park Joint Structure Plan Review;

- the existing permission allows 2 for touring caravans and there is only one on site, 3 was previously considered too many;
- there would be a potential need for more mobiles in the medium to long term and development here is unsustainable;
- it would create additional dwellings and be discriminatory against the settled population and an infringement of their human rights;
- it would create an imbalance in the population structure of the surrounding community;
- there has been no change in the area or legislation to overturn the appeal decision.

## **PLANNING POLICIES**

NPPF - National Planning Policy Framework,  
DM3 - TD CORE STRATEGY GYPSY AND TRAVELLER SELECTION CRITERIA,  
CP8 - TD CORE STRATEGY- ENVIRONMENT,  
SD1 - SD 1 TDBC Presumption in Favour of Sustain. Dev,

## **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)	£2,095
Somerset County Council (Upper Tier Authority)	£524

### 6 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£12,571
Somerset County Council (Upper Tier Authority)	£3,143

## **DETERMINING ISSUES AND CONSIDERATIONS**

The main issue here is the need for additional accommodation on site and whether this need and lack of suitable alternative outweighs any harm that may be considered to the rural character of the area, highway safety and impact on the community.

The existing site was originally granted permanent permission in 2002 and allowed for a mobile home and two touring caravans. The site is occupied by Mr and Mrs Birch and their 3 children. One child is 11, one is 23 and one is 20 and married with a baby boy. It is considered that there is a need for additional accommodation on site, particularly to enable adequate care of the baby and this is reflected by support of the local doctor. There are no alternative identified sites that the couple can move to.

Previously an application for 4 gypsy pitches of 1 caravan and a touring caravan was made and ultimately dismissed on appeal in 2009. This related to land outside of the current site and was dismissed as the Inspector considered the argument against in terms of character and appearance of the area, highway safety and relation to services and facilities outweighed the factors in favour. The Inspector did however in his decision refer to there appearing to be sufficient space within the existing site to accommodate additional accommodation.

The current proposal proposes 2 additional mobile homes and the provision of a touring caravan sited against the western conifer hedge. If allowed this would result in the removal of an unauthorised shed on the site. It is considered that the hedge will largely screen the development from long distance views to the west. Development will be visible from the public footpath to the east for the short distance of around 5m where the existing gate is. The site is largely screened to the north by the roadside hedge and the applicant has advised that further hedge planting could be provided within the site to provide additional screening. I do not therefore consider, given existing screening which will grow further, that the development would seriously harm the rural character and appearance of the area contrary to Core Strategy policy CP8.

The issue of highway safety has again been raised as Fosgrove Lane is narrow, twisty, undulating, unlit and without footways. Consequently the appeal Inspector recognised that development that would significantly increase the use of the lane should be resisted. The Highway Authority, in respect of the current proposal, recognise this is to provide accommodation for an extended family who already live on site and raise no objection. It is not considered that the proposal will significantly increase traffic over and above the current situation however it is recognised that in the longer term the development could result in an increase in traffic. There has been evidence submitted that the local road floods, however there is more than one route to the site and the site itself is safe from flooding.

The site is not ideally located for facilities and services that are likely to be need on an everyday basis. This was recognised on appeal and is quoted in the Parish Council objection. It is agreed that this is the case and would lead to private vehicular usage to access any services.

The Planning Inspector previously considered the impact on the existing community and determined that that proposal would not unduly dominate the settled community. The current application is for less development and for accommodation to house existing residents of the site. It is not therefore considered to unduly impact on the existing community.

The above issues are also specified in the criteria based policy DM3 of the Core Strategy. A further issue is the fact that there is a young couple with a baby and there is support from a doctor with regard to providing accommodation that has running water and heating. If allowed this would enable the family members to live as a family group in accordance with their traditional way of life and culture.

Other material considerations are set out in the specific document relating to travellers published by the government. This document 'Planning policy for traveller sites' is part of the NPPF and policy H deals with determining applications. There is a recognised need for additional sites in the area and it is accepted that there are no

additional sites available that the extended Birch family could utilise. This therefore has to be given considerable weight in determining the application. It is not considered that the New Homes Bonus can be given any significant weight in determine this proposal.

In summary the current proposal is for additional accommodation for family members occupying this authorised site. There are no suitable alternative sites available and while the access road and location in respect to facilities weigh against the proposal it is not considered that the proposal would unduly dominate the local community and the visual impact on the surroundings is not considered to warrant an objection in this instance. In light of this and given the need and lack of alternative provision it is considered that the arguments in favour outweigh those against and therefore the application is recommended for approval.

**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**

27/12/0024/REX

MR H FARBAHI

**ERECTION OF A HORTICULTURAL NURSERY TO INCLUDE POLY TUNNEL AND CONSTRUCTION OF ACCESS AT LAND SOUTH OF HARRIS'S FARM, HILLCOMMON (TO REPLACE EXTANT PERMISSION 27/09/0020/REX)**

Grid Reference: 315696.126071

Replace an Extant Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

There has been no significant change in policy guidance or material considerations since the previous permission was granted in November 2009, under reference 27/09/0020. It is therefore considered that the proposed extension of time for the implementation of that permission by grant of a new permission is acceptable and accords with Policy 5 of the Somerset and Exmoor National park Joint Structure Plan Review, Policies DM1 (General Requirements), DM2 (Development in the Countryside) and CP8 (Environment) of the Taunton Deane Core Strategy.

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

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

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

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

(A1) Proposed access - 18274/001/SK01A  
(A3) Street Scene - HLCM/10B  
(A3) Ground Floor Plan - HLCM/08B  
(A3) Side Elevation (West) - HLCM/07B  
(A3) Side Elevation (East) - HLCM/06B  
(A3) Rear Elevation (South) - HLCM/05B  
(A3) Front Elevation (North) - HLCM/04B  
(A4) Site Location Plan - HLCM/01

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

3. Before the commencement of any works hereby permitted, details or samples of the materials to be used for all the external surfaces of the building(s) shall

be submitted to and be approved in writing by the Local Planning Authority, and no other materials shall be used without the written consent of the Local Planning Authority.

Reason: To reinforce the local character and distinctiveness of the area in accordance with Taunton Deane Core Strategy Policy DM1.

4. (i) Before any part of the permitted development is commenced, a scheme of planting of trees, shrubs and hedges, 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 the planting scheme, the trees, shrubs and hedges shall be protected and maintained to the satisfaction of the Local Planning Authority and any trees, shrubs or hedges that cease to grow shall be replaced by trees, shrubs or hedges of similar size and species, or the appropriate trees, shrubs or hedges 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. Before any part of the permitted development is commenced, a scheme of hard landscaping showing the layout of areas with stones, paving, walls, cobbles or other materials, shall be submitted to and approved in writing by the Local Planning Authority. Such scheme shall be completely implemented before the development hereby permitted is occupied.

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.

6. Details of arrangements to be made for the prevention of surface water being discharged onto the public highway shall be submitted to and approved in writing by the Local Planning Authority. Such arrangements shall be provided before the proposed access is brought into use

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

7. Prior to commencement of the development hereby approved, details of any entrance gates to be erected shall be submitted to and approved in writing by the Local Planning Authority and retained as such thereafter. Any such gates shall be hung to open inwards and shall be set back a minimum of 10m from the carriageway edge.

Reason: In the interests of highway safety in accordance with Somerset and

Exmoor National Park Joint Structure Plan Review Policy 49.

8. The existing access shall be permanently closed within one month of the access hereby permitted is brought into use. Details of the means of closure shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is commenced.

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

9. The visibility splays shown on the submitted plan 18274/001/SK01/A shall be constructed prior to the commencement of the use of the premises and unobstructed visibility shall be provided above a height of 300 mm from adjoining carriageway level and thereafter be maintained at this height and in accordance with drawing 18274/001/sk01/A.

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

10. Before any work is commenced, details of the levels and construction details of the access and driveway shall be submitted to and approved by the Local Planning Authority and no variation from the approved levels shall take place without the express written consent of the Local Planning Authority.

Reason: To ensure that the work is carried out at suitable levels in relation to the highway in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.

11. Prior to the new access and drive being brought into use, it shall be hard surfaced in tarmacadam or such other material as shall be agreed in writing by the Local Planning Authority for a distance of 10 metres back from the edge of the carriageway.

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

12. Three months prior to commencement of works on site, a full up to date wildlife survey shall be undertaken by a qualified environmental consultant and a report submitted to and approved in writing by the Local Planning Authority. The survey and report shall include an identification of species present, an impact assessment and mitigation/avoidance measures in order to safeguard protected species in accordance with the law.  
The report shall include

1. Details of protective measures to include method statements to avoid impacts on protected species during all stages of development;
2. Details of the timing of works to avoid periods of work when the species could be harmed by disturbance
3. 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 wildlife shall be permanently maintained.

Reason: To protect and accommodate protected species and their habitats from damage, which are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats &c) Regulations 1994 (as amended), in accordance with Taunton Deane Core Strategy Policy CP8 and relevant guidance in Section 11 of the NPPF.

13. Before any part of the permitted development is commenced, details of all boundary walls, fences or hedges forming part of the development, shall be submitted to and approved in writing by the Local Planning Authority and any such wall, fence or hedge so approved shall be erected/planted before any such part of the development to which it relates takes place.

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.

14. No external lighting shall be installed on site without the prior written consent of the Local Planning Authority.

Reason: To safeguard the visual amenities of the area as set out in Taunton Deane Core Strategy Policy DM1.

15. The development hereby approved shall only be used for nursery/horticultural purposes only as described in the applicants e-mail dated 29th September 2006.

Reason : In the interests of highway safety, the amenities of the area and the site is within an area where the Local Planning Authority does not wish to see the establishment of a retail outlet due to this location remote from any defined settlement boundary in accordance with Policy 49 of the Somerset & Exmoor Joint Structure Plan review and Policies DM1 and DM2 of the Taunton Deane Core Strategy.

16. Notwithstanding the provisions of the Town & Country Planning General Permitted Development Order 1995 (or any subsequent order amending or revoking and re-enacting that Order) no additional floors, including mezzanine floors shall be erected in the development hereby approved unless an application for planning permission in that behalf is first submitted to and approved by the Local Planning Authority.

Reason : To ensure that the proposed development does not have an adverse effect on the area by reason of the size of premises and/or an excessive amount of extra activity in this open countryside location in accordance with Taunton Deane Core Strategy Policies DM1 and DM2.

#### Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy

Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

2. You are advised that the soakaway should be constructed in accordance with Building Research Digest 365 (September 1991).
3. Any alteration to the footpath, route or surface, must be authorised by the County Council. The path must remain open and unobstructed at all times.
4. Note to applicant at request of Nature Conservation Officer:
  1. The condition relating to wildlife requires the submission of information to protect and accommodate wildlife. The Local Planning Authority will expect to see a detailed wildlife survey and a method statement clearly stating how the wildlife will be protected through the development process and to be provided with a mitigation proposal that will maintain favourable status for wildlife that are affected by this development proposal.
  2. 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.
  3. Badgers are protected under the Protection of Badgers Act 1992. Planning and licensing applications are separate legal functions.

## **PROPOSAL**

This application relates to a 4.14 ha block of agricultural land and is located to the South of Harris's Farm and to the east of Hillcommon. The site slopes gently from north to south. There is a hedgerow along the highway frontage with the B3277 and hedgerow/trees along the site boundaries. In 2006 permission was granted for the erection of a horticultural nursery, polytunnel, and associated access. The existing access to the field is in the North West corner of the site. The existing access will be stopped up and a revised access was approved as part of the previous scheme to provide an acceptable visibility splay. The materials of the building were stated as red cedar cladding and red sandstone walls, timber windows, under a silver grey profiled aluminium clad roofing system. The application was accompanied by a Transport Impact Assessment and landscape strategy.

That application was renewed in November 2009 for a further three years under application 27/09/0020/REX. The current application now seeks planning permission for an extension of the time limit imposed on planning application 27/09/0020/REX.

Changes to the procedures for extending the time limit of existing planning permissions were introduced on 1 October 2009 by virtue of the Town and Country Planning (General Development Procedure) (England) Order 2009. The legislation provided a mechanism for existing planning permissions, granted on or before 1 October 2009, to be replaced before they expire in order to allow a longer period for implementation (although the previous permission will not be revoked, rather a new permission granted subject to a new time limit). The Town and Country Planning

(Development Management Procedure) Order 2010 has subsequently amended the above to apply to those seeking a new planning permission to replace an existing planning permission where the original was granted on or before 1 October 2010, provided the permission had not expired at the time of the application.

This application is accompanied by an up to date Wildlife Survey, along with supplementary information confirming that an EPS licence is not required to create the access and hence remove a section of roadside hedgerow.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*OAKE PARISH COUNCIL* - Parish Council stand by previous observations in objecting as nothing has changed from the previous application.

*SCC - TRANSPORT DEVELOPMENT GROUP* - On the basis that this application is identical to the previous application in detail (application 27/09/0020), all previous comments are suggested conditions are still applicable.

*BIODIVERSITY* - The initial comments were made as the Wildlife report carried out by Greena Ecological Consultancy dated October 2012 was not available. I have now read the report and, like Natural England, consider that permission could be granted subject to condition including biodiversity enhancement.

Usually I would just suggest the general condition that a wildlife strategy be submitted. As this is a resubmission of a previous approval and there are badgers on site, which are mobile creatures, I consider it to be prudent to suggest a full up to date survey immediately prior to commencement of the works (which could be any date in the future). In addition if any hedges or trees are planned to be removed these also would require resurvey as there may be licence implications. Suggest condition and notes to applicant.

*LANDSCAPE* - No new comments.

*NATURAL ENGLAND* - Not likely to be an adverse effect on statutorily protected landscapes, conservation of soils, nor is proposal EIA development. Protected species survey identified that Bats, Hazel, Dormice and Great Crested Newts may be affected. Using Standing Advice Species Sheet regarding: Bats, NE summarised that permission could be granted but the LPA should consider requesting enhancements; Hazel Dormice and Great Crested Newts, NE advises the authority to accept the findings, consider promoting biodiversity and enhancements for dormice (creation of habitat linkages) and great crested newts (creation of new water bodies and suitable terrestrial habitat) in accordance with NPPF and Section 40 of NERC. However, if any removal of hedgerows are affected, full species surveys will be required. It is for the local planning authority to establish whether the proposed development is likely to offend against Article 12 (1) of the Habitats Directive.

SCC - RIGHTS OF WAY - Comments awaited.

*DRAINAGE ENGINEER* - No drainage information submitted therefore cannot comment on this application until details are forwarded. Surface water flows will need to be attenuated on site or dealt with by a SUDS system.

## **Representations**

Four letters of OBJECTION received on the grounds of:

- My objections to development has not changed since first application.
- Prime agricultural land, one polytunnel will not make development a nursery.
- Why is a two storey structure required for a plant nursery. Unless other activities planned, irrelevant and out of keeping with area.
- B3227 is extremely busy and dangerous. A regularly used entrance, especially a commercial one, from the B3227 is potentially dangerous (e.g accidents at access to Blackdown Nursery on A38) and there would be a possibility of mud on the road adding to the danger.
- Consider there is sufficient businesses of this type in this area. Need another nursery like a hole in the head.
- The road and the land is prone to flooding. Paving a parking area, constructing buildings and walkways will contribute to inability of land to absorb water.
- Peace and quiet or rural farm land will be disturbed by traffic and the noise of lorries and machinery used at the nursery.
- Nursery will be an eyesore in an otherwise beautiful countryside setting.

## **PLANNING POLICIES**

NPPF - National Planning Policy Framework,  
S&ENPP1 - S&ENP - Nature Conservation,  
S&ENPP5 - S&ENP - Landscape Character,  
STR1 - Sustainable Development,  
STR6 - Development Outside Towns, Rural Centres and Villages,  
S&ENPP49 - S&ENP - Transport Requirements of New Development,  
DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,  
DM2 - TD CORE STRATEGY - DEV,  
CP8 - TD CORE STRATEGY- ENVIRONMENT,

## **DETERMINING ISSUES AND CONSIDERATIONS**

It is important to note that planning permission has already been granted for an identical scheme in 2006 and renewed in 2009 and this is a further renewal of that scheme. No changes have been proposed. The matter for consideration is therefore whether there have been any material changes to policy or circumstances, since the grant of consent.

The amendment to the legislation that allows this application to be considered has been introduced by the government to enable developers and Local Planning

Authorities to respond quickly to improvements in the economic climate, and provide greater certainty and flexibility to both parties by giving the power to planning authorities to extend the time limits for extant permissions.

The guidance associated with the legislation states that 'Development proposed in an application for extension (of time) will by definition have been judged to be acceptable in principle at an earlier date. While these applications should, of course, be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004, local planning authorities should, in making their decisions, focus their attention on national and development plan policies and other material considerations which may have changed significantly since the original grant of permission. In doing so, it will be particularly important to ensure the development is consistent with the Governments planning policies on climate change'.

The previous application was considered to be acceptable and accord with the Development Plan. It is noted that the National Planning Policy Framework introduced in March 2012 superseded the Planning Policy Guidance/Statements, although it is pertinent to note that there were local plan policies directly relevant to the proposals, which were formulated taking into account National Policy Guidance and these were given due consideration.

It is also acknowledged that the Council's Core Strategy has now been adopted, which superseded the relevant policies of the Taunton Deane Local Plan. However, the general thrust of policies DM1, DM2 and CP8, is similar to that of the Local Plan policies S1, S2, S7 and EN12, against which the previous application was assessed.

There have therefore been no material changes to policy guidance or circumstances that would give rise to an alternative recommendation. The consideration of environmental/wildlife issues must be given due regard. The wildlife report concludes that further surveys are required and the Councils Nature Conservation Officer agrees with Natural England that permission could be granted subject to a new condition requiring a full up to date wildlife survey three months prior to the commencement of works on site.

Whilst the Council's Drainage Officer states that he is unable to comment on the application due to the lack of drainage information, it is important to note that this information was provided on the initial application and this remains the same. As such, the note to applicant on this matter will be re-imposed.

It is therefore considered that permission be granted subject to the imposition of a new three year time limit. The previous conditions and notes remain applicable and are therefore re-imposed, with the exception of an updated wildlife condition.

**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**

STRATEGIC LAND PARTNERSHIPS

**OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT OF 35 NO. HOUSES, SCOUT HUT, RECREATIONAL OPEN SPACE AND ASSOCIATED WORKS AT LAND SOUTH OF HYDE LANE, CREECH ST MICHAEL**

Grid Reference: 326621.126032

Outline Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval subject to the provision of a Section 106 Agreement to address the provision of

- 25% Affordable Housing provision on site,
- Contribution of £85,799 towards primary education,
- Contribution of £92,345 towards secondary education,
- Contribution of £1434 per dwelling towards the provision of outdoor active recreation,
- Contribution of £2668 per dwelling towards the provision of children's play facilities,
- Contribution of £194 per dwelling for allotments or a reduction thereof if there is a partial provision made on site,
- Contribution of £1118 per dwelling towards a community hall facility in Creech St Michael as well as provision of land for a scout hut,
- provision of maintenance of the open space and flood attenuation area
- a contribution of £35,000 (or £1000 per plot) for the provision of a footway link to the secondary school,
- provision of footway link to Hollinsworth Park and the M5 bridge and
- Green Travel Plan measures

The proposed development of up to 35 houses would result in a sustainable form of development which, with appropriate landscaping, would not prejudice the open character of the area. As such the proposal is in accordance with the provisions of policy SD1 and SP1 of the Core Strategy. The adverse impacts of the development do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The proposal is considered not to have a detrimental impact upon visual or residential amenity and is therefore considered acceptable and, accordingly, does not conflict with Policies CP4 (Housing) and DM1 (General Requirements) of the Taunton Deane Core Strategy and retained policy C4 of the Local Plan.

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

1. Approval of the details of the layout, scale, appearance and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Application for approval of the reserved matters shall be made to the Local Planning Authority not later than the expiration of **three** years from the date of this permission. The development hereby permitted shall be begun, not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In accordance with the provisions of S92 (2) Town and Country Planning Act 1990 (as amended by S51 (2) Planning and Compulsory Purchase Act 2004).

2. 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 ensure that the proposed development does not harm the character and appearance of the area in accordance with Policy DM1 of the Taunton Deane Core Strategy.

3. 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 **before the buildings are occupied** or **in accordance with a timetable agreed in writing with the Local Planning Authority** and shall thereafter maintained as such, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not harm the character and appearance of the area in accordance with Policy DM1 of the Taunton Deane Core Strategy.

4.
  - (i) Before any part of the permitted development is commenced, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority.
  - (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority.
  - (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not harm the character and appearance of the area in accordance with Policy DM1 of the Taunton Deane Core Strategy.

5. No development approved by this permission shall be commenced until such time as a scheme to dispose of foul drainage has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To protect the environment by ensuring separation of clean and foul waters.

6. No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall also include:
  - details of which areas drain to which attenuation facility and the associated volumes projected
  - details of how the scheme shall be maintained and managed after completion

The scheme shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To prevent the increased risk of flooding, both on and off site and ensure future maintenance of the surface water drainage system.

7. The development hereby permitted shall not be commenced until details of a strategy to protect wildlife has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of the submitted Sunflower international Ecological Consultancy's Environmental (Ecological) Impact Assessment and Extended phase 1 Habitat survey report, dated August 2011 and the submitted Sunflower international Ecological Consultancy's Ecological Mitigation report dated January 2012 and includes:
  1. Details of protective measures to include method statements to avoid impacts on protected species during all stages of development;
  2. Details of the timing of works to avoid periods of work when the species could be harmed by disturbance
  3. 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 wildlife 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 wildlife and their habitats from damage bearing in mind these species are protected by law.

8. Prior to the commencement of any development works, the applicant shall, examine the premises/land and identify what measures, if any, may be necessary to ensure that noise from existing sources will not be detrimental to the amenity of the occupants of the premises on the completed development.

The applicant shall submit to the Planning Authority all details of any sound reduction scheme recommended and the reasoning upon which any such scheme is based. Such details are to be agreed, in writing, by the Planning Authority prior to the commencement of development works. All works that form part of the scheme shall be completed before the development is occupied.

Reason. To ensure the amenity of residential premises is not adversely affected by noise from road and other sources.

9. Proposals for the boundary treatment for the site adjacent to the M5 shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highways Agency, and then implemented prior to occupation of any development.

Reason: To ensure the safety of users of the motorway and that the integrity of the motorway boundary is protected.

10. Prior to the construction works commencing a Construction Management Plan (CMP) shall be submitted to the Local Planning Authority, in consultation with the Highways Agency, and approved in writing. The plan as approved shall be implemented throughout the development works.

Reason: In the interests of highway safety and to ensure construction impacts are managed appropriately.

11. Details of the noise levels for any pumping station to be provided on site shall be submitted to and approved in writing by the Local Planning Authority prior to it being installed.

Reason: In the interest of the amenity of neighbouring properties in accordance with Taunton Deane Core Strategy policy DM1.

## Notes for compliance

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.
2. The condition relating to wildlife requires the submission of information to protect species. The Local Planning Authority will expect to see a detailed method statement clearly stating how the wildlife will be protected through the development process and to be provided with a mitigation proposal that will maintain favourable status for the wildlife that are affected by this development proposal.

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

**BREEDING BIRDS.** Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) and if discovered must not be disturbed. If works are to be carried out during the breeding season (from February to August, possibly later) then the tree(s) should be checked for nesting birds before work begins.

**BATS.** The applicant and contractors must be aware that all bats are fully protected by law under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Natural Habitats and Species (Amendment) Regulations 2012, also known as the Habitat Regulations. It is an offence to intentionally or recklessly damage, destroy or obstruct access to structures or places of shelter or protection used by bats, or to disturb bats whilst they are using these places.

Trees with features such as rot holes, split branches or gaps behind loose bark, may be used as roost sites for bats. Should a bat or bats be encountered while work is being carried out on the tree(s), work must cease immediately and advice must be obtained from the Government's advisers on wildlife, Natural England (Tel. 01823 285500). Bats should preferably not be handled (and not unless with gloves) but should be left in situ, gently covered, until advice is obtained.

3. Guidance on suitable internal noise levels can be found in British Standard BS8233 1999. This recommends that internal noise levels arising from external sources should not exceed 40 decibels LAeq in all living and bed rooms during the day (0700h to 2300h) and 30 decibels LAeq during the night (2300h) to 0700h). In addition a 45 decibel L<sub>Amax</sub> applies in all bedrooms during the night (2300h to 0700h).

## **PROPOSAL**

The proposal is in outline application for the principle to erect up to 35 houses with associated parking, a scout hut and recreational open space and associated works at land south of Hyde Lane. Access is via an existing highway to the north with adequate visibility. The illustrative layout shows a mix of terraced, semi-detached and detached houses.

## **SITE DESCRIPTION AND HISTORY**

The site consists of an agricultural field surrounded by 4 established hedgerows.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*WEST MONKTON PARISH COUNCIL* - The Parish Council has doubts regarding the effect of increased traffic on the existing road infrastructure, alternative access is needed.

*SCC - TRANSPORT DEVELOPMENT GROUP* - The site is located next to the M5 and near Creech St Michael which has a primary school, shops, public transport routes and other services. It is also relatively close to Monkton Heathfield where Heathfield secondary school serves the east/northeast sector of Taunton and its surrounds.

The site is accessed from Hyde Lane which leads east to the centre of Creech St Michael or to the west to Hyde Lane Cottages where there are currently two alternatives to connect with the A38: either north of Brittons Ash or at Bathpool, south of the Taunton-Bridgwater canal.

Hyde Lane narrows and has no footways east of the M5 where its character is rural for some distance. For part of its length between the M5 and Hyde Lane Cottages there are grass verges which enable pedestrians to walk or temporarily step clear of the carriageway. However closer to Hyde Lane cottages the corridor narrows and is bounded directly by mature hedges such that there is no opportunity for refuge for pedestrians from motorised traffic. The indirect alignment also means that in parts forward visibility between road users is also limited to the detriment of road safety.

There is substantial new development ongoing on the Taunton side of the M5 at Monkton Heathfield and it is proposed that the connection to Brittons Ash will be severed in the near future when a planning agreement development progress trigger point is reached to extend the Monkton Heathfield Eastern Relief Road (MHERR) currently under construction. The proposed closure of the lane, Brittons Ash, will have some impact on traffic movements, as some northbound traffic from this side of Creech St Michael is likely to re-route via the village centre and North End to reach the A38, which is a higher highway standard alternative route. A proportion of westbound traffic will doubtless continue to use Hyde Lane to access the A38 at Bathpool and this would be likely to grow if the proposed development takes place. Hyde Lane to Bathpool is a typical winding narrow country lane where drivers passing in opposite directions take turns, waiting at wider points, field gateways etc. To a degree its nature means that it is relatively self-enforcing in terms of traffic capacity and it is therefore, quite rightly, not at all attractive to drivers wishing to

travel between the A38, a County Route, and the A358, National Primary route which can be done on the minor road network through Creech St Michael.

Students travelling to and from the nearby Heathfield Community School on foot or by bicycle travel along Hyde Lane turning right onto Brittons Ash. This will remain the route to the school for pedestrians and cyclists after Brittons Ash has been severed and closed to other traffic. The Hyde Lane corridor between the M5 and the T-junction at Hyde Lane Cottages, whilst a direct route, is a poor quality environment for pedestrians and cyclists. The situation for pedestrians is likely to be exacerbated by traffic generated by any development between Creech St Michael and the M5. It is a well used route to school and it is expected it would also be used in addition by occupants of the proposed new dwellings.

In detail, it is proposed to access the site where there is an existing short service road junction. Appropriate visibility splays appear to be available in each direction. The national speed limit applies at this point and therefore it may be appropriate to extend the 30mph speed limit to include the junction. The developer is offering to extend the footway from where it currently ends, so that there will be footway from the centre of Creech St Michael through the recently developed Hollinsworth Park (planning permission 14/09/0024 etc), across/to the access for the proposed development, and westwards to reach the motorway bridge which currently has footway.

The Transport Assessment accompanying the application is considered to be good with no significant omissions or areas of concern. A Travel Plan Statement is normally required for developments where 30 or more dwellings are proposed. Given the location of this development and its proximity to the villages of Creech St Michael, Monkton Heathfield and the County Town (Taunton) the developer is required to submit a travel plan following the guidance set out in the County Council's Manual for Travel Plans.

It is clear that the development will generate both vehicular and pedestrian traffic on the local country roads. Whilst in strict capacity terms the carriageway can accommodate increased traffic it is clear that the introduction of this and additional pedestrians will result in potential conflict to the detriment of road safety.

To resolve this there are two possible scenarios:

- 1) To refuse permission for the development on highway grounds; or
- 2) To require contributions from this and potential future developments to:
  - a) install interim traffic management measures; and
  - b) construct a footway from the motorway bridge as far as to provide a safe pedestrian and cycle way to the proposed Pegasus crossing on the Monkton Heathfield Eastern Relief Road (MHERR).

It is my view that the 2<sup>nd</sup> option, to require contributions, is the most appropriate in these circumstances, being in addition to the requirement for a Travel Plan.

I would therefore not recommend the refusal of the application subject to the developer entering into an S106 agreement to secure:

- 1) Extension of footway along Hyde Lane to the M5 bridge;
- 2) Thirty-five thousand pounds (£35,000) or one thousand pounds (£1,000) per plot (whichever is the greatest sum for safety improvements along Hyde Lane west of

the M5); and  
3) a Travel Plan

*HIGHWAYS AGENCY* - We have reviewed the information and concluded that the proposals will not have a significant detrimental impact on the M5. As the site abuts the M5 motorway we need to ensure that the landscaping planned for the boundary does not have unexpected consequences for us. To ensure this we are directing a condition to require details of the boundary treatment to be submitted to your Council and agreed in writing following consultation with ourselves in advance of any works being undertaken.

*CREECH ST MICHAEL PARISH COUNCIL* - The Parish Council view is that all such developer led applications should be put on hold until;

Highways improvements (road, footpath and lighting) out to West Monkton are in place.

That additional classrooms have been provided so that existing overcrowding in the school is resolved.

The PC receives a guarantee that the CSM parishioners with a need will have first priority to any sheltered or low cost homes provided by the developers.

The Parish Council would add that it welcomes the provision of a Scout Hut by this applicant.

*ENVIRONMENT AGENCY* -

Consider that outline planning permission could be granted for the proposed development if planning conditions secure a surface water drainage scheme based on sustainable drainage principles and details of how fould drainage will be disposed of.

*DRAINAGE ENGINEER* - I have looked at the EA's comments and would agree with their response and request for a condition.

*PARKS* - Public open space (POS) areas should not contain plots too small with no connection to the general open space. POS areas including hedgerows and wildlife corridors should be easily accessible for the purposes of maintenance and surface water attenuation ponds should have an adequate protection to avoid accidental entry, especially by children. Details of POS and LEAP will be required at the appropriate stage.

*LEISURE DEVELOPMENT* - In accordance with Local Plan policy C4 provision for play and active recreation should be made for the residents. On site children's play provision should be made within the development proposal as the nearest children's play appears to be more than 300m from some of the proposed dwellings. The equipped children's play space should be overlooked to promote natural surveillance and sited away from the main access road. The Parks Department should be asked to comment on the design and content of the play ground. In line

with Local Plan policy 35 x family dwellings (2bed+) should provide 700 sqm of both equipped and general play space.

A contribution currently £1454 per dwelling should be made for the provision of facilities for outdoor active recreation. The contribution should be index linked.

The possible allotment site is welcomed although in order for the site to be viable it should consist of no less than 20 plots (5,800sqm). Should it be found that the minimum area of 5800sqm cannot be achieved then a contribution of £194 per dwelling towards allotment provision should be sought.

A contribution of £1118 per dwelling towards local community hall facilities which are open to everyone and a focal point of community activities for all age groups in the community should also be sought to cope with the extra demand the development proposal will create.

All contributions should be index linked.

A public art contribution should be requested either by commissioning and integrating public art into the design of the buildings and the public realm or by a commute sum to value of 1% of the development costs.

*LANDSCAPE* - My main concerns are the views from the public footpath; views from the B&T canal to the south; potential highway visibility splay requirements; loss or change of landscape character. The footpath and canal concerns could be overcome with additional planting to the south within the red line area.

*BIODIVERSITY* - I have now checked the Extended Phase 1 Habitat Survey which is satisfactory. I agree that there are likely to be no ecological constraints to this development.

Suggests condition for the protection of wildlife

*SOMERSET WILDLIFE TRUST* - We recognise the existing site does not have significant wildlife use. However we feel more could be done to enhance the proposed development for the benefit of wildlife. Whilst this is being done on the periphery of the development, we feel more could be done within the development with additional tree planting (of native species) and the creation of "green/wildlife corridors". We would also like to see a planning condition limiting planting schemes to native species. There should also be tight controls to prevent light spillage outside of the site. We were pleased to see proposals include bird and bat boxes which we believe should also be part of the planning conditions. However we do not believe that bird boxes should only be of a type usable by swallows, swifts and house martins and in particular we would wish to see boxes included which would encourage nesting by sparrows.

*ENVIRONMENTAL PROTECTION* - The site is adjacent to the motorway,

therefore, there is the potential for noise to affect any future residents on the site. The applicant has provided a noise assessment: - Environmental Noise Assessment 11-IAC135, July 12, Innovate Acoustics.

The report includes details of noise monitoring carried out at the site over a 24 hour period. Calculations were also used to predict noise levels across the site.

The modelled noise levels were compared to the Noise Exposure Categories (NEC) for road traffic noise given in Planning Policy Guidance 24. These indicated that the majority of the site would be in NEC B at night and part of the site in NEC B during the day. For NEC B the guidance says that 'Noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection against noise'.

The report uses modelled data to estimate noise levels at the facades of properties on the proposed development and calculates the amount of attenuation that will be required to meet the "good" internal noise levels in the World Health Organisation noise criteria. The report then includes details of a minimum specification for glazing and ventilation that will be needed to provide the required attenuation.

The monitoring and modelling does show that the area of the site closest to the motorway would be in NEC C and most of the site would be NEC B. This does show that the site would be suitable for residential development, if appropriate measures are taken to mitigate noise. The application does show that the area closest to the motorway will not be used for housing. Also, the acoustic report provides details of the level of noise attenuation that would be required for glazing and ventilation.

The modelled data shows levels lower than those actually measured on site by the consultant. For example, at monitoring point 2 levels of 61dB (day) were measured, but the modelled data shows a level of between 55dB and 60dB. It is generally accepted that measured data is more accurate than modelling; it would be useful if there was an explanation for this (although I note that the modelling assumed that the buildings were on site, which could have made some difference).

I note that this is an outline application. If the layout of the buildings in any future application differs from the one used in the calculations it would mean that the noise modelling and calculations for glazing and ventilation would not be applicable to that application.

To ensure that noise is taken into account during the development I would recommend that a planning condition is used. I attach a condition that would cover this. The information from the Innovate Acoustics report could be used to meet this condition if the layout is the same as in the outline application. However, if there are any changes the noise modelling and calculation would have to be revised.

Suggests noise condition to protect residents from motorway noise.

*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. 25% of the new housing should be in the form of affordable homes. The tenure split is 60% social rented 40% intermediate housing. The requirement is for house rather than flats. The houses should be predominately 2 and 3 bedrooms.

The affordable housing should meet the Homes and Communities Agency Design and Quality Standards 2007, including at least Code for Sustainable Homes Level 3 or meet any subsequent standard at the commencement of development.

The affordable housing scheme must be submitted to and approved in writing by the Housing Enabling Lead at Taunton Deane Borough Council. A local connection clause is to be included within the S106 agreement to prioritise the homes for local people. The developer should seek to provide the Housing Association tied units from Taunton Deane's preferred affordable housing development partners list.

*STRATEGY AND COMMUNICATIONS* - The application site lies beyond existing settlement limits in open countryside. Hence the proposal is counter to policies in the adopted Taunton Deane Core Strategy (policies CP8, SP1 and DM2). Despite being in the open countryside, the application site is considered sustainable as it has good levels of access to a range of services and facilities in the village including primary school, medical centre, convenience food store, post office, public house, church and village hall. The site is also well-related to transport infrastructure, which includes an hourly service to Taunton with a journey time of approx 30 minutes.

The application site is situated to the south of Hyde Lane and is contiguous with recent housing development at Hollinsworth Park on the western edge of the village. The north-west of the site adjoins the M5 which forms a definite physical boundary to development. Although the site adjoins the newly developed housing development the site is not particularly well-related to the existing pattern of development in the village.

Creech St Michael is identified as a Minor Rural Centre in the adopted Taunton Deane Core Strategy. The Policy SP1 identifies requirements for at least 250 dwellings to be shared between the villages of Cotford St. Luke, Creech St Michael, Milverton, North Curry and Churchinford. Creech St Michael is therefore identified as a sustainable settlement to accommodate further growth. In line with the adopted TDBC Core Strategy, new housing development at these locations will include an appropriate balance of market and affordable housing together with some live-work units.

Following the adoption of the Taunton Deane Core Strategy in September 2012, the Council is now in the process of producing a Site Allocations and Development Management Policies Plan. It is anticipated that through this Plan each minor rural centre will accommodate a scale of development commensurate with role and function and the capacity of local infrastructure, services and facilities as well as the availability of suitable and achievable development sites.

The Council will publish an Issues and Options Site Allocations and Development Management policies plan for public consultation in January 2013. As part of this consultation the Council will seek community views on the capacity of settlements to accommodate the levels of growth and the relative appropriateness of certain sites for development; taking into account the existing and potential for expanding the capacity of infrastructure, services and facilities and the need to maintain the character of the village. A public consultation event has been arranged to take place in Creech St Michael on the 12<sup>th</sup> of February 2013.

Creech St Michael has been identified in the adopted Core Strategy as a sustainable settlement to accommodate further growth. This proposal for 35 dwellings is considered proportionate with the settlement hierarchy established for minor rural centres in the adopted Core Strategy. Whilst there are a number of potential development options for the village, the Site Allocations and Development Management Policies Plan is in the early stages and has not yet reached a formal view on either the scale of the best site(s) for development. With this in mind, it is not considered that it would be appropriate to resist this proposal on the basis of prematurity; instead it should be considered on its merits. There are no policy objections to this proposal on these grounds.

However, given that that the Site Allocations and Development Management Development Plan will be subject to extensive community engagement prior to adoption and that this scheme has attracted objection from the local community and involves an element of planning gain, it would seem preferable if this proposal was advanced through the Site Allocations and Development Management Policies Plan.

*SCC - CHIEF EDUCATION OFFICER* - Creech St Michael Primary School has a capacity of 240, but its current roll is 242; and it is expected to continue to be over-subscribed for the foreseeable future. This development of 35 houses would be expected to require seven primary school places and these would clearly not be available at present. Additional accommodation would therefore be required and developer contributions should be sought through Section 106 of the Act. The cost of each primary school place estimated by the DfE is £12,257, so contributions totalling £85,799 should be secured.

Heathfield Community School also already has a roll significantly in excess of its net capacity and, again, this is expected to be so in future years. Its capacity would need to be increased to meet the needs of this development, which would be expected to generate demand for five secondary school places. The DfE estimate of the cost of each of these is £18,469, so total contributions of £92,345 should also be sought.

*SCC - DEVELOPMENT CONTROL ARCHAEOLOGIST* - There is no requirement for any archaeological work on this site.

*WESSEX WATER* - The surface and foul water strategy as outlined in the Flood Risk Assessment is broadly in line with discussions; details to be confirmed through Section 104 (Water Industry Act 1991) arrangements.

*THE RAMBLERS ASSOCIATION* - Whilst I have no adverse comments about this development, can you assure me the footpath links both sides of the motorway will be maintained.

## **Representations**

13 letters of SUPPORT on grounds of

- more family homes,
- provision of affordable housing with a local connection clause,
- open space,
- improvements to local infrastructure and
- new scout hut would be a benefit to the community.

3 letters of NO OBJECTION subject to tree planting to absorb noise, provision for primary education and concern over large construction vehicles using Hyde Lane and suggested contractors management plan to include delivery times and no use of canal bridge. S106 requirements should address primary school extension and Hyde Lane widening between Recreation Ground and Hyde Lane Cottages or other mitigation to allow children safe access to secondary school.

22 letters of OBJECTION on grounds of

- primary school oversubscribed and lack of funds to increase classrooms or teachers,
- surrounding catchment schools are over subscribed and over capacity,
- no guarantee money for education will go to the primary school and school improvements will only occur after houses are built.
- Hyde Lane is a narrow country lane and increased traffic would causes dangerous situations,
- additional access would be dangerous,
- lane cannot support additional volume of traffic and need for traffic calming,
- danger for pedestrians,
- lack of safe route to local secondary school,
- need for a separate cycle/footpath from Creech St.Michael to Monkton Heathfield school is critical,
- speed limit on Lane should be reduced and need to extend 30mph limit,
- need for speed bumps through adjacent development,
- problems of navigating Hyde Lane in school hours,
- would add to parking problems and congestion outside of the village school,
- no impending improvements to road conditions,
- increase risk of road flooding,
- will add to unheard of flood risk,
- flood mitigation seems inadequate,
- increase in noise pollution outside homes,
- 90 homes have been built at Hollingsworth Park and 2 other applications are expected and this is more than our fair share and is not taking an holistic approach,
- this is the first of 3 developments totalling over 130 houses in excess of 50% of 250 specified in the Core Strategy,
- concern over loss of village characteristics,
- proposal does not fit with Taunton Deane Local Plan policies or STR6 of the Joint Structure Plan Review,
- over development of the village,
- building too close to motorway and level of traffic noise unacceptable,
- noise impact on residents of Hollinsworth Park and not enough mitigation,
- unsustainable location and insufficient public transport,
- scout hut and allotments should be provided first,
- allotments are no longer required and would increase traffic through the village,

- scout hut supported largely by non Creech residents,
- sufficient community facilities exist at Baptist Church and Village Hall,
- scout hut would be focus for anti-social behaviour,
- lack of play facilities,
- open drainage areas a danger to children,
- open space offer is misleading as no provision is made for its upkeep a duty for which the Parish Council has no appetite,
- impact on wildlife,
- agricultural land,
- out of character and detrimental to appearance of area,
- dog waste bins required,
- loss of view,
- loss of value of property.

## **PLANNING POLICIES**

STR1 - Sustainable Development,  
 STR6 - Development Outside Towns, Rural Centres and Villages,  
 S&ENPP49 - S&ENP - Transport Requirements of New Development,  
 NPPF - National Planning Policy Framework,  
 SD1 - SD 1 TDBC Persumption in Favour of Sustain. Dev,  
 SP1 - TD CORE STRATEGY SUSTAINABLE DEVELOPMENT LOCATIONS,  
 CP4 - TD CORE STRATEGY - HOUSING,  
 CP5 - TD CORE STRATEGY INCUSIVE COMMUNITIES,  
 CP6 - TD CORE STRATEGY - TRANSPORT AND ACCESSIBILITY,  
 CP8 - TD CORE STRATEGY- ENVIRONMENT,  
 DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,  
 C4 - TDBCLP - Standards of Provision of Recreational Open Space,  
 M4 - TDBCLP - Residential Parking Provision,

## **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)	£37,767
Somerset County Council (Upper Tier Authority)	£9,442

### 6 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£226,604
Somerset County Council (Upper Tier Authority)	£56,651

## **DETERMINING ISSUES AND CONSIDERATIONS**

The main considerations with the proposal are the policy issues, sustainable location, landscape and biodiversity impact, community issues, affordable housing,

drainage, access, highway safety and noise.

### Policy

The Planning Policy team have commented that the application site lies beyond existing settlement limits in open countryside. Hence the proposal is counter to policies in the adopted Core Strategy (policies CP8, SP1, DM2). Despite being in the open countryside, the application site is considered sustainable as it is close to the settlement boundary of Creech St Michael and has good access to a reasonable level of services and facilities including; primary school, doctor's surgery, shop, post office and pub.

The site has been identified in the Strategic Housing Land Availability Assessment (SHLAA) and is recognised as being 'developable'. Developable status means that in the broad terms in which the SHLAA considers suitability as well as availability and achievability, the Panel felt on balance the site meets the basic tests. However, the SHLAA conclusion does not prejudice or prejudice the outcome of any planning application nor indicate that the site will ultimately be allocated through a future development plan document. From an allocation point of view, the site would need to be considered as part of an Allocation Document which will follow the adoption of the Core Strategy. Although many would consider that a plan-led route would be most appropriate way for this site to be assessed, the application has been submitted and must be considered now and on its own merits in light of its sustainable location.

In the absence of a Site Allocations Document the application should be considered against the National Planning Policy Framework (NPPF) and the development plan unless material considerations indicate otherwise. The NPPF states there is a presumption in favour of sustainable development and that for the purpose of decision taking (where the development plan is absent, silent or relevant policies are out of date) local planning authorities should grant planning permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
- specific policies in the NPPF indicate development should be restricted.

In this instance it is considered that the development plan is not silent as it recognises Creech St Michael as a sustainable location for development. The policy SP1 indicates allocation of small scale sites and ideally on sites within the development boundary. However there are no such sites and those identified, like the current proposal lie outside of existing settlement limits.

The following sections consider the impacts of the proposed development.

### Sustainable Development and Accessibility

The settlement of Creech St Michael is identified in the Core Strategy as a sustainable location for development under policy SP1 and this states that at least 250 dwellings should be provided over 5 settlements. The proposal is for 35 units and would comply with the above policy requirement. There are existing local facilities within the village and the school and doctors are within easy walking

distance within 400m and there is a regular bus service to Taunton. In addition there are local footpath links and access to the cycle route along the canal.

### Landscape and Biodiversity Impact

The site is a visually enclosed field bounded by hedgerows and lies between the residential development to the east and the motorway to the west. While the site will be visible from the residential properties there are no long distant views of the site and the proposal would be screened from the canal to the south by the way the land falls and the existing southern boundary hedge. There is scope to enhance the existing planting to the west and south which is proposed and in compliance with the Landscape Officer's view.

There are no protected species identified as using the site and its agricultural use has limited the biodiversity benefits. Habitat improvements will be sought through condition which would include the provision of tree and shrub planting to the western boundary with the motorway and a condition to protect and preserve wildlife is also proposed.

### Community Issues

The County Education Officer recognises that there is a need for places and expansion of both the primary school in Creech St Michael and the nearby secondary school. As a result there is a request for appropriate monetary contributions to fund expansion in respect of both primary (£85,799) and secondary education (£92,345) and this would be secured by a Section 106 legal agreement.

The Community Leisure Officer requires provision for adequate play and recreation provision in line with retained policy C4 of the Taunton Deane Local Plan. In light of assessing the illustrative layout it is considered that such facilities are best provided in the nearby recreation ground rather than on site and provides best value for money given the majority of houses would be within 300m of the new facilities. This will require a contribution of £1434 per dwelling towards the provision of outdoor active recreation and a contribution of £2668 per dwelling towards the provision of children's play facilities. Such contributions would be index linked and secured through a Section 106 agreement.

In addition to the above there is a requirement for allotment provision and community hall facilities. The applicant has indicated a number of allotments on the site, although this does not meet the full requirements of the Community Leisure Officer. The applicant is willing to pay the appropriate contribution per house for allotment provision and it is considered that the Section 106 can be appropriately worded to reduce this full requirement if there is an element of on site provision. The applicant is proposing to provide land for a scout hut and this would need to be secured through the legal agreement. There is also a request for community hall facilities which should be open to everyone. This contribution could be used to help construct the scout hut on the basis that the building was available for other community uses and not just for scout use. An appropriate wording in the legal agreement could be provided to address this while ensuring the scouts have preferential use of the building.

## Affordable Housing

Under Core Strategy policy CP4 there is a requirement for 25% affordable housing on site which the applicant has agreed to. This will equate to 9 dwellings which will be secured through a legal agreement with a local connection clause to address the request of the Parish Council and ensure priority is given to local people in housing need.

## Drainage

A Flood Risk Assessment has been submitted with this application which is located in flood zone 1 which is an area of least risk. Proposals are set out for the disposal of foul and surface water drainage. The foul drainage will link to the existing sewer system either directly or via a pumping station on the western side of the site. A condition to ensure an appropriate scheme is recommended by the Environment Agency.

With regard to surface water drainage a Sustainable Urban Drainage scheme is proposed utilising swales and a pond system to ensure existing greenfield run-off rates are achieved. The Environment Agency is satisfied with the strategy and recommend a condition to address the provision and implementation of a suitable scheme.

## Access and Highway Safety

The access to the site lies off an existing adopted highway where there is adequate visibility in both directions given the road speed limit. The applicant is proposing a footpath link from the site to the motorway bridge and to the existing residential development to the east. The Highway Authority are satisfied with access and capacity of the road to take the additional traffic generated. A strong concern and potential objection is raised however in terms of pedestrian safety over the stretch of road between the M5 bridge and the junction with Hyde Lane Cottages to the west where the road will be closed and a footpath cycle link to the school provided. Highway safety concerns have also been raised by the Parish Council and a number of objectors. The Highway Authority recommend contributions from this site to address the highway safety concerns and it is considered that this is a reasonable request which should be applied to any future housing schemes in Creech St Michael. The contribution for improvements would amount to £1000 per dwelling and would be sought through a legal agreement. This would provide potential improvements to safety along the road to the west as set out in the Highway Authority response. A Travel Plan is also proposed by the applicant and this would also be secured through the legal agreement.

The Highways Agency has also commented due to the proximity of the site to the M5 and have directed conditions be imposed to address both boundary landscaping and a traffic management plan.

## Noise

The site lies to the west of Creech St Michael and almost adjacent to the M5

motorway. Traffic noise is therefore an issue in the area and a noise assessment report has been submitted by acoustic consultants. This defines areas of the site that fall within noise guidance levels suitable for dwellings as set out in the former PPG24. This assessment is based on the illustrative housing layout and has been assessed by the Environmental Protection Officer. The illustrative layout is considered acceptable in noise terms however this is an outline application. If the layout of the buildings in any future application differs from the one used in the calculations it would mean that the noise modelling and calculations for glazing and ventilation would not be applicable to that application. It is therefore recommended that a suitable noise condition is imposed to ensure noise is adequately taken into account as part of any detailed scheme.

### Other Issues

The receipt of the New Homes Bonus is noted, however it is considered that this matter carries limited weight in this instance.

### Conclusion

The NPPF contains 12 core planning principles that underpin decision taking and the proposal has been considered against these and relevant development plan policies. The application is not genuinely plan led in that it pre-dates the small sites allocations document. However, it would deliver homes in a sustainable way and location and provide community benefits in terms of affordable homes, a scout hut site, contributions to leisure and community facilities and improvements to highway safety. It is considered that one of the most important considerations is whether there are any adverse impacts which would significantly and demonstrably outweigh the benefits. I believe that the benefits outweigh any harm that may be caused in this rural location and therefore planning permission should be granted.

**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**

**E/0172/17/12**

**OCCUPIED MOBILE HOME AT POND COTTAGE, FITZHEAD ROAD, FITZHEAD**

**OCCUPIER:** MR VILE JNR.

**OWNER:** MR & MRS KEITH VILE  
POND COTTAGE, FITZHEAD ROAD, FITZHEAD  
TAUNTON  
TA4 3JW

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**PURPOSE OF REPORT**

To consider whether it is expedient to serve an Enforcement Notice requiring the cessation of residential occupation of the mobile home

**RECOMMENDATION**

The solicitor to the Council be authorised to serve an Enforcement Notice and take prosecution action subject to satisfactory evidence being obtained if the notice has not been complied with.

The Enforcement Notice shall require :

- the cessation of the occupation of the mobile home as a separate unit of accommodation.

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

**SITE DESCRIPTION**

Pond Cottage is situated approximately 850m to the east of Fitzhead. The mobile home is situated in a field approximately 100m to the south of the property. A track has been laid from the curtilage of the property to the mobile home.

**BACKGROUND**

In 2004 a complaint was received that a mobile home had been brought to the property. Investigations carried out revealed that it was a replacement for an existing caravan that had been on site for a number of years but had fallen into disrepair. The owners stated that the mobile home would be used in a similar way as the caravan mainly used for ancillary purposes for friends and family staying for a short periods. It was decided that there was an established use and no Planning permission was required. In October this year a further complaint was received that the mobile home was being occupied on a full time basis. A site visit was carried out and the owner confirmed that the mobile home is being occupied by his son, partner and baby. Some meals are taken in the house but the use is that of a dwelling. A hard core track had been laid across the field which is used by the occupants of the mobile home and by tractors accessing the fields.

Following the serving of a Planning Contravention Notice additional information regarding the former use of the mobile home was obtained. From 1975 to 1990 the original caravan on site was used as a holiday let and occasionally permanent living

accommodation. In 2004 the caravan was replaced with the current mobile home. Since then it was used for occasional holidays and weekend accommodation approximately 4 times a year. The current use commenced in July 2011 but has not been continuous with a break from October 2011 to April 2012.

## **DESCRIPTION OF BREACH OF DEVELOPMENT CONTROL**

The site is in open countryside and accessed via a track from the main access to Pond Cottage. The mobile home is approximately 10.5m long by 4m wide and is being occupied as a self contained separate unit of accommodation. The stationing of a mobile home on land would not normally constitute development but it is the use the unit is put to that requires permission. Although the occupants are related to the owners of the land the mobile home is no longer being used as ancillary accommodation to Pond Cottage therefore it is considered that a change of use has occurred which requires Planning permission.

## **RELEVANT PLANNING HISTORY**

17/00/0005 Extension to Pond Cottage.

## **RELEVANT PLANNING POLICES**

### National Planning Policy Framework

Enforcement (Paragraph 207)

### Taunton Deane Core Strategy

SP1 - Sustainable Development Locations

CP1 - Climate Change

CP4 - Housing

CP6 - Transport

CP8 - Environment

DM1 - General Requirements

DM2 - Development in the Countryside

### Somerset and Exmoor Joint Structure Plan Review

STR1 - Sustainable Development

STR6 - Development Outside Towns, Rural Centres and Villages

## **DETERMINING ISSUES AND CONSIDERATIONS**

Policy SP1 of the Core Strategy sets out strategic locations where development will be supported; it states that development must be focused on the most accessible and sustainable locations. For the purposes of this policy the application site, which is on land adjacent to Pond Cottage, Fitzhead, is located within open countryside, being outside of any recognised limits of Fitzhead to the West. In such locations planning policy clearly indicates that new residential development should be strictly controlled. The pertinent issue that must be considered is whether there are any material considerations that outweigh the objective of planning policy, which seeks to direct new residential development towards sustainable locations within the borough.

Policy CP4 sets out the Councils strategy for the delivery of new housing over the development plan period. Policy DM2 sets out what development will be supported

within the open countryside; new build residential is not supported. Para 55 of the National Planning Policy Framework (NPPF) provides guidance on where housing should be provided within rural areas, and it provides a number of exceptions to normal policy; it is acknowledged that the mobile home is being occupied by the owners son and family and that there is a some form of a relationship between the mobile home and Pond Cottage despite their physical separation, however the occupation of the mobile home does not meet any of the exceptions set out within the NPPF.

The site is detached from the settlement of Fitzhead, which is considered to be an unsustainable rural village due to it lacking in the provision of adequate services generally required for day to day living such as education, health, retail and leisure. Virtue of the lack of services within the area, the occupants of the mobile home are highly likely to be heavily reliant upon the use of the private motor vehicle to access such services, especially given the very limited public transport service that serves the village. The fostering of growth in the need to travel by private motor vehicles is contrary to Policies STR1 and STR6 of the Structure Plan CP6 of the Core Strategy, which states that development should contribute to the reduction in the need to travel. The occupation of the mobile home and its residential use generates additional vehicle movements, which is considered to be detrimental to the environment. The result of retaining the mobile home and its use would be to permit the creation of a dwelling outside of a settlement in a location that is considered to be unsustainable in transport terms. In this regard, occupation of the mobile home is not considered to represent a sustainable form of development, contrary to Policies SP1, CP4 and CP6 of the Taunton Deane Core Strategy.

Para 55 of the NPPF makes it clear when exceptions to planning policy as detailed above should be considered as being acceptable, subject to justification. The Core Strategy seeks to direct new residential development towards existing settlements that are served by an appropriate mix and level of services. The Council has obtained additional information from the owner of the site by serving a Planning Contravention Notice (PCN). It is acknowledged that a caravan and mobile home have been positioned on the land for a number of years and that there has, on occasion, been a residential use within the site, albeit unauthorised or not requiring planning permission. From the information provided within the returned PCN, it is clear that the mobile home has not been occupied for a prolonged or continuous period of time to make the residential occupation of the mobile home immune from enforcement action. Notwithstanding the informal historic use of the site and previous caravans/mobiles homes here, the continued occupation of the mobile home now, if allowed to continue, would conflict with development plan policies and there are no material considerations that would outweigh the aims of the plan.

A second matter is the impact of the mobile home and unauthorised stone track and parking turning area that has been laid without permission, upon the character and appearance of the surrounding landscape. The stone hardstanding and track together with the siting of the mobile home within the site is considered to detract from the character and appearance of the landscape. The site is relatively well screened by trees and hedgerows to the South and East but the fact that the development cannot be seen widely from public vantage points does not itself mean that there is no harm. Notwithstanding, whilst there is harm to the landscape, this is not a prominent open site within the landscape and the unauthorised development can only be seen from within the surrounding fields and neighbouring residential curtilage. The development is relatively low key as is the perceived visual harm. As such, this perceived harm is not considered to be significantly damaging to the character or appearance of the landscape.

The site was observed as being adjacent to the property known as Newton Cottage. The unauthorised track runs parallel to the boundary of Newton Cottage and its associated gardens, which are extensive. The use of the track by motor vehicles will lead to a disturbance to neighbouring amenity through noise and light at times of darkness however the amenity of residents within the neighbouring dwelling is not thought to be significantly undermined.

In conclusion, I am sympathetic towards the owners son and his young family and their need to find appropriate accommodation in which to live, however allowing the occupation of a mobile home within the open countryside without any special justification would set an undesirable precedent that would result in other similar proposals being difficult for the Council to resist. Failure to cease the occupation of the mobile home would also lead to an unsustainable development that would be unacceptable in principle, having regard to the aims of local and national planning policy for housing. It is therefore recommended that an Enforcement Notice be served requiring the removal of the mobile home and the cessation of its residential use.

The owners should be advised that the occupation of a mobile home, located within the residential curtilage of Pond Cottage, would not require planning permission subject to mobile home providing ancillary accommodation (i.e. being without a kitchen area or some other degree of accommodation) and to it meeting the criteria of Part 1 Class E of the General Permitted Development Order (2010) with regard to its scale and siting in relation to the property boundaries.

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

**PLANNING OFFICER: Mr R Williams**  
**PLANNING ENFORCEMENT OFFICER: Mr J A W Hardy**

**CONTACT OFFICER: Mr J A W Hardy, Telephone 01823 356466**

**E/0072/38/10**

**UNTIDY SITE AT 18 HOVELAND LANE, TAUNTON**

**OCCUPIER:**

**OWNER:** MR. C. STONE  
18 HOVELAND LANE, TAUNTON, TA1 5DE

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**PURPOSE OF REPORT**

To consider whether it is expedient to serve a Notice under Section 215 of The Town and Country Planning Act 1990 requiring the gardens to be tidied and the fabric of the dwelling to be repaired

**RECOMMENDATION**

The Solicitor to the Council be authorised to serve a Notice under section 215 of the Town and Country Planning Act 1990 and take prosecution action subject to sufficient evidence being obtained that the notice has not been complied with.

The Notice shall require :

- The overgrown vegetation be removed from the front garden area and garden left in a tidy condition.
- The plastic bags partially filled with rubbish be removed from the driveway and porch.
- Repairs carried out to the fabric of the dwelling to prevent further deterioration which would detract further from the visual amenities of the area.

Time for compliance 4 months from the date on which the notice takes effect.

**SITE DESCRIPTION**

Hoveland Lane is a narrow lane in the residential area of Galmington. It is accessed via Galmington Road initially passing through Hoveland Crescent and then looping back with Galmington Road. The property is in an elevated position set back from the highway by approx 8m. The dwelling is one of a pair of semi detached properties built approx 1930 - 40. The property has a hipped tiled roof, rendered walls and bay windows on ground and first floors to the front elevation.

**BACKGROUND**

A complaint was received in 2010 concerning the condition of the garden and fabric of the house. The concern was the affect the condition of the property had on the neighbouring attached property and the infestation of vermin. The property was visited and contact made with the owner. The option open to the Local Planning Authority would be to serve a Section 215 notice. The matter was discussed with the owner and complainant and it was decided in the first instance to draw up a schedule of urgent works to be carried out in order to avoid the notice being served. This included the following -

1. Clear all overgrown Brambles, Shrubs and other overgrown plants in the front garden, especially those along both the west and East boundaries.
2. Clear the access onto Hoveland Lane to obtain an acceptable visibility to afford

safe exit and egress from the property.

3.Remove the blue plastic sacks stacked against the West side of the property.

4.Make good any holes in the windows and doors to prevent infestation by animals, birds or insects.

5.Make good and repair any defective rainwater goods to prevent the potential risk of flooding neighbouring properties.

The owner had recently retired so was happy that the tasks could be completed. A commencement was made but unfortunately the work was not completed. A visit was made in May 2011 where it was seen that there was little improvement so further letters were sent but no reply was received.

The condition of the garden and dwelling has been allowed to deteriorate further to a point where the adjoining property has had to engage professionals to deal with the infestation of vermin. The condition of the site is now so poor that the service of a 215 Notice is the only option available to the Local Planning Authority to secure the improvements needed so as not to be detrimental to the visual amenities of the neighbouring property and surrounding area

## **DESCRIPTION OF BREACH OF DEVELOPMENT CONTROL**

The condition of the garden both front and rear together with the condition of the fabric of the dwelling house is considered to be detrimental to the visual amenities of the surrounding area. The maintenance or lack of to the property is considered to cause harm to the adjoining property with the possibility of infestation of vermin, structural instability and ingress of water which would be detrimental to the enjoyment of the neighbouring property and to a lesser extent surrounding properties.

## **RELEVANT PLANNING HISTORY**

No planning history for the property

## **RELEVANT PLANNING POLICES**

National Planning Policy Framework

Enforcement (paragraph 207)

Taunton Deane Core Strategy

Policy DM1

## **DETERMINING ISSUES AND CONSIDERATIONS**

The consideration in this case is the visual impact of the site from public vantage points and whether the impact is such that action is appropriate. The impact of the site from the road is therefore the issue.

The front garden of the property is overgrown and vegetation is partially screening the bay window which is in a poor state of repair with render peeling away and the window frames are rotting out. Some of the side windows are also in a poor state of repair. There are also rubbish bags piled along the driveway and also piled in the porch. The area of the drive in particular is unsightly and is considered to detract

from the residential amenity of the area.

It is considered that the property in its current state does detract from the amenity of the area and a notice to secure improvements is appropriate and necessary.

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

**PLANNING OFFICER: Mr G Clifford**

**PLANNING ENFORCEMENT OFFICER: Mr J A W Hardy**

**CONTACT OFFICER: Mr J A W Hardy, Telephone 01823 356466**

**E/0008/30/13**

UNAUTHORISED CHANGE OF USE OF LAND FOR SITING OF A TOURING CARAVAN ON LAND KNOWN AS GYPSY PLATT, LEIGH HILL, Nr BURNWORTHY.

**OCCUPIER:** MR WYBURN

**OWNER:** MR WYBURN  
8 CHESTNUT CLOSE, WELLINGTON, TA21 8ET

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## **PURPOSE OF REPORT**

To consider whether it is expedient to serve an Enforcement Notice requiring the removal of two caravans and cease residential occupation of the site at Gypsy Platt, Blagdon Hill, Pitminster, Taunton.

## **RECOMMENDATION**

The Solicitor to the Council be authorised to serve an enforcement notice and take prosecution action should the notice not be complied with, to secure the removal of the two caravans and cease residential occupation of the site.

The Enforcement Notice shall require:-

- to secure the removal of the two caravans and cease residential occupation of the site.

Time for compliance: 6 months from the date the notice comes into effect.

## **SITE DESCRIPTION**

The site is off an unnamed road between Corfe and Churchstanton. The site can be seen on the right hand side of the track leading to Burnworthy Manor. The occupier states that the land is used for pheasant rearing and the site is well screened on the northern boundary by tall trees and hedgerows.

## **BACKGROUND**

The complaint was brought to the Council's attention in February 2011. A site visit was carried out but access to the site was unobtainable. A Land Registry search was carried out to establish the owner. Contact was made with the tenant/occupier of the land and a Planning Contravention Notice was served. It revealed that the tenant had lived on the site for eight years. The tenant was invited to submit a Planning application for consideration to retain the caravans for residential use. Members may recall that this was the presentation put before them on 18th July 2012 when it was approved to take Enforcement action to secure the removal of the two caravans and cease residential occupation of the site. Following this the occupier of the caravans moved the two caravans to an adjoining strip of land which he owned. He then submitted a Planning application 30/12/0045 in November 2012, which was subsequently refused on 10<sup>th</sup> January 2013 under delegated powers.

## **DESCRIPTION OF BREACH OF DEVELOPMENT CONTROL**

The siting of two caravans and residential occupation of the site on agricultural land requires planning permission.

## **RELEVANT PLANNING HISTORY**

Planning permission was applied for under application 30/12/0045 in November 2012 and was subsequently refused on 10 January 2013.

An agricultural notification for the erection of a building to be used as a hatchery was applied for under reference 30/12/0044AGN, for which prior approval was refused in January 2013.

## **RELEVANT PLANNING POLICES**

### National Planning Policy Framework

Enforcement (Paragraph 207)

Section 11 – Conserving and enhancing the natural environment

Paragraph 55

### Somerset and Exmoor National Park Joint Structure Plan Review

STR1 - Sustainable Development

STR6 - Development outside Towns, Rural Centres and Villages

Policy 5 - Landscape Character

### Taunton Deane Borough Council Core Strategy 2011-2028

DM1 – General Requirements

DM2 – Development in the Countryside

CP8 – Environment

SP4 – Realising the vision for the Rural Area

SP1 – Sustainable Development Locations

CP1(a) – Climate Change

## **DETERMINING ISSUES AND CONSIDERATIONS**

Paragraph 55 of the National Planning Policy Framework states local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. e.g the essential need for a rural worker to live permanently at or near their place of work in the countryside. It has been widely accepted that the most appropriate way of assessing this need is through the use of the former Annex A of PPS7 and Taunton Deane have now officially agreed this as technical guidance.

A Planning application was received in November 2012 for the retention of one of the touring caravans for rural worker accommodation and was refused for the following reasons.

1. 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. Whilst there is a business being operated from the site, the overall business appears to be of a nature where the vast

majority of work can be carried out during part of the normal working day (however long that day may be). As such, it has not been proven that there is an essential need for a worker to live permanently on the site or that the needs of the enterprise could not be fulfilled by any other existing accommodation in the area. Furthermore, the lack of security of tenure on a large proportion of the land that plays a fundamental part of the business, along with the concerns regarding any new buildings in this isolated location away from other built features results in a likely inability to develop or even sustain the enterprise concerned and fails to demonstrate that the business is planned on a sound financial basis. The scheme therefore represents an unjustified dwelling outside of settlement limits, increasing the need to travel by private car. As such, the proposal is contrary to Policies CP1(a) (Climate Change), SP1 (Sustainable Development Locations) and SP4 (Realising the vision for the Rural Area) of the Taunton Deane Core Strategy, Policies STR1 & STR6 of the Somerset & Exmoor National Park Joint Structure Plan Review and Paragraph 55 of the National Planning Policy Framework 2012.

2. The caravan lies in an isolated area that is not well related to existing built structures and would be clearly visible from the adjacent lane. It is therefore stark and prominent in appearance, resulting in detriment to the landscape character and rural beauty of the Blackdown Hills Area of Outstanding Natural Beauty. As such, the proposal is contrary to Policies STR6 and Policy 5 (Landscape Character) of the Somerset and Exmoor National Park Joint Structure Plan Review and Policies DM1 (General Requirements) and CP8 (Environment) of the Taunton Deane Core Strategy.

The second reason for refusal would be equally applicable to the other touring caravan understood to be used for storage. It is therefore considered that enforcement action should be taken to secure the removal of the two caravans and cease residential occupation of the site.

**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

ENFORCEMENT OFFICER: Mrs A Dunford, Tel: 01823 356479

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

#### **AUTHORISATION OF CASE OFFICER'S REPORT AND RECOMMENDATION**

**Chartered Town Planner (Development Management Lead)**

I agree/disagree to the above recommendation.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**PLANNING OFFICER:**

**PLANNING ENFORCEMENT OFFICER: Mrs A Dunford**

**CONTACT OFFICER: Mrs A Dunford, Telephone 01823 356479**



## Planning Committee – 30 January 2013

### Enforcement Item

1. **File/Complaint Number:** E/0135/38/12
2. **Property:** 10 Fullands Road Taunton Somerset TA1 3DD
3. **Owner:** Mr Benjamin Goddard
4. **Nature of Contravention:** Unauthorised Use of Property for Sales of Motor Vehicles

5. **Planning History**

At a meeting of the Planning Committee on 26 September 2012 it was reported that a complaint was received in July 2012 that a car selling business was being operated from this residential Property. A site visit was carried out and the complaint was confirmed.

It was resolved at the meeting of the Planning Committee that the Solicitor to the Council be authorised to serve an Enforcement Notice and take prosecution action should the Enforcement Notice not be complied with. The requirements of the Enforcement Notice are to cease using the Property for the operation of the sale of motor vehicles.

The Enforcement Notice was issued on 4 December 2012 with a compliance period ending on 15 July 2013.

The owner has acquired commercial premises in Canal Road, Taunton where he now operates his car sales business.

### Recommendation

Members are recommended that the Enforcement Notice be Withdrawn.

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

# Taunton Deane Borough Council

## Planning Committee – 30 January 2013

### Report of the Legal Services Manager

#### Consideration of Planning Application No 42/12/0013, Land at Amberd Lane, Trull

#### Background

At the meeting of this Committee on 5 September 2012 the above application was considered for the residential development of land at Amberd Lane, Trull. A copy of the original report to Committee is attached to this report for ease of reference as Appendix 1.

Following the Committee's decision to recommend approval of the application subject to the conclusion of a Section 106 (S106) Agreement, a letter was received from TLT Solicitors dated 5 November 2012 on behalf of a local resident. The letter was the first step in the pre-action protocol for Judicial Review of the Council's decision to approve the application, subject to the completion of a S106 Agreement.

The letter detailed the issues identified as the grounds for challenge and a response was sent to the solicitors by the Head of Legal and Democratic Service on the 5 November 2012. The letter countered the various issues raised by the solicitors but an offer was made to refer the matter back to the Committee so that the objectors concerns could be aired and the Committee asked if, having considered the issues, the Committee wished to affirm its earlier resolution to grant. The S106 Agreement has not yet been completed.

Following this, a meeting was held with two local residents on the 12 December 2012 when the issues were discussed and it was agreed that the objectors would submit a written statement of their concerns which would be put to Committee. That document is also attached to this report as Appendix 2.

Responses to issues raised:-

**1. The Planning Officer failed to recognise that the policies of the Taunton Deane Core Strategy were pertinent to this application.**

**2. The Planning Officer failed to acknowledge that the proposal was not in accord with the policies of the development plan.**

In his report the Planning Officer does refer to various Policies of the Core Strategy as being relevant planning policies (DM1, DM2, SP1 and CP8). However, the point is that at the present time there is no Small Sites Allocation Document relating to sites such as Amberd Land although by the date of the Committee the first draft should be out for consultation but is unlikely to be adopted until 2014 at the earliest.

Paragraph 14 of the Framework makes it clear that in decision making, as is the case here, if the development plan is absent, permission should be granted unless:-

- any adverse impacts of doing so would so significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

It is this test against which the Planning Officer judged the application and his recommendation of conditional approval reflects this.

### **3. The items sought by way of a S106 Agreement do not comply with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010**

It was detailed in both the report to the Committee and verbally at the meeting that some of the obligations offered by the developer were in excess of the standard requirements of the authority which would accord with the CIL Regulations.

However, it was made very clear to Members of the Committee that they should not allow additional obligations to sway their judgment on the application and there is no evidence of this. Such obligations can be made by way of a Unilateral Undertaking to which the Council is not a party.

#### **Other administrative shortcomings**

It has been explained earlier in the report why it is considered that the application should be determined in accordance with the test set out in Paragraph 14 of the Framework.

It is accepted that although the Environment Agency had been consulted, they had not responded. They have again been consulted and any response will be reported to the meeting.

There is no evidence that undue weight was given by Members of the Committee to the views of Trull Parish Council, and representations made at the meeting made it clear that objectors considered that the Parish Council had been unduly swayed by the proposed benefits for the community.

#### **Assessment**

It is not considered that any of the issues raised by the objector are sufficient to affect the validity of the decision reached at the meeting on the 5 September 2012.

Members are therefore recommended, having considered the issues raised by the objector, to endorse their earlier decision.

Legal Services Manager

Contact Officer : Judith Jackson 01823 356409  
[j.jackson@tauntondeane.gov.uk](mailto:j.jackson@tauntondeane.gov.uk)

**OUTLINE APPLICATION FOR A RESIDENTIAL DEVELOPMENT AT AMBERD LANE, TRULL**

Grid Reference: 321452.121721

Outline Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval subject to the applicants entering into an appropriate legal agreement to secure:

Affordable Housing

- 10 units of affordable housing to be delivered on site in a distributed manner in accordance with the requirements of local housing need.

Community Facilities

- Contributions of £80,640 towards a Neighbourhood Equipped Area for Play (NEAP) to be located on the existing recreation field to the north.
- Contribution of £43,620 towards Active Outdoor Recreation.
- Contribution of £33,340 towards Community Hall Facilities.
- Contribution of £5,820 towards Allotment Provision.

As an alternative to the contribution towards the NEAP, Active Outdoor Recreation and Community Hall Facilities above (totalling £157,600), the provision of:

- Land to the south of the existing playing field (as shown on the deposited plans) to form an extension of that playing field, including the levelling, cultivation and seeding of the field;
- Provision of the NEAP;
- Provision of a Pavilion and Store Building of gross floor area not less than 200 square metres.

Public Art

- A contribution towards the provision of public art and public realm enhancements in accordance with the Council's Public Art Policy.

Landscaping

- The provision and subsequent maintenance of the landscaped belt proposed on the field to the east of the site prior to works commencing on site.

Education

- Contribution of £73,530 towards Primary School Facilities.

Highways

- The design and construction of a footpath/cycletrack within the site and the widening and surfacing of the existing footpath between the northern end of the site and the south western corner of the existing recreation field to 2.5m.
- The design and construction of a new traffic island at the junction of Amberd Lane and Honiton Road.
- A minimum sum of £10,000 for Travel Planning requirements, including travel vouchers upon first occupation and production of information leaflets. This 'minimum' should be considered against the provision of a full Travel Plan Statement, and any additional elements arising from the Statement.

### Reason for Granting

The proposed development of 30 houses would result in a sustainable form of development which, with appropriate landscaping, would not prejudice the open character of the Vivary green wedge or lead to the coalescence of settlements. As such the proposal is not contrary to policy EN13 of the adopted Local Plan and is in accordance with the provisions of policy SP1 of the Core Strategy. The adverse impacts of the development do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole and therefore the proposal is approved as advised in paragraph 14 of the NPPF.

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

1. Approval of the details of the layout, scale, appearance, access and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Application for approval of the reserved matters shall be made to the Local Planning Authority not later than the expiration of three years from the date of this permission. The development hereby permitted shall be begun, not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In accordance with the provisions of S92 (2) Town and Country Planning Act 1990 (as amended by S51 (2) Planning and Compulsory Purchase Act 2004).

2. Before any part of the permitted development is commenced, the hedges to be retained on the site shall be protected by a chestnut paling fence 1.5 m high, placed at a minimum distance of 2.0 m from the edge of the hedge unless otherwise agreed in writing by the local planning authority.

Reason: To avoid potential harm to the root system of any hedge leading to possible consequential damage to its health which would be contrary to

Taunton Deane Local Plan Policy EN6.

3. The development shall provide for covered and secure storage facilities, details of which shall be indicated on the plans submitted in accordance with condition 1 above. 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.

4.
  - (i) Before any part of the permitted development is commenced, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority.
  - (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority.
  - (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

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

5. No development shall begin until a surface water drainage scheme for the site, based on sustainable drainage principles has been submitted and approved by the Local Planning Authority, all as set out in the submitted Flood Risk Assessment by Three Counties dated 30 March 2012.

The scheme shall include full details of proposed on site storage where run off rates have been limited to those from a 1 in 1 year storm on the green field site. Calculations are to be provided showing this attenuation provided for all storms up to and including the 1 in 100 year plus climate change event. The details shall clarify the intended future ownership and maintenance provision for all drainage works serving the site. Details of exceedance flow paths and depths of flow shall be mapped and shown to be safe.

Reason - To ensure that the site is adequately drained without having an adverse impact on water flows or flooding elsewhere in accordance with the

NPPF.

6.

The development hereby permitted shall not be commenced until details of a strategy to protect wildlife has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of JH Ecology's Ecological impact assessment submitted report, dated March 2012 and up to date surveys and include:

1. Details of protective measures to include method statements to avoid impacts on protected species during all stages of development;
2. Details of the timing of works to avoid periods of work when the species could be harmed by disturbance
3. 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 nesting birds shall be permanently maintained. 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

Reason: To protect and accommodate wildlife and their habitats from damage bearing in mind these species are protected by law.

7. 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 the interests of highway safety in accordance with the provisions of the NPPF

8. Before the dwellings hereby permitted are first occupied, a 1.8m wide footway shall be constructed over the frontage of the site between the western edge and the vehicle access in accordance with a specification to be approved in writing by the Local Planning Authority.

Reason - In the interests of highway safety in accordance with the provisions of the NPPF

9. The proposed estate roads, footways, footpaths, tactile paving, cycleways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, 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.

Reason - In the interests of highway safety in accordance with the provisions of the NPPF

10. The proposed roads, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

Reason - In the interests of highway safety in accordance with the provisions of the NPPF

#### Notes for compliance

1. The condition relating to wildlife requires the submission of information to protect the species. The Local Planning Authority will expect to see a detailed method statement clearly stating how the wildlife will be protected through the development process and to be provided with a mitigation proposal that will maintain favourable status for species that are affected by this development proposal.

2. Most resident nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended)

3. 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.

4. Dormice are known to be present on site. The species concerned are European Protected Species within the meaning of the Conservation of Natural Habitats and species Regulations 2010 (as amended 2011). Where the local population of European Protected Species may be affected in a development, a licence must be obtained from Natural England in accordance with the above regulations. NE requires that the Local Planning Authority must be satisfied that a derogation from the Habitats Directive is justified prior to issuing such a licence.

5. The applicant should be advised that at least seven days before access works commence the Highway Service Manager: Taunton Deane Area Highways, Burton Place, Taunton, Somerset TA1 4HE (Tel: 0845 345 9155) must be consulted.

6. 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 have been agreed in advance in writing by the Local Planning Authority and fully implemented prior to commencement of the 1st dwelling, and thereafter maintained until the use of

the site discontinues.

## PROPOSAL

This is an outline application for the erection of 30 houses on the eastern side of Trull. The site would be accessed off Amberd Lane and an indicative layout has been submitted which shows a cul-de-sac type development of 20 large detached houses and 10 terraced and semi-detached houses.

As part of the proposal, the applicant has offered the following.

- 10 affordable houses to be delivered on-site,
- Contributions towards a Neighbourhood Equipped Area for Play (NEAP) to be located on the existing recreation field to the north,
- Contribution towards Active Outdoor Recreation,
- Contribution towards Community Hall Facility,
- Contribution towards Allotment Provision,
- Public Art contributions to be included through integrated public art on any community/sports building,
- Education contributions at a level set by the TBDC interim Community Infrastructure Levy (CIL),
- Incorporated cycleway provision within the site to link to the public footpath at the north west of the site,
- Resurfacing and widening to 2.5m of the existing publicly owned footway T21/72 between the site and the existing village recreation field.
- Construction of a new traffic island at the junction of Amberd Lane Honiton Road to improve visibility,
- Provision of a 'virtual footway' along Amberd Lane to link the site with existing footways on Honiton Road,
- Provision of landscaped belt along eastern site boundary within the adjoining field, and
- Transfer of ownership of the field to the east of the site to Parish of Trull (at no cost).

As an alternative to making contributions towards Play and Active Recreation, the NEAP, Active Outdoor Recreation and Community Hall Facilities the applicant/developer would prefer to meet the obligations by an undertaking secured through a Section 106 agreement which would include:

- (i) The submission and successful determination of a planning application for change of use to community and recreation on the land to the south of the existing field (as shown on the deposited plans) to be contiguous with the existing facility.
- (ii) Levelling, cultivation and seeding of the field
- (i) Provision of the NEAP
- (ii) Provision of a Pavilion and Store Building of gross floor area not less than 200 square metres maybe similar in design and layout to that which was provided by the applicant in similar circumstances at North Curry
- (iii) The cumulative cost and value of the foregoing will far exceed the contributions sought, but in the event that for reasons outside the developer's control any element has to be omitted then a capital contribution to address any shortfall between that provided and the stated requirement will be made

in the normal manner

## **SITE DESCRIPTION AND HISTORY**

The site is located on the northern side of Amberd Lane to the east of Patrick's Way. It comprises a single field that slopes down from west to east with a strong hedgerow boundary. Slightly raised up from the western boundary is a public footpath (T21/72) which links Amberd Lane with Church Road to the north. Some of the houses in Patrick's Way have rear pedestrian access onto the footpath.

To the north of the site are The Bell House and The Bell Cottage. These have quite large grounds that extend along the entire northern boundary of the field and include a tennis court. The northern boundary can therefore be described as domestic rather than agricultural.

The eastern boundary is agricultural and there is a second field, approximately 80 metres wide, and this adjoins the Sherford Stream. This is the field which has been offered for public ownership.

The site is almost 2 hectares in size but specifically excludes the north east corner of the field which adjoins The Bell Cottage.

The site is outside of the defined settlement limits contained in the Local Plan and Core Strategy and is also within the Vivary Green Wedge. There is no relevant planning history.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*TRULL PARISH COUNCIL* – support:

The Parish Council has on numerous occasions approached the landowner of the field between Bell House and the King George V Playing Field with a view to purchasing or renting it to extend the play area. To date this has always been unsuccessful. This landowner is also owner of the field which is the site of the proposed development. If the development goes ahead the developer and landowners propose to gift two areas of land to the Parish, the meadow next to the weir, between the proposed development site and Sherford Stream, and the field between King George V Playing Field and the Bell House thereby extending the play area. Restrictive covenants will be attached to both areas to prevent their future development. Trull is vulnerable to the encroachment of extended development westward from Killams which threatens the identity of Trull as a village separate from Taunton. The protected open green space attached to this development would help protect the boundaries of Trull and provide leisure space for the benefit of the entire community.

Trull will inevitably grow in the future. This development is small scale and low density. Affordable housing is still very much needed for local people who otherwise would not be able to afford to buy property in Trull. Landowners are unwilling to release land solely for such housing but, by supporting the building of market value housing on this site, Trull will not only gain the affordable housing it needs but will also gain green leisure space that will be protected.

By supporting this application the Parish Council feels that they have more say in how the site is developed and, at the same time, gain additional facilities for the whole village.

*SCC - TRANSPORT DEVELOPMENT GROUP – no objection*

Bearing in mind the response provided above and in the event of the LPA granting permission, I have no objections to the proposed development subject to a Section 106 Agreement to secure the following:

1. The design and construction of a footpath/cycletrack, as far as reasonable within the Applicants control, linking Amberd Lane and Church Road. Where this is not achievable, then a contribution for these works should be provided.
2. The design and construction of a new traffic island at the junction of Amberd Lane Honiton Road. The design of this has yet to be agreed.
3. A minimum sum of £10K for Travel Planning requirements, including travel vouchers upon first occupation and production of information leaflets. This 'minimum' should be considered against the provision of a full Travel Plan Statement, and any additional elements arising from the Statement.

*[the full 8 page County Highway Authority response is contained at the end of this report as an appendix]*

*SCC - RIGHTS OF WAY –* I can confirm that there are two public right of ways (PROW) recorded on the Definitive Map, one within the proposed village field and one to the west of the site abutting the boundary.

T 21/72 that abuts the western boundary has been considered as a potential cycle route to the Primary School and beyond into Taunton. The transport statement makes a mistaken assumption about how willing people will be to cycle from the site on carriageway. Due to the nature of the carriageway and the volume of traffic on the road many people will be put off. If land cannot be secured as part of this development to widen the footpath between the site and the primary school then the opportunity to offer a safe and attractive alternative to Honiton Road for cyclists will be lost forever.

Given the future growth in this area, we request that a strip of land is dedicated for cyclists alongside the footpath, as the footpath width is currently too narrow to accommodate cycle use. We would also request that it is surfaced to a standard to be agreed with Area Highways. Where pinch points might remain in terms of a link to Church Road, 'Cyclists Dismount' signs could be erected until a solution is agreed.

*LANDSCAPE LEAD –* My main concerns are:

- The significant visual impact of the proposal on the open riverside character of the area.
- Impact on the character and function of the Green Wedge.
- Impact of the Highway requirements on the important southern boundary hedgerow to meet visibility splay standards.

## Further comments in response to amended plans

Further to the Swan Paul revised landscape scheme which involves parkland tree and woodland edge planting I would like to revise my comments.

My assessment is that the current proposals will help to reduce the impacts of the proposed development on the open riverine character of the area to the east which is planned for wider public access. It will take time for the landscaping to mature sufficiently but within 10 years, subject to detailed proposals and maintenance, it should be possible to establish a useful woodland edge character to the area and reduce significantly visual impacts.

In terms of Green Wedge functions the proposals will have no impact on coalescence as the distances and topography are such that there should be no inter visibility between Killams to the eastern side of the Green Wedge and this site. In terms of the other functions there will be an impact on 'bringing the countryside into the town' but otherwise the impacts should be limited.

Subject to hedgerow relocation and replacement it should be possible to reduce the impact of the hedgerow loss but the rural character of the area will be largely lost to be replaced with a more residential/suburban character.

*BIODIVERSITY OFFICER* – This is an outline application for the construction of 30 dwellings on pasture land to the north of Amberd Lane, Staplehay, Taunton. The proposal is to develop the western field backing on to existing development and to retain the eastern field adjacent to Sherford stream as open space. The application also involves the widening of Amberd Lane by translocating part of the existing species rich roadside hedge. The site is enclosed by species rich and species poor hedgerows and the Sherford stream corridor. There are several mature trees located in the vicinity of the site.

JH ecology carried out surveys of the site from November 2011 — March 20 12. An Ecological Impact assessment was produced in March 2012. In addition, the mammal ecologist Dr Paul Chanin produced a report on a dormice survey, which forms an appendix to the main report. Findings were as follows

**Dormice** - The surveyor has made the assumption that dormice are present on site based on an assessment of the habitat; which contains a range of food plant species for dormice, local knowledge and on checking local records and SCC's Econet. Dr Paul Chanin also suggests that a nest tube survey, in this case, would not further inform the report. For the reasons stated, I tend to agree and also assume presence of dormice on site. I support mitigation proposed and agree that as dormice will be disturbed by this development an EPS licence will be required.

**Badgers** - The surveyor found evidence of badger activity on site. A badger sett has been recorded within 30 m of the site boundary in the bank of the woodland stream corridor. The hedgerows on site and adjacent woodland provide potential sett building habitat and the grassland and woodland provides potential opportunities for foraging. As badgers are mobile animals further monitoring will be necessary.

**Bats** - The nearby mature trees and the Sherford stream corridor provide potential

habitat for roosting, foraging and commuting bats. I agree with the surveyor that, should public realm lighting be a requirement on site, then bat surveys will be required. I support the proposed mitigation proposals

Otters - The stream corridor and associated woodland and scrub habitats are used by otter as confirmed by records of droppings.

Water Vole - No evidence of water vole was found. Although there are historical records of water vole from the Sherford stream corridor, the stream banks are now heavily shaded and lack potential foraging habitat and opportunities for cover.

Birds - Several bird species were noted on site. Kingfisher has been recorded along the Sherford stream. I agree that removal of vegetation should take place outside of the bird nesting season. I support the mitigation proposals.

Reptiles - Hedgerows, woodland edge and the stream corridor provide potential habitat opportunities for reptiles. I support the proposed measures to protect reptiles during the construction process.

If planning permission is granted a condition should require a strategy to protect wildlife

*NATURAL ENGLAND* – recommend using standing advice.

*ENVIRONMENT AGENCY* – no comments received

*SOMERSET WILDLIFE TRUST* – support the recommendations contained in the submitted wildlife report

*COMMUNITY LEISURE* – In accordance with Local Plan Policy C4, provision for play and active recreation should be made for the residents of these dwellings.

The policy in the Local Plan is for 20 square metres of play per every family size (2 bed+) dwelling. On a development proposal of 30 family size dwellings 600 square metres of children's play should be provided, by way of at least one LEAP, centrally located and overlooked by the dwellings. The location of the proposed play trail is not acceptable as it next to the main entrance to the site.

A contribution of £1,454.00 for each dwelling should be made towards the provision of facilities for active outdoor recreation.

A contribution of £194.00 per dwelling should be sought for allotment provision along with a contribution of £1,118.00 per dwelling towards local community hall facilities.

Contributions should be index linked.

A public art contribution should be requested, either by commissioning and integrating public art into the design of the buildings and the public realm or by a

commuted sum to value of 1 % of the development costs.

*DRAINAGE ENGINEER* – I have no objection to this proposal subject to conditions regarding a surface water drainage scheme which restricts surface water run off rates.

*TDBC STRATEGY* – comment:

The application site lies beyond existing settlement limits in open countryside. Hence the proposal is counter to policies in the adopted and emerging development plans (Local Plan policy S7, Core Strategy policies CP8, SP1, DM2). Despite being in the open countryside, the application site is considered sustainable as it has good levels of access to a reasonable level of services and facilities including; primary school, shop, post office and pub.

The site lies within designated green wedge and as such should be considered against policy EN13 of the Local Plan. It is not considered that this proposal will prejudice the open character of the green wedge or lead to the coalescence of settlements.

The wider area to the west of Trull has been identified within the Core Strategy as a Broad Location for up to 2,000 net additional dwellings over the period up to 2028. It is intended, however, that this should compromise a masterplanned urban extension and such the scheme can be considered outside of this requirement.

Trull Parish Council is in the early stages of producing a Neighbourhood Plan, Given that such a plan would be subject to referendum prior to adoption and that this scheme has attracted significant objection and involves an element of planning gain, it would seem preferable to see this proposal advanced through a Neighbourhood Plan.

It is not logical to exclude the north western corner from the application site without evidence that this land is not within the ownership or control of the applicants. Without this there is no justification to exclude this parcel and the scheme could be seen to fail to make effective and efficient use of land, contrary to the NPPF and Core Strategy Policy CP4.

*POLICE ARCHITECTURAL LIAISON OFFICER* – has made detailed comments on the submitted indicative layout which should be taken into account as part of any reserved matters application (subject to outline planning permission being granted).

*BRITISH TELECOM* – no comments received

*SCC - CHIEF EDUCATION OFFICER* – no comments received

*WESTERN POWER DISTRIBUTION* – no comments received

*WESSEX WATER* – recommends that the applicant contact Wessex Water regarding new connections and protecting existing assets.

*HOUSING ENABLING LEAD* – My comments for this application are based on housing need and the comments do not reflect the suitability of the site in terms of planning.

The affordable housing requirement for this scheme is 25% of the total number of units. The tenure split is 50% social rented, 50% intermediate housing. The requirement is for houses rather than flats. The houses should be predominately 2 and 3 bedrooms.

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.

The affordable housing scheme must be submitted to and approved in writing by the Housing Enabling Lead at Taunton Deane Borough Council.

## **Representations**

Cllr Mark Edwards

Highways - Amberd Lane is inadequate for this level of development and increase in traffic with the road and junction already struggling to cope with the present levels. I also have huge concerns with regards the suggestion of a virtual footpath, not only will this look dreadful, in what is presently a very picturesque lane, but I also understand it is an experiment and this leads me to question its validity as a solution.

The junction on to Honiton Road is already difficult to execute and increased traffic movements can only create more problems. The proposed traffic island will be a minor improvement but I do not believe it will make sufficient difference for the increase in traffic this development will create.

Trull School - The school is clearly at capacity and the development being considered with the type and scale of development will mean an increase in children eligible to go to school and as there is no space will have to be likely driven to a different school which is unsustainable or will put immense pressure on the school. The Neighbourhood Plan would be able to better assess this issue and any proposals will then be able to better reflect what happens in the future, I will return to this point later in my response.

Green Wedge - This site is not allocated in the development plan or the core strategy and is completely developer led with the only community involvement and support being the Parish Council who I believe are missing out on a major opportunity to consult and work with the whole community through the Neighbourhood Plan.

The Green Wedge is afforded protection through the Core Strategy and whilst I

appreciate that is not absolute in planning terms it should be given serious weight especially in view of the large number of negative comments on this application this is clearly an example where Localism can play its part and I believe that the community should be afforded that opportunity.

Neighbourhood Plan - The Parish Council with my assistance bid for funding to take part in the Neighbourhood Plan with Trull as a national front-runner in this process and as you are aware secured the funding to progress this from central Government.

The basis of that submission agreed by the Parish Council was:

*With the area known as Comeytrove being put forward as a broad location for growth in the recently proposed Taunton Deane Core Strategy with up to 2000 houses earmarked, Trull is likely to see a level of development on its doorstep that will likely impinge on the settlement. In addition due to its proximity to the town centre other smaller developments are potentially being put forward in the locality as well which need consideration as to how the all interact with each other.*

*It is therefore important therefore that a cohesive plan for Trull and Staplehay and one that that brings the overall benefits without the risk of a lack of consideration or in making sure there is a reference point to each development taking place.* .

I have highlighted the key points in the submission in particular the understanding there was developments coming forward and the Neighbourhood Plan was the perfect vehicle for these to be given consideration. This was accepted by the Parish Council so why this questionable decision to support? Why did they not suggest it went forward to the Neighbourhood Plan?

I am extremely disappointed that the Neighbourhood Plan has not been given any consideration by the Parish Council in their consideration of this application. I highlighted quite clearly my concerns with regards this issue and suggested the Parish Council take the opportunity to use the Neighbourhood plan to engage with the community with this development fitting perfectly with the criteria. I am concerned at the actions of the Parish Council firstly as the District Councillor where sadly I am not satisfied that the vast majority of the community were listened to, as the discussion they had at the Parish Council meeting when the debate was conveyed under standing orders the Parish Council was lacking in any detail regards the actual application, with concerns over what might happen to this land being paramount in their minds if they did not accept the proposals. Clearly this is not the basis for a planning decision.

I also find myself as the Executive Councillor for Planning and Transport wondering if the Parish Council has any grasp of the basis of the Neighbourhood Plan and what it can deliver. I had attended the Parish Council in advance of this application so I could highlight the vehicle that they had secured significant funding for but again it was not given any consideration as part of this application.

The Neighbourhood Plan has the ability to designate land that can be protected and that which could be developed so the main concern of the Parish Council that a national developer is going to suddenly swoop on this land is frankly ridiculous and if the PC wants to protect it for the future the Neighbourhood Plan is actually by far the best vehicle.

The Neighbourhood Plan is central in planning terms to complete community engagement and taking forward plans that will ultimately have support of the whole community and it is a huge disappointment that this has been ignored and more importantly I am not sure how easy it will be for the Parish Council to engage in the future after clearly completely ignoring the vast majority of the community.

I can confirm from the huge number of discussions I have had in my ward and from the communications I have seen sent to you directly that the vast majority of the residents of Trull would wish to see this potential development being given consideration as part of the Neighbourhood Plan, it is a perfect fit in what it wishes to deliver to the community.

This application is premature to that process and as its sits within the Green Wedge and is clearly not being considered as part of a future plan I would ask for the support of TDBC in achieving this more pragmatic and community led approach by refusing the application on the basis that it will be able to be submitted as part of the Neighbourhood Plan process for better consideration of its implications and how it can better achieve more for the whole community.

189 Letters of OBJECTION have been received which raise the following issues:

#### Green Wedge

- The development would not protect or preserve the green wedge.
- It is contrary to the Core Strategy
- Once it has gone, it can't be replaced.
- Development would set a precedent.
- Development should be on brownfield sites first.
- The green wedge is valued by walkers.
- The green wedge has a positive effect on mental and physical health.
- Residential development would be out of character with the rural area.
- If the development at Killams proceeds then the green wedge will be narrowed on both sides.
- The green wedge helps to combat pollution.
- Development will result in the loss of the riverside character.

#### Local opinion

- The proposal is contrary to local views.
- The Parish Council views do not reflect those of the local community.
- The proposal is premature against the Neighbourhood Plan.
- A Neighbourhood Plan would have to go through a local referendum.
- 85% of households are against development in the green wedge.
- The government supports local views influencing planning.
- The developers argument that if he doesn't develop, someone else will is flawed.
- The public consultation event drew significant objection to the proposal.

#### Highways

- Amberd Lane is a narrow minor road with blind spots.

- The virtual footpath will restrict on-street parking.
- The virtual footpath will be dangerous for pedestrians.
- Increase in traffic.
- Increase in congestion.
- The proposed traffic island will not provide the necessary visibility splays on Honiton Road.
- More traffic using the junction leading to congestion.
- Knock on impact on Church Road traffic (dangerous around the school).
- The character of the country lane would be lost.
- Adverse impact on driveways to properties in Amberd Lane.
- Cars parked in Amberd Lane make it difficult for cars to pass.
- The Patricks Way junction will be more difficult to use.
- The Spearcey Lane Way junction has blind spots and increase in traffic would be dangerous.
- Large houses are likely to have two or more cars.
- The sewerage system will not be able to cope.
- Noise and disturbance from construction traffic.
- The bridge over Sherford Stream would not be able to cope with extra traffic.
- Amberd Lane is used as a 'ratrun' and therefore is very busy.

### Wildlife

- Housing will have an adverse impact on wildlife.
- Greater use of the adjoining field will disturb wildlife.
- Loss of hedgerow.

### Layout

- Poor and chaotic layout shown on the submitted plans.
- It looks like the affordable housing is being squeezed into a corner and not distributed throughout the site.
- Why is there a rectangle of land that is not being developed?

### Other issues

- The local school could not cope with an increase in numbers.
- There is no need for additional local facilities.
- The development is unsustainable and site is in an unsustainable location.
- It would change the nature of the village.
- Footpaths would get busier resulting in a loss of amenity to houses that adjoin them.
- Risk from flooding.
- Development in this area should not be piecemeal and should be properly planned.
- Loss of agricultural land..
- Noise from additional traffic.
- No need for more houses in the village.
- Health services are already over-stretched.
- Loss of identity.
- Street Lighting will cause light pollution.
- Existing drainage problems in field
- There are no good reasons to grant planning permission.

10 letters of SUPPORT have been received which raise the following issues:

- Government advocates the building of new housing and affordable housing for local people
- There will be a number of community benefits.
- Affordable housing will allow people who grew up in the village to stay and access affordable homes
- The village has a history of providing small cul-de-sac developments.
- Adjacent fields will be saved from development.
- Development is inevitable so small scale is better than large scale.
- Traffic and congestion problems are no different to anywhere else.

In response to the applicants confirmation of the package of contributions that would be secured as part of the development proposal, a further round of public consultation took place which resulted in a further 86 letters of objection (27 of which raised no new issues to those above) and 6 letters of support being submitted

OBJECTION letters raise the following additional issues:

- The proposals go beyond the site and affect the whole village,
- The proposals are vague and lack detail,
- Where would the proposed pavilion be built and how would it be accessed?
- The off-site works have no relevance to the planning application,
- The community does not need another public building to maintain,
- The offer appears to be a bribe to get/buy planning permission,
- The foot/cycle path to the village is not deliverable,
- The foot/cycle path would not be wide enough,
- Any lighting of the foot/cycle path would harm wildlife, change the character of the area and harm residential amenity,
- Residents along the foot/cycle path would not be able to safely exit their rear gates.
- Widening the footpath will result in a loss of habitat.
- The school is at capacity and in a location where it can not expand,
- Trull already has a cricket pitch and pavilion,
- The off-site contributions should not be considered as part of this planning application and should be subject to a separate application.
- Comments challenging the County Highways Authority consultation response.

SUPPORT letters raise the following additional issues:

- Some people in the community support the proposals and objectors do not represent the whole community.
- Support for more play space and a new pavilion

## **PLANNING POLICIES**

S7 - TDBCLP - Outside Settlement,  
DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,  
DM2 - TD CORE STRATEGY - DEV,  
SP1 - TD CORE STRATEGY SUSTAINABLE DEVELOPMENT LOCATIONS,

## **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)	£35,172
Somerset County Council (Upper Tier Authority)	£8,793

### 6 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£211,032
Somerset County Council (Upper Tier Authority)	£52,758

## **DETERMINING ISSUES AND CONSIDERATIONS**

### Policy

The Planning Policy team have commented that the application site lies beyond existing settlement limits in open countryside. Hence the proposal is counter to policies in the adopted and emerging development plans (Local Plan policy S7, Core Strategy policies CP8, SP1, DM2). Despite being in the open countryside, the application site is considered sustainable as it has good levels of access to a reasonable level of services and facilities including; primary school, shop, post office and pub.

The site has been previously identified in the 2010 and 2011 Strategic Housing Land Availability Assessment (SHLAA) and on both occasions has been shown to be 'developable'.

Developable status means that in the broad terms in which the SHLAA considers suitability as well as availability and achievability, the Panel felt on balance the site meets the basic tests. However, the SHLAA conclusion does not prejudice or prejudice the outcome of any planning application nor indicate that the site will ultimately be allocated through a future development plan document. From an allocation point of view, the site would need to be considered as part of an Allocation Document which will follow the adoption of the Core Strategy. Although many would consider that a plan-led route would be most appropriate way for this site to be assessed, the application has been submitted and must be considered now and on its own merits.

In the absence of a Site Allocations Document the application must be considered against paragraph 14 of the NPPF which states that for the purpose of decision taking (where the development plan is absent, silent or relevant policies are out of date) local planning authorities should grant planning permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken

- as a whole; or
- specific policies in the NPPF indicate development should be restricted.

The following sections consider the impacts of the proposed development.

### Sustainable Development and Accessibility

The site is outside of the defined development limits of Taunton. However, in this case it is not remote from local facilities and services. The primary school and village community hall are approximately 520m (walking distance) and the post office, shops and pub are 720m (walking distance) from the centre of the site. These distances increase if these journeys are made by road (either on foot or by car) and it can be reasonably assumed that people are less likely to walk along the footpaths in inclement weather or in the dark. However, even when the distances are increased, the facilities remain accessible in the context of the local area.

Access by foot along the existing public footpath network can be improved and the County Council Rights of Way Team have suggested the widening and upgrading of the existing footpath on the western side of the site. However, this will require the removal of an existing hedge and it is considered that it would be more appropriate to ensure that the site has a cycle/pedestrian through-route that links to the footpath at the north west corner. It is also considered essential that the remainder of the footpath which extends to the playing fields and on to Church Road (Primary School) is upgraded as far as reasonably possible to ensure that it is of a width and surface which will encourage greater use. These are both achievable and the applicant has submitted plans to show that the required land is under his control.

The nearest bus stop is within 300m of the site at the Crown Inn. This is served by two routes which provide an hourly service to the town centre. Given the scale of development and distance to the town centre, this is considered appropriate. The town centre is also accessible by foot along an existing public footpath network, although this is a journey which would probably only be undertaken by the most committed walkers. These footpaths are not considered to be suitable for cycling. It is possible to cycle to the town centre without having to remain solely on the main road (Honiton Road/Trull Road) as there are cycle routes which link Sherford with Vivary Park.

The County Council consider that a Travel Plan Statement to be more appropriate than the submitted Measures Only Travel Plan. This will require a contribution towards travel vouchers upon first occupation and production of information leaflets. It is considered that this will encourage occupiers to use alternative means of transport other than the private car.

### Green Wedge

The site lies within designated green wedge and as such should be considered against policy EN13 of the Local Plan which is proposed to be replaced with policy CP8 of the Core Strategy.

In respect of the green wedge, policy EN13 states “development which would harm the open character of green wedges will not be permitted”. Policy CP8 allows development outside of settlement boundaries where it will “protect, conserve or enhance landscape and townscape character whilst maintaining green wedges and

open breaks between settlements” (alongside other criteria). The policy therefore controls development in the green wedge rather than place an absolute restriction on all development in the green wedge. The appropriate consideration must be one of harm and it is necessary to consider the harm that would be caused to the character, appearance and functionality of the green wedge.

As the Vivary Green Wedge runs south it generally becomes wider and more open. At the application site, the distance to Killams (the other side of the green wedge) is 2km and Cotlake Hill separates the two developed areas. I agree with the Landscape Lead’s view that the proposals will have no impact on coalescence and will not significantly erode the open break between settlements. Therefore the function of the green wedge to prevent coalescence is not lost and the proposal does not result in any harm in this regard..

To the south of the site is residential development which currently forms a 100m projection out towards the wedge and the dwellings and garden to the north of the site have a domestic character which protrude into the wedge by a similar distance. This results in the site forming a small ‘green projection’ into the fringe of the developed area. The Sherford Stream provides a significant visual barrier (with it’s tree lined edges) and when combined with the proposed planting in the field between the site and the stream, will result in limited impact on the character and appearance of the green wedge. The strengthening the eastern boundary of the site by additional landscaping would also result in a much better screen between the built development and green wedge than at present.

Due to the above factors it is considered that this proposal will not prejudice the open character of the green wedge or lead to the coalescence of settlements. Therefore the proposal is not considered to significantly harm the green wedge and there is not sufficient reason to withhold planning permission on these grounds.

### Highways

The County Highway Authority have carefully considered the submitted Transport Statement and response made by LGPS Resources Traffic Consultations who have been commissioned by a group of local residents. This has resulted in an 8 page response which is contained at the end of this report. After considering all of the information, the County Highways Authority raise no objection.

The main traffic considerations are increased traffic on Amberd Lane, the proposed alterations to the Junction between Amberd Lane and Honiton Road, and the proposed virtual footway for pedestrians using Amberd Lane.

With regard to the capacity of Amberd Lane, the Highway Authority consider that the total predicted vehicle flows are well below the 300 vehicles per hour, which can normally be expected to be accommodated by a rural lane with passing places. They do not consider that there will be a significant traffic impact on Amberd Lane, or the Amberd Lane / Honiton Road junction.

The proposed alterations to the Honiton Road junction include the introduction of a traffic island to displace vehicles to the left, which then provides additional visibility in line with Manual for Streets. This is desirable and would improve an existing situation. The LGPS report highlights an area of detailed design for the island that will need addressing. The County Highways Authority consider that amendments

can be provided as there is sufficient space available at the existing junction. They also consider that the additional 20 movements per peak hour period will mean a slight increase in delay on Amberd Lane, and some impact on junctions towards Taunton. However, they do not consider that there will be a significant traffic impact on the Amberd Lane / Honiton Road junction

In order to address an area of concern regarding the lack of any pavements/footways on Amberd Lane, it has been suggested that a 'virtual footway' be provided and this would encourage pedestrians to walk down one side of the road and vehicles to use the other side. This could comprise a solid white line and pedestrian symbols marked on the road. It could also include an appropriately coloured surface. This would extend approximately 200m from the Amberd Lane / Honiton Road junction and the site.

This has resulted in much debate as it is not possible to construct a formal standard footway due to lack of available road width. The Highways Authority conclude that here is little supportive evidence of the success, or not, of these virtual footways both locally and nationally. In the absence of this evidence, the Highway Authority will not consider the provision of the virtual footway as part of this application. With that consideration, they do not raise any objection to the potential result of more people walking in Amberd Lane.

Access into the site can be provided but will require the removal/translocation of a part of the existing hedgerow so that visibility splays and a footway can be provided. It is considered that a formal footway would be appropriate at the front of the site between the existing public footpath opposite Spearcey Lane (where there is a short section of footway) and the site entrance. It is not considered appropriate to require the removal of the remainder of the hedge to the east of the access in order to provide a continued footway to the edge of the site.

### Community Benefits

Under existing Council policies, any residential development should make appropriate provision for children's play, outdoor recreation, community facilities, allotments etc. This would normally be provided on-site for large developments, or on smaller developments (where provision is best suited off-site) an appropriate financial contribution is secured. The Community Development Team have requested contributions amounting to £82,980 in addition to an on-site Local Equipped Area for Play (LEAP) of 600 sq metres. If children's play were to be provided off-site, then an additional contribution of £80,640 would normally be required. This results in a total contribution of £163,620 to provide the required facilities off site.

In respect of the outdoor recreation, children's play and community hall requirements, the applicant has offered to provide:

- Land to the south of the existing playing field (as shown on the deposited plans) to form an extension of that playing field, including the levelling, cultivation and seeding of the field;
- Provision of the Neighbourhood Equipped Area for Play (NEAP)
- Provision of a Pavilion and Store Building of gross floor area not less than 200 square metres (maybe similar in design and layout to that which was provided by the applicant in at North Curry)

The applicant suggests that the cumulative cost and value of the foregoing will exceed the contributions sought, but in the event that for reasons outside the developer's control any element has to be omitted then a capital contribution to address any shortfall between that provided and the stated requirement will be made in the normal manner.

In addition to this, as stated in the 'proposal' section of the report, the applicant has also confirmed that they would make appropriate contributions towards allotments, transfer the land to the east of the site to the Parish of Trull, and make financial contributions towards primary education facilities in line with the Council's Interim CIL. Education contributions would amount to £2451 per dwelling, resulting in a total contribution of £73,530 towards primary school facilities in the area.

It is considered that these are benefits which are over and above what would be required from a development of 30 houses in terms of the securing and laying out of land for outdoor recreation. However, it must be noted that many of the contributions are those which are normally required for any residential development whether it be on an allocated site or not.

### Neighbourhood Planning

The Planning Policy team has commented that Trull Parish Council is in the early stages of producing a Neighbourhood Plan and that given that such a plan would be subject to referendum prior to adoption (and that this scheme has attracted significant objection and involves an element of planning gain) it would seem preferable to see this proposal advanced through a Neighbourhood Plan. This view is re-iterated by many of the objectors and local Ward Member, although not by the Parish Council who support the application.

However, an application has been submitted and it is necessary for it to be determined in light of current policy and guidance. In the absence of a Neighbourhood Plan guidance in paragraph 14 of the NPPF states that where a plan is absent, the local planning authority should grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

It is therefore considered that application could not be refused simply on the grounds of prematurity.

### Other Issues

Wildlife has been raised as an issue and the Council Biodiversity Officer has considered the submitted ecological reports. It is concluded that it is possible to grant planning permission with appropriate conditions to protect and preserve wildlife in the local area.

The submitted layout is indicative only. However it is agreed that it would be wrong to build a new development with all the affordable homes 'cramped' into one corner. It would be possible to build 30 houses on the site with an appropriate layout which addresses the road and did not have such a clear distinction between the affordable and open market houses.

The receipt of the New Homes Bonus is noted, however, your officer's consider that this matter carries limited weight in this case.

### Conclusion

The NPPF contains 12 core planning principles that underpin decision taking and the proposal has been considered against these. The application is not genuinely plan led in that it pre-dates the small sites allocations document or Neighbourhood Plan. However, it would deliver homes in a sustainable way and provide community benefits.

It is considered that one of the most important considerations is whether there are any adverse impacts which would significantly and demonstrably outweigh the benefits. I believe that the harm does not outweigh the benefits and therefore planning permission should be granted.

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

**CONTACT OFFICER: Mr B Kitching Tel: 01823 358695**

### Appendix 1 – Full transcript of County Highway Authority response received on 8<sup>th</sup> June 2012

I refer to the above-mentioned planning application received on 19<sup>th</sup> April 2011, and after carrying out a site visit on 15<sup>th</sup> May 2012 have the following observations on the highway and transportation aspects of this proposal. I apologise for the delay in responding.

The proposed development site lies outside the Development Boundary Limits for Trull and Taunton and is therefore classified as distant from adequate services and facilities, such as education, health, employment, retail and leisure. As a consequence, it is considered that occupiers of the new development are likely to be dependant on their private vehicles. Such fostering of growth in the need to travel would be contrary to government advice given in PPG13 and RPG10, and to the provisions of policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted: April 2000), and Policy 7 of the Taunton Deane Local Plan adopted November 2004, and would normally receive a recommendation of refusal from the Highway Authority as a result.

However, the application draws attention to the close proximity of local services and facilities. Walking distances can be measures at: Trull Primary School (520m approx), the Post Office & Shops (740m approx) and the Village Community Hall (520m approx) and the pub (720m approx), with distances being measured using the public highway and from the centre of the proposed development. However, it is likely that during the winter months there may be an increase in the number of trips by private vehicles due to inclement weather and the limited or non-existent street lighting provision serving the pedestrian routes quoted.

Driving distances can be measured at: Trull Primary School (1100m approx), the Post Office & Shops (930m approx) and the Village Community Hall (1100m approx) and the pub (1320m approx), with distances being measured using the public highway and from the centre of the proposed development.

This information must be considered in conjunction with other policies as set out in National, Regional, County and Local policies, and will be discussed in more detail from a highways perspective through this response. However, it is a matter for the Local Planning Authority to decide whether the proximity of these services and facilities are considered adequate.

### Existing Highway Conditions

Amberd Lane is an unclassified rural road, and is subject to a 30mph speed limit. The width of the road varies, and is generally between 4.5m to 5.5m in width. There are also small lengths of Amberd Lane that are above and below these dimensions, but they are limited in length and do not adversely affect the functioning of the highway.

Amberd Lane, from Honiton Road to the application site, can be divided into two sections.

The first section of lane, from Honiton Road to Spearcey Lane (approx 120m), appears visually narrow due to the boundary walls fronting the road. There is no footway along this section and there are parked vehicles serving the neighbouring properties. The second section of lane, from Spearcey Lane to the application site (approx 80m), appears visually wider due to the adjacent properties being set back from the road. Again, there is no footway although there are passing places due to the width of the road.

Due to the lack of dedicated footway, the Highway Authority has erected 'Pedestrian in road ahead' warning signs (DoT No: 544.1).

During several site visits throughout the application period, it was observed that both sections of the lane mentioned above are well used by pedestrians, cyclists and dog walkers as well as motorised vehicles.

The lane currently serves a total of approximately 80 dwellings and residents currently use the sections of highway discussed above to access the local facilities by walking, cycling and car. There has been no reported Personal Injury Accidents (PIA's) over the last five years on the above areas of highway.

### Public Footpaths

There is a public footpath (T21/72), from Amberd Lane (adjacent to the application site) through to Church Road (adjacent to the Village Hall). The footpath is surfaced and restricted in width to approx. 1m for the majority of its length, with limited passing places for pushchairs and wheelchairs. Despite the restricted width of the footway, it was noted during site visits that both cyclists and families with pushchairs use this footpath.

This footpath crosses/links to another footpath (T21/75), from Honiton Road (through Wyatts Lane) to Church Road (opposite the Winchester Arms) and it is my understanding that the footpaths are well used by pedestrians, cyclists and dog

walkers.

### Residents Feedback

Following a review of TDBC Planning website, many concerns have been expressed by local residents regarding this application. The highway comments have been extracted and are summarised below:

- Increased traffic/pedestrian conflict in Amberd Lane
- Lack of footways along Amberd Lane for safe pedestrian access
- Amberd Lane used as a rat-run, from the Corfe side of Taunton
- The new traffic island on Amberd Lane would serve no purpose
- The 'virtual pavement' is considered unsafe
- Hedgerow removal from the countryside, including the impact on nesting birds
- Overflow parking from the site being placed onto Amberd Lane
- Poor visibility from the site entrance onto Amberd Lane

All of these concerns have been considered by the Highway Authority, and it is considered that these views have been considered through the technical detail set out in this response.

### Virtual Footway along Amberd Lane

It would not be possible to construct a formal standard footway due to the limited road width. This has been recognised by the applicant, who has included a 'virtual footway' to assist pedestrians through this area.

The proposal of a virtual footway has caused much debate with Engineers at the Highway Authority. There is little supportive evidence of the success, or not, of these virtual footways both locally and nationally. In the absence of this evidence, the Highway Authority will not consider the provision of the virtual footway as part of this application.

The remainder of the response assumes, as existing, that there will be no virtual footway provision between Honiton Road and Spearcey Lane provided by the application.

### Sustainable Urban Drainage Systems (SUDS)

The application includes a brief Flood Risk Assessment, which is considered adequate at the Outline Planning stage. However, some concern is raised by the Highway Authority in reference to the surface water management strategy.

Reference has been made to achieving attenuation at 'Greenfield run-off rates' through the implementation of SUDS using either a sealed or filtration system under roads and parking areas. It is often the case that the highway is seen as a large area where SUDS storage can be obtained, but without adequately considering the long-term implications placed upon the adopting Highway Authority in terms of maintenance / costs.

It would appear from the application, that there is scope to provide a suitable SUDS solution that does not entail using the highway. The Highway Authority draws attention to this detail at the Outline stage, for the Applicants further consideration should the application be permitted.

### Cycling

It is recognised that there is no dedicated cycle route from the application site, through to the local facilities or further into Taunton (apart from a small length when entering Taunton).

In terms of sustainability issues mentioned previously, it is recommended that such a cycle track should be provided by the Development and within the land controlled by the Applicant. Sufficient land can be provided along the site's western boundary, so that the existing footpath can be widened, upgraded and converted into a shared footpath/cycletrack with a suggested width of 3.5 metre.

Whilst this is the preferred desire line, to serve both the existing and proposed housing areas, it is recognised that this will impact on the environment with a substantial length of hedgerow being removed. Therefore, the LPA may consider it more appropriate that this facility should be provided within the confines of the application site to minimise the impacts on the environment and landscape. If this is the case, then an appropriate link should be made to the existing footpath at the north-western end of the site.

Any hedgerow removal will require appropriate timing, to ensure the impact of the environment (such as nesting birds, etc) is minimised.

In either case, this will only provide a partial upgrade of the footpath from Amberd Lane to Church Road. It is understood that further land may be available along this footpath, and within the applicant's control and it is recommended that the remainder of the existing footpath should be upgraded as far as practicable to provide a continuous footpath/cycle track with a suggested width of 3.5m.

Where the existing footpath cannot be upgraded for any reason, then a contribution should be sought to allow the Highway Authority to pursue this facility at a later date (including design, land, construction, signage costs, etc). With this in mind, any accesses from the development onto the footpath should be designed to accommodate cyclists with a view to the footpath being upgraded to enable cycling.

With regard to cycle parking, sufficient parking should be provided to meet the standards as set out in Manual for Travel Plans and levels set out in the County Parking Strategy. If cycle parking is to be provided within garages then additional space must be allowed specifically for this purpose.

Street Lighting will need to be considered for all footpath and cycle path links, to ensure year round use (including during the winter months) as well as providing enhanced pedestrian/cycle safety.

#### Travel Plan

The current application for 30 dwellings sits on the boundary between a Measures Only Travel Plan (less than 30 Dwellings) and a Travel Plan Statement (between 30 & 50 dwellings).

The application contains a Measures Only Travel Plan, and whilst the content is considered reasonable, given the site lies outside the Development Boundary Limits, the Highway Authority would consider a Travel Plan Statement more appropriate. This can be the subject of a suitable planning condition.

#### Traffic Impact

The Design and Access Statement, together with the Transport Statement provided by LvW Highways has been considered by the Highway Authority's Traffic Modelling Team.

In capacity terms, the Transport Statement is considered acceptable and the traffic impact of this proposal is estimated at around 20 new vehicle movements per peak hour period. The total predicted traffic flows are well below the 300 vehicles per hour, which can normally be expected to be accommodated by a rural lane with passing places (DfT TAL 2/04). The additional traffic generated by the application will mean a slight increase in delay on Amberd Lane, and some impact on junctions towards Taunton.

The Accident Database, which the Highway Authority holds, records Personal Injury Accidents (PIAs) that have been reported to and recorded by the Police. The Accident Database shows two accidents, just outside of the area in question.

These accidents have taken place near, but outside, of the area of concern. These are located along Honiton Road (not related to the Amberd Lane junction) and near "Amberd Barton" on Amberd Lane past the bridge.

There are no accidents recorded at the Honiton Road/Amberd Lane junction, or between this junction and the application site.

In summary, it is not considered that there will be a significant traffic impact on either Amberd Lane, or the Amberd Lane / Honiton Road junction.

However, it is accepted that there will be an increase in both pedestrian and vehicular activity along the sections of Amberd Lane where there is no footway facility. This should be considered by the LPA against the existing pedestrian and vehicular use by existing residents, as well as the fact that there have been no recorded Personal Injury Accidents within the last five years.

#### LGPS Resources - Technical Note

LGPS Resources have been commissioned by a group of local residents, to assess the accuracy and appropriateness of the Transport Case made by LvW Highways, which forms part of the planning application.

The following response is made in relation to the highway aspects of their report, rather than the planning issues, which should be considered by the Local Planning Authority. In general, the LGPS Resources report is considered acceptable and represents a reasoned argument. However, whilst there are a few points of minor detail which require clarification these are not considered sufficient by the Highway Authority to warrant further investigation at this time.

The speed survey along Honiton Road, provided by LvW Highways is considered acceptable by the Highway Authority, and it is recommended that the visibility splay is calculated using Manual for Streets. The Highway Authority has recommended 2.4m x 59m, which is slightly higher than required by the speed survey results, but will increase the visibility and safety at this junction.

The introduction of the traffic island displaces vehicles to the left, which in turn provides additional visibility which is likely to meet the required visibility requirements above.

The vehicle tracking plots (using the proposed traffic island) provided by LPGS is considered useful and highlights an area requiring detailed design. However, it is considered that a suitable traffic island can be provided in this case as sufficient space is available at the existing junction.

The main issue within the LPGS report appears to highlight their view that Amberd Lane has a capacity as low as 135 vehicles per hour. Whilst the first section of Amberd Lane appears visually narrow, as it is bordered by walls, there are suitable passing places along this stretch and the Highway Authority considers that 250 – 300 vehicles per hour (at the upper end of the 300 vehicles quoted in DfT TAL 2/04) provides a more realistic assessment. It is therefore considered that Amberd Lane has sufficient capacity for the development.

Bearing these points in mind, the Highway Authority considers the original LvW Highways Transport Statement sufficiently robust to support the application.

#### Internal Layout – Technical Comments

The following technical comments are provided in relation to the submitted indicative Masterplan.

The application site is located within a 30mph speed limit. The submitted drawing indicates proposed visibility splays of 2.4m x 70m in both directions which is acceptable. However, consideration can be given to lowering the 70m distance in accordance with Manual for Streets, to minimise the impact of the access.

There shall be no obstruction to visibility within the splays that exceeds a height greater than 300mm above adjoining carriageway level and the full extent of the splays will be adopted by Somerset County Council.

The proposed junction should incorporate 6.0m radii. The gradient of the proposed access road should not, at any point, be steeper than 1:20 for a distance of 10m from its junction with Amberd Lane.

Where the tie into the existing carriageway is made, allowances shall be made to resurface the full width of Amberd Lane where disturbed by the extended construction and to overlap each construction layer of the carriageway by a minimum of 300mm.

Due to the proposed horizontal alignment of the internal estate road(s) and the length of them, it would be beneficial for pedestrian movement/safety if 2.0m wide footways were provided. The submitted plan shows a lack of footways. It may be acceptable to only provide a footway on one side with a 1.0m wide margin on the other, in order to try and soften the overall appearance of the site.

A minimum carriageway width of 5.0m should be provided in lieu of the 4.8m currently being proposed.

Forward visibility splays based on anticipated vehicle speeds of 20mph should be provided across the inside of bends outside plots 14, 15, 17 and 21. There shall be no obstruction to visibility within these splays that exceeds a height greater than 600mm above adjoining carriageway level and the full extent of the splays will be adopted by Somerset County Council.

In terms of parking, the indicative Masterplan provides parking significantly above the recommended SCC Parking Standards. It is recommended that the parking provision be altered to accord with the SCC Parking Standards, however the LPA may wish to consider the overprovision against the concerns raised regarding 'overspill' parking onto Amberd Lane.

The private parking bays behind plots 1-5 should be a minimum of 5.5m in length to prevent any possible vehicle overhang of the footpath. An unobstructed 6.0m aisle should still be maintained in front of the bays.

Minimum 6.0m long drives will be required between access gates when opened and garage doors. Where access gates are not provided, 6.0m long drives will be required between the back edge of the highway and garage doors.

The Highway Authority would not wish to be responsible for all of the grass margins/verges within the development site. The applicant should confirm who will be responsible, will they be offered to Taunton Deane Borough Council as Public Open Space?

Any proposed planting within adoptable areas will require payment by the developer of a commuted sum. Under Section 141 of the Highways Act 1980, no tree or shrub shall be planted within 4.5m of the centreline of a made up carriageway. Trees are to be a minimum distance of 5.0m from buildings, 3.0m from drainage/services and 1.0m from the carriageway edge. Root barriers of a type to be approved by Somerset County Council will be required for all trees that are to be planted adjacent to the back edge of the prospective publicly maintained highway to prevent future structural damage to the highway. A planting schedule will need to be submitted to Somerset County Council for approval purposes for any trees/shrubs that are either to be planted within the highway or immediately behind it.

The applicant should be aware that it is likely that the internal layout of the site will result in the laying out of a private street and as such, under Sections 219 to 225 of the Highways Act 1980, will be subject to the Advance Payments Code.

A condition survey of the existing public highway will need to be carried out jointly between the developer and the Highway Authority and agreed prior to any works commencing on site. Any damage to the existing highway as a result of this development is to be remedied by the developer to the satisfaction of the Highway Authority before occupation of the development.

It is therefore recommended that contact be made with the Highway Service Manager - Taunton Area (0845 345 9155) to make arrangements for such a survey to be undertaken. No doors, gates or low-level windows, utility boxes, down pipes or porches are to obstruct footways/shared surface roads. The Highway limits shall be limited to that area of the footway/carriageway clear of all private service boxes, inspection chambers, rainwater pipes, vent pipes, meter boxes (wall mounted), steps etc.

The provision of a new footway within Amberd Lane and fronting plots 1-5, will require the possible relocation of an existing telegraph pole together with adjustments to existing carriageway gullies.

Bearing in mind the response provided above and in the event of the LPA granting permission, I have no objections to the proposed development subject to a Section 106 Agreement to secure the following:

1. The design and construction of a footpath/cycletrack, as far as reasonable within the Applicants control, linking Amberd Lane and Church Road. Where this is not achievable, then a contribution for these works should be provided.
2. The design and construction of a new traffic island at the junction of Amberd Lane Honiton Road. The design of this has yet to be agreed.
3. A minimum sum of £10K for Travel Planning requirements, including travel vouchers upon first occupation and production of information leaflets. This 'minimum' should be considered against the provision of a full Travel Plan Statement, and any additional elements arising from the Statement.

The following conditions are also required:

1. Any entrance gates erected shall be hung to open inwards and shall be set back a minimum distance of 4.5m from the carriageway edge.
2. The gradient of the proposed access shall not be steeper than 1-in-10.
3. 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.
4. Before the dwellings hereby permitted are first occupied, a 1.8m wide footway shall be constructed over the frontage of the site between the western edge and the vehicle access in accordance with a specification to be approved in writing by the Local Planning Authority.
5. The proposed estate roads, footways, footpaths, tactile paving, cycleways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, 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.
6. 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.
7. The proposed roads, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.
8. The development hereby permitted shall not be brought into use until that part of the service road that provides access to it has been constructed in accordance with the approved plans.
9. The gradients of the proposed drives to the dwellings hereby permitted shall not be steeper than 1 in 10.
10. There shall be an area of hard standing at least 6m in length (as measured from the nearside edge of the highway to the face of the garage doors), where the doors are of an up-and-over type.

I would recommend that the following notes are attached to the Planning Certificate:

- a) The applicant should be advised that at least seven days before access works commence the Highway Service Manager: Taunton Deane Area Highways, Burton Place, Taunton, Somerset TA1 4HE (Tel: 0845 345 9155) must be consulted.

b) 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 have been agreed in advance in writing by the Local Planning Authority and fully implemented prior to commencement of the 1<sup>st</sup> dwelling, and thereafter maintained until the use of the site discontinues.

c) The applicant is informed that a Section 106 Agreement will need to be entered into with the Highway Authority.

The S106 agreement will be subject to a full technical & safety audit which may require alterations to the highway design and prior to works commencing on site. The developer should contact the Local Planning Authority in the event that any technical amendments are required in order to revise the submitted plans.

## Appendix 2

### PLANNING APPLICATION 42/12/0013 - REPORT ON THE RESOLUTION OF THE TDBC PLANNING COMMITTEE ON 5<sup>TH</sup> SEPTEMBER 2012.

K.HOBDEN – 10<sup>th</sup> JANUARY 2013

#### 1. BACKGROUND

- 1.1 Many residents of Trull parish were outraged by the conditional decision of TDBC in September 2012 to grant outline planning permission for residential development on agricultural land at Amberd Lane, Staplehay.
- 1.2 That outrage stemmed from the fact that the decision flew in the face of a strong and well-established TDBC commitment to protect the Green Wedges, as expressed in both the Core Strategy and the preceding Local Plans. In addition, the Trull Parish Plan and Trull Action Plan Review (2010) identified as the priority issue the clear wish of parishioners to see the Green Wedge protected against housing and development “in any circumstances”.
- 1.3 Following the Committee decision and encouraged by a large number of local residents, I sought legal advice on the soundness of a challenge against TDBC on points of law. TLT Solicitors gave the opinion that TDBC did indeed have a case to answer, advice which reinforced the local view that the manner in which the application had been considered by the Committee amounted to a fundamental failure by the planning authority to observe statutory requirements, the legitimate expectations of the community and fundamental democratic principles.
- 1.4 On my instructions, a pre-action protocol letter was sent by TLT to the planning authority and the applicant for planning permission on 5<sup>th</sup> November 2012.
- 1.5 Section 3 of this report summarises the points in that pre-action protocol letter, the TDBC response to that letter and my response to the TDBC response.
- 1.6 The documents that are referred to in this report are:
  - Planning Officers Report to Committee on 5/9/2012
  - PAP Letter (TLT Solicitors – 05/11/2012)
  - TDBC Response (Tonya Meers – 15/11/2012)
  - TDBC Core Strategy (as adopted September 2012)
  - NPPF (March 2011)
  - The Trull Action Plan (2005) and Review (2010)

## **2. SUMMARY**

- 2.1 The decision of the Committee did not comply with Section 38(6) of the 2004 Planning and Compulsory Purchase Act because it failed to acknowledge that the policies of the Core Strategy were material. In addition, the items required by way of a Section 106 agreement as a condition of the grant of planning permission do not comply with Regulation 122 of the 2010 Community Infrastructure Regulations.
- 2.2 As a result, I believe that the September resolution was arrived at unlawfully and have launched Judicial Review proceedings against TDBC on that basis.
- 2.3 I also believe that the decision failed to take into account a number of other important issues, which, while they do not necessarily constitute unlawful practice, may well amount to maladministration.
- 2.4 It is my view that had these issues been properly addressed by the planning officer during his determination, then he could and indeed should have come to a different recommendation from that included in the report that was the basis for the resolution on 5<sup>th</sup> September.
- 2.5 These categories of concern are set out in more detail below.

## **3. POINTS OF LAW**

Leave for Judicial Review is being sought on the following grounds:

### **3.1 The planning officer failed to recognise that the policies of the Taunton Deane Core Strategy were pertinent to this application.**

#### **3.1.1 TDBC Response (Tonya Meers – 15/11/12):**

At the time of consideration [of the application] the Core Strategy was not adopted. In any case, the Core Strategy only identifies strategic sites, which the site in question is not all or part of. As a consequence there are no policies within the Core Strategy that are pertinent to this application and therefore the policies of the NPPF are the only ones that apply.

#### **3.1.2 KH response:**

TDBC know full well that the policies of the emerging Core Strategy are a material consideration in the planning process, even if that document is not

fully adopted. Paragraph 216 of Annex 1 of the NPPF makes this clear but it is a long established planning principle anyway.

Included in the Committee report is an internal consultation response from “TDBC Strategy” which cites Core Strategy policies CP8 (Section 3.9, Conservation and enhancement of the natural environment), SP1 (Section 4.1, Sustainable development locations) and DM2 (Section 6.2, Development in the countryside) as being pertinent.

It is also known that TDBC were citing Core Strategy policies in their decision notices during August 2012, the month prior to consideration of 42/12/0013.

I understand that only a few days after this application was determined (11<sup>th</sup> September), the Core Strategy was adopted by TDBC. To all intents and purposes it should have been afforded full weight in determining this application. The policies quoted by the planning officer had virtually no weight by that time.

### **3.2 The planning officer failed to acknowledge that the proposal was not in accord with the policies of the development plan.**

#### 3.2.1 TDBC Response (Tonya Meers 15/11/12):

In the absence of a Site allocations Document, the decision is required to be taken only in accordance with NPPF Policy 14, which says that “planning permission should be granted unless any adverse impacts of doing so would demonstrably outweigh the benefits, when assessed against the policies in [the NPPF] taken as a whole.”

#### 3.2.2 KH response:

As a point of law, which is the basis on which a JR challenge must and is being mounted, Section 38(6) of the 2004 Act requires that all planning decisions must be taken in accordance with the policies of the development plan unless.....etc. The NPPF does not constitute development plan policy. Whilst the statements it contains are a material consideration, it is nonetheless guidance only (NPPF Paragraph 13) and does not change the statutory status of the Development Plan as the starting point for decision making (NPPF Paragraph 12).

Aside from that, my view and that of TDBC’s own ‘Strategy’ section in their consultation response included in the report to Committee, is that there are pertinent policies in the Core Strategy and therefore that the development plan is not absent, silent or the relevant planning policies out-of-date. Therefore the provisions of NPPF Paragraph 14 do not apply and TDBC have quoted selectively from the NPPF to try (unsuccessfully) to justify their

incorrect assessment of the weight that should have been attached to the Core Strategy. There are many other paragraphs within the NPPF with which this application is not in accord. We would draw the attention of TDBC to the fact that the abstract from the NPPF which they have chosen to cite includes the phrase “when assessed against the policies in this Framework taken as a whole.”

### **3.3 The items sought by way of a Section 106 Agreement do not comply with Regulation 122 of the Community Infrastructure Regulations 2010.**

#### **3.3.1 TDBC Response (Tonya Meers 15/11/12):**

Only contributions at the standard rate would be required of the developer. Contributions towards the cost of alternative planning gain could not be demanded as a condition of granting permission being granted but could go into a Section 106 agreement.

#### **3.3.2 KH Response:**

Whilst it may or may not be lawful for contributions of the type offered by the applicant to be the basis for a Section 106 agreement (clarification will be sought before this report is considered by the Committee), what is certain is that such contributions can only be a material planning consideration if they comply with the criteria set out in Regulation 122. Even if TDBC has been accustomed to seeking contributions at the rate stated, this practice should have been reviewed in the light of the 2010 Regulations.

Only matters which constitute a planning consideration should have been in the report to Committee.

In my view, the Committee resolution to grant permission should not have been made subject to certain of the contributions being secured through Section 106 obligations, as those contributions are not related to matters which are a valid planning consideration.

It is the Government objective that, in order to retain public confidence, S106 agreements should be operated in accordance with the fundamental principle that planning permission may not be bought or sold. The ambiguous and opaque manner in which planning gain has been handled in this instance leaves little doubt that the applicant believes that he can buy planning permission. Public confidence in the planning system will certainly not be retained unless the applicant is disabused of that belief by the actions of the Committee.

## **4. OTHER ADMINISTRATIVE SHORTCOMINGS**

- 4.1 The consultation responses of the TDBC strategy section, the Highway Authority and the TDBC landscape lead (Mr I.Clark), either state unequivocally or indicate that the proposal is contrary to development plan policy. In his representation dated 15/6/2012 Mr T Noall, who is a former Taunton Deane Chief Planning Officer, is unequivocal in his belief that the proposal is in serious conflict with Green Wedge policies.
- 4.2 As a consequence, to support a recommendation of approval, the planning officer should have set out precisely what the material considerations are that override the need for the decision to be made in conformity with the development plan. In resolving to grant planning permission the Committee should similarly set out what those overriding considerations are if the decision is not to be vulnerable to challenge.
- 4.3 It is my belief that no such material considerations which could possibly override Core Strategy policy CP8 have been identified by the planning officer and there are most certainly none if that planning gain that does not meet the Regulation 122 criteria is excluded. In relation to sites like the application area, which is unallocated greenfield land outside of settlement boundaries and within the Green Wedge, CP8 requires that any development must preserve the overall quality of the natural environment, the open landscape character and visual amenity. The proposal cannot possibly satisfy those requirements. Planning permission should therefore be refused.
- 4.4 In addition, proceeding to a decision without the benefit of an opinion from the Environment Agency when part of the site is in Flood Zone 2, has been flooded several times in 2012 and must serve to attenuate peak rainfall events in an already stressed catchment, seems reckless.
- 4.5 This is made worse by the fact that the flood risk assessment submitted by the applicant is deficient. It considers neither the flood risk to others arising as a result of the development nor how climate change over the life of the development will be taken into account as required by the NPPF (Technical Guidance, Paragraph 9).
- 4.6 Flood risk management proposals by the applicant are restricted to the incorporation of a SUDS scheme within the development site which does not meet the requirements of Core Strategy Policy CP8 (fifth paragraph). No details are provided of how that SUDS scheme would operate and correspondence indicates that there is some doubt as to how a SUDS scheme could be made to operate on the site.
- 4.7 There are plenty of sites within the immediate area that are not currently within or adjacent to designated flood zones and are far less likely to be included in those zones in the future as a result of extensions in the light of climate change predictions. The proposal fails the sequential test as a

consequence and is not in accord with the TDBC commitment to “direct development away from land at risk of” flooding. Permission should therefore be refused in line with the NPPF (Paragraph 101).

- 4.8 As a final point, I believe that undue weight was given to a consultation response from Trull Parish Council which was clearly contrary to local opinion, and more importantly was based entirely on inducements (see the letter from the PC Chairman dated 21<sup>st</sup> May 2012) which are not valid planning considerations.
- 4.9 The value attached by residents of the Parish to preventing development in the Green Wedge as set out in the Trull Action Plan was at least as material to this decision as the consultation response of the Parish Council and yet the Action Plan was not cited by the planning officer.
- 4.10 Procedural shortcomings in the way the Parish Council reached their opinion, could and should have been brought to the attention of the Committee. Amongst these was the fact that they were only able to produce a statement of their reasons for supporting the application some five weeks after making their decision.

## **5. CONCLUSIONS**

- 5.1 It is my view that the manner in which the Committee arrived at the resolution on planning application 42/12/0013 on 5<sup>th</sup> September was flawed.
- 5.2 It would be appropriate for the Committee to reconsider the application in the light of the points made in this report and I am grateful to the officers of TDBC who made that option available.
- 5.3 Unless as a result of this report I receive explanations of why, in particular, the points of law that I have raised have no foundation, or as an alternative, that the planning officer will reconsider the application addressing fully the points raised, I will have no alternative but to resume the judicial review process.

**APPEAL DECISION FOR COMMITTEE AGENDA – 30 JANUARY 2013**

<b>APPEAL</b>	<b>PROPOSAL</b>	<b>REASON(S) FOR INITIAL DECISION</b>	<b>APPLICATION NUMBER</b>	<b>INSPECTOR'S REMARKS</b>
APP/D3315/A/12/2182362	UNAUTHORISED MOBILE HOME ON LAND TO REAR OF LANGS FARM, BRADFORD ON TONE ERECTION OF TIMBER CHALET IN THE COURTYARD OF THE OLD STONE BARN, LANGS FARM, BRADFORD ON TONE (RETENTION OF WORKS ALREADY UNDERTAKEN)	<p>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. The proposals constitute the formation of a new independent 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.</p> <p>The proposed development will utilise an existing access that fails to incorporate the necessary visibility splays, which are essential in the</p>	E/0025/07/11 And 07/12/0006	WITHDRAWN

		<p>interests of highway safety to ensure that vehicles can see and be seen upon egress from the site. The proposals will intensify the number of vehicle trips over the substandard access and the Local Planning Authority are not satisfied that unobstructed visibility splays can be provided due to limitations over the ownership of the adjoining land. Therefore the proposals are considered to represent a danger to highway safety, contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted April 2000), Policy S1 (A) of the Taunton Deane Local Plan and Policy DM1 of the emerging Taunton Deane Core Strategy.</p>		
APP/D3315/A/12/2177389	<p>OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT ON LAND TO THE EAST OF TUDOR PARK,</p>	<p>The proposal will have a significant detrimental impact on the open character of the Taunton-Monkton Heathfield green wedge and would reduce the effectiveness of the area in its role in separating the</p>	08/11/0018	<p>The Inspector considered the main issues and concluded that Paragraph 49 of the Framework advises that housing applications should be considered in the context of the presumption in favour of sustainable development.</p>

	<p>MAIDENBROOK FARM, CHEDDON FITZPAINE</p>	<p>settlements of Taunton and Monkton Heathfield</p> <p>The proposed development of this open greenfield site, characterised by hedge enclosed farmland, would be out of character with and detrimental to the landscape character of the area.</p> <p>The current proposal does not provide for any affordable housing</p> <p>The development is expected to result in a need for an additional primary and secondary school places.</p> <p>The proposal does not include the provision of contributions towards adequate recreation space, playing field provision or community hall requirements</p> <p>The proposal does not include the required package of off site highway work or travel plan contributions as listed in the report.</p>		<p>She concluded that at present a five year supply cannot be demonstrated. The proposed development fails to meet the objective of the Green Wedge to 'prevent the coalescence of settlements which it is desirable to keep separate for townscape and landscape reasons'. The Inspector considered the proposal would cause substantial harm by serious depletion of the Green Wedge between Taunton and Monkton Heathfield. She concluded that on balance the proposed development would not be sustainable development in the terms set out in the Framework and the appeal was therefore DISMISSED.</p>
APP/D3315/				