



Planning Committee

You are requested to attend a meeting of the Planning Committee to be held in The John Meikle Room, The Deane House, Belvedere Road, Taunton on 12 October 2016 at 17:00.

Agenda

- 1 Apologies.
- 2 Minutes of the meeting of the Planning Committee held on 21 September 2016 (to follow).
- 3 Public Question Time.
- 4 Declaration of Interests
To receive declarations of personal or prejudicial interests, in accordance with the Code of Conduct.
- 5 24/16/0042 Residential development of 20 No. dwellings (including 5 affordable dwellings) and provision of public open space, children's play area and allotments on land to the south of Knapp Lane, North Curry (Revised scheme to 24/16/0007)
- 6 Latest Appeals and Decisions received

Bruce Lang
Assistant Chief Executive

10 November 2016

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.

Except at meetings of Full Council, where public participation will be restricted to Public Question Time only, if a member of the public wishes to address the Committee on any matter appearing on the agenda, the Chairman will normally permit this to occur when that item is reached and before the Councillors begin to debate the item.

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

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

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

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



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



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

For further information about the meeting, please contact the Corporate Support Unit on 01823 356414 or email r.bryant@tauntondeane.gov.uk

If you would like an agenda, a report or the minutes of a meeting translated into another language or into Braille, large print, audio tape or CD, please telephone us on 01823 356356 or email: enquiries@tauntondeane.gov.uk

Planning Committee Members:-

Councillor R Bowrah, BEM (Chairman)
Councillor M Hill (Vice-Chairman)
Councillor M Adkins
Councillor C Booth
Councillor W Brown
Councillor J Gage
Councillor C Hill
Councillor S Martin-Scott
Councillor I Morrell
Councillor S Nicholls
Councillor J Reed
Councillor N Townsend
Councillor P Watson
Councillor D Wedderkopp
Councillor G Wren

Declaration of Interests

Planning Committee

- Members of Somerset County Council – Councillors, D Wedderkopp and M Adkins
- Clerk to Milverton Parish Council – Councillor Wren
- Vice-Chairman to Kingston St Mary Parish Council and Chairman to Kingston St Mary Village Hall Association – Councillor Townsend
- Trustee to Home Services Furniture Trust, Trustee to Bishop Foxes Educational Foundation, Trustee to Trull Memorial Hall – Councillor Stephen Martin-Scott
- Councillor to Comeytrove Parish Council, Member of the Fire Brigade Union – Councillor Simon Nicholls
- Trustee of Hestercombe House and Gardens, Trustee of the Somerset Building Preservation Trust, Director of Apple FM – Councillor Marcia Hill

STRONGVOX HOMES

Residential development of 20 No. dwellings (including 5 affordable dwellings) and provision of public open space, children's play area and allotments on land to the south of Knapp Lane, North Curry (Revised scheme to 24/16/0007)

Location: LAND TO THE SOUTH OF KNAPP LANE, NORTH CURRY

Grid Reference: 331689.125292

Full Planning Permission

Recommendation

Recommended decision: Conditional Approval

Subject to a Section 106 Agreement to secure affordable housing at 25%, a Travel Plan, improvements to the local footpath network upgrading the adjacent public footpath to adoptable standard over its length from the site into North Curry and maintenance of the open space and surface water drainage pond.

Recommended Conditions (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 15.20.00 Site Location Plan
- (A2) DrNo 15.20.01M Site Layout - House Types
- (A2) DrNo 15.20.02H Site Layout - Roof Plans
- (A2) DrNo 15.20.03A Floor Plans Type A
- (A2) DrNo 15.20.04A Floor Plans Type B
- (A2) DrNo 15.20.05A Floor Plans Type C
- (A2) DrNo 15.20.06A Floor Plans Type D
- (A2) DrNo 15.20.07A Floor Plans Type E
- (A2) DrNo 15.20.08A Floor Plans Type F
- (A2) DrNo 15.20.09B Floor Plans Type G
- (A2) DrNo 15.20.10C Floor Plans Type H
- (A2) DrNo 15.20.16 Plot 1 Type C Elevations
- (A2) DrNo 15.20.17 Plot 4 Type C Elevations
- (A2) DrNo 15.20.18 Plot 10 Type C Elevations
- (A2) DrNo 15.20.19 Plot 3 Type D Elevations
- (A2) DrNo 15.20.20 Plot 11 Type D Elevations
- (A2) DrNo 15.20.21 Plot 19 Type D Elevations
- (A2) DrNo 15.20.22A Plot 20 Type D Elevations
- (A2) DrNo 15.20.23 Plot 8 Type E Elevations

- (A2) DrNo 15.20.24 Plot 5 Type F Elevations
- (A2) DrNo 15.20.25 Plot 6 Type F Elevations
- (A2) DrNo 15.20.26 Plot 7 Type F Elevations
- (A2) DrNo 15.20.27B Plots 12,13,14,15 & 16 Types G,J & H Elevations
- (A2) DrNo 15.20.28 Garage Plans
- (A2) DrNo 15.20.29 Garage Elevations - Sheet 1
- (A2) DrNo 15.20.30 Garage Elevations - Sheet 2
- (A2) DrNo 15.20.31 Garage Elevations - Sheet 3
- (A2) DrNo 15.20.32B Street Elevations
- (A2) DrNo 15.20.33A Site Sections

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

3. No wall construction 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.

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 wall construction, excluding site works, shall begin until a panel of the proposed brickwork measuring at least 1m x 1m has been built on the site and both the materials and the colour and type of mortar for pointing used within the panel have been agreed in writing by the Local Planning Authority. The development shall be completed in accordance with the agreed details and thereafter maintained as such.

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. Details of the size, position and materials of any meter boxes installed in connection with the development shall be submitted to and approved by the Local Planning Authority before wall construction commences and thereafter installed and maintained in accordance with the approved details.

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.
 - (i) Before wall construction 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.

7. There shall be no occupation of any dwelling hereby approved until such time as the improvements to provide a hard surfaced footpath link of footpath T17/50 from the site to the village have been carried out and completed and made available for use to the public. The footpath link and public access thereto shall thereafter be maintained as such.

Reason: To ensure a suitable alternative walking route to the village centre.

8. A children's play area shall be provided and details of the equipment to be provided shall be submitted to and approved in writing by the Local Planning Authority and the area shall be laid out within 18 months of the date of commencement unless otherwise agreed in writing by the Local Planning Authority and shall thereafter be used solely for the purpose of children's recreation.

Reason: To provide adequate access to sport and recreation facilities for occupiers in accordance with Taunton Deane Local Plan Policy C4.

9. The development hereby permitted shall not be commenced until details of a strategy to protect and enhance the development for wildlife has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of Ethos Environmental Planning's Ecological Assessment Report, dated February 2016 and include:
1. Details of protective measures to avoid impacts on protected species during all stages of development;
 2. A further survey for badgers prior to any development commencing;
 3. Details of the timing of works to avoid periods of work when wildlife could be harmed by disturbance.
 4. Measures for the enhancement of places of rest for wildlife

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.

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

Reason: to plan the protection of wildlife and their habitats from damage during construction works and to enhance the site for wildlife.

10. There shall be no obstruction to visibility greater than 300mm above adjoining road level in advance of lines drawn 2.4m back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 43m either side of the access. Such visibility shall be fully provided before the development hereby permitted commenced and shall thereafter be maintained at all times.

Reason: To preserve sight lines at a junction and in the interests of highway safety.

11. 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.

12. A plan indicating the positions, design, materials and type of boundary treatment to be erected, shall be submitted to and approved in writing by the Local Planning Authority prior to its implementation. The agreed boundary treatment shall be completed before the building or area to which it relates is brought into use and shall thereafter be maintained as such.

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

13. Prior to the commencement of the development hereby permitted, full details of the surface water drainage scheme based on sustainable drainage principles together with a programme of implementation and maintenance for the lifetime of the development shall have been submitted to and approved in writing by the Local Planning Authority. The drainage strategy shall ensure that surface water runoff post development is attenuated on site and discharged at a rate no greater than greenfield runoff rates and shall ensure no water is discharged to the highway. Such works shall be carried out in accordance with the approved details and timing of works and shall thereafter be maintained as such.

Reason: To ensure that the development is served by a satisfactory system of surface water drainage and that the approved system is retained, managed and maintained in accordance with the approved details throughout the lifetime of the development, in accordance with paragraph 17 and sections 10 and 11 of the National Planning Policy Framework, Paragraph 103 of the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework (March 2015).

This is a pre-commencement condition to ensure adequate drainage is provided prior to house construction to prevent flood risk to properties in the area.

14. Details of the existing ground and proposed finished floor levels of the houses, attenuation pond and adjacent open space shall be submitted to and

approved in writing by the Local Planning Authority prior to house construction commencing.

Reason: To ensure no increase in levels of the housing in order to safeguard the amenity of adjacent properties in accordance with Core Strategy policy DM1.

15. The window(s) in the first floor north elevation of Plot 8 serving the bathroom and landing shall be glazed with obscure glass to be agreed in writing by the Local Planning Authority and shall thereafter be so retained. There shall be no alteration or additional windows in this elevation without the further grant of planning permission.

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

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 entered into pre-application discussions to enable the grant of planning permission.
2. 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.

In the UK badgers are protected under the Protection of Badgers Act 1992. Planning and licensing applications are separate legal functions. All excavations left open at night should either be cover plated or have a means of escape should an animal fall in. Any chemicals should be stored away from any obvious badger runs, which should not be obstructed with any materials.

Security lights should be directed away from areas of the site where badger runs are evident.

3. Where works are to be undertaken on or adjoining the publicly maintainable highway a licence under Section 171 of the Highways Act 1980 must be obtained from the Highway Authority. Application forms can be obtained by

writing to the Traffic and Transport Development Group, County Hall, Taunton, or by phoning 0300 123 2224. Applications should be submitted at least four weeks before works are proposed to commence in order for statutory undertakers to be consulted concerning their services.

The fee for a Section 171 Licence is £250. This will entitle the developer to have their plans checked and specifications supplied. The works will also be inspected by the Superintendence Team and will be signed off upon satisfactory completion.

The applicant will need to enter into an agreement with the Highway Authority to ensure that condition 7 is fulfilled with the authority and to the satisfaction of the Highway Authority.

Proposal

The proposal is to erect 20 dwellings on the site and provide access, garaging, parking, open space, flood attenuation, a play area and allotments. Affordable housing to meet the policy requirement is also proposed. A Design & Access statement, Landscape and Visual Appraisal, Flood Risk Assessment, Transport Statement, Ecological Assessment, Tree Constraints Report and Historic Environment Assessment have all been submitted together with a Statement of Community Involvement.

This is a revised scheme to that refused by Members in June as it relocates the attenuation pond, affordable housing, car parking and garden size to address the reason for refusal.

Site Description

The site consists of an arable field of 1.95ha bounded by hedges.

Relevant Planning History

The site is a housing allocation in the Site Allocations and Development Management Plan. Previous application 24/16/0007 was refused by Members in June this year on grounds of part of the site being outside the settlement and the proposed layout being unacceptable by reason of the siting of the proposed affordable houses, the location of which between a car parking area and access road provides unsatisfactory amenity for the future occupiers. The location of the car park to the rear of the affordable housing was considered to be overbearing on the neighbouring property, detrimental to its amenity. This decision is going to appeal.

Consultation Responses

NORTH CURRY PARISH COUNCIL -

The Parish Council challenge the need for additional major development in North

Curry at this time:

- North Curry has already met the original target of 40 houses set within the emerging SADMP*. The plan covers until 2028 but all 40 houses are expected to be completed by 2017 based on development already approved and under construction. Given the recommendation of the Planning Officer to refuse a development at Creech St Michael on the basis of exceeding the original SADMP allocation, surely the same also applies to this development, North Curry already having met it's SADMP allocation.
- It was previously recognised by the Deane Planning Committee, and given as a reason for refusal, that some of the site (30% of the proposed houses for this application) falls outside the proposed development line shown in the draft SADMP - "part of the site is outside the proposed settlement limit in the emerging Taunton Deane Site Allocations and Development Management Plan. The proposed development is, therefore, contrary to Policy MIN7 of that plan".
- Once existing developments have been completed, the village will have expanded by 10% over a period of less than five years.
- The village cannot sustain further development. The Health Centre, village primary school and Village Hall were all built in the 1980s; in excess of 160 houses have been constructed in the last four decades, with no associated expansion of these community facilities. *Please see public comments including those from the Headmaster from North Curry School.*

The Parish Council does not believe the site is deliverable for the following reasons:

- Localised flooding is a major concern in and around the village centre. During heavy rain some flooding occurs adjacent to the site especially by the footpath proposed to be used. The proposal shows an attenuation pond, this pond is now shown situated at the highest point of the site and the Parish Council has concerns that, without an acceptable, detailed drainage scheme, this will be ineffective.
- The map illustrating the pipeline is out of date by at least seven years failing to show more recent buildings adjacent to the proposed pipeline, and we have not received assurances from landowners and Wessex Water that the scheme is deliverable.
- The site of the proposed pipeline should be subject to an ecological survey, it is believed that a primary badger sett could be affected by this proposal.
- Knapp Lane is not suitable for additional traffic and pedestrian movements. Between the site and village centre the road is very narrow and, in at least two points, under the recommended width. The junction with The Shambles is sub-standard with insufficient space for vehicles to enter and exit simultaneously. These failings were accepted when the Knapp Lane Acre planning application (24/14/0011) was refused, highway issues being specifically mentioned. The developers reported width of Knapp Lane is also challenged.

- The site is not sustainable. Due to lack of space to provide a continuous pavement along Knapp Lane and the unsuitability of the footpath to Windmill Hill, it is likely that local traffic will increase to access the local facilities. There is limited opportunity for employment in the village, residents will therefore also be commuting, increasing traffic on narrow lanes (the bus service is very limited and threatened on an annual basis).
- Whilst it is proposed to upgrade a public footpath that exits onto Windmill Hill, the Parish Council has concerns that this footpath emerges on Windmill Hill at a dangerous point. Residents of the proposed development wanting to visit the village facilities on foot would take the shortest route by walking along Knapp Lane, bringing them into conflict with traffic, including large agricultural equipment.
- Due to the level of the site, which is approx. 1m plus above the adjoining carriageway and adjacent gardens, the Parish Council considers that the houses will be too prominent in the landscape (North Curry ridge is a special landscape feature) and will overshadow adjoining properties.
- In contradiction to the developer's original report, it is now accepted that there is badger activity on the site.

As shown in the representations on the planning website, a large number of Parishioners object strongly to this development. This was also reflected during the developer's Parish consultation, an exit poll undertaken by the Parish Council showed that of the 109 attendees who responded, 91 were against the development and 10 were undecided.

- In conclusion, the Parish Council urge Taunton Deane to take on board the many well considered responses submitted regarding this application and refuse the granting of permission.

SCC - TRANSPORT DEVELOPMENT GROUP -

The proposal is a resubmission of previous application 24/16/0007.

Having reviewed the submitted information the Highway Authority is of the opinion that this proposal is similar, in terms of layout, to the details which were submitted with application 24/16/0007. Consequently the Highway Authority's previous response would still apply and has been set out below for your information.

The applicant has provided a Transport Statement (TS) as part of the planning application which has been assessed by the Highway Authority and our observations are set out below.

The applicant has provided information relating to the existing level of use of Knapp Lane in both directions. From the information provided it indicates that Knapp Lane the average level of movements per day are 213 with 21 movements in the AM peak and 18 in the PM peak with the average speed of vehicles along the lane being 23.4mph. The TS also provides information on the bus services operating in this location. From the details provided there appears to be one service that has a frequency of 120mins Monday to Saturday with no services in the evenings and on a Sunday. As a consequence based on this information it is unlikely that there will be shift away from the use of the private car.

The applicant has utilised the TRICS data sets to generate the potential trip generation of this proposal. These trip rates were discussed with the Highway Authority at the pre application stage. The information provided states that the proposal would result in an additional 12 movements in the weekday AM peak and 10 movements in the PM weekday peak. In terms of the weekday daily movements this is projected to be a total of 100 vehicle movements. This would equate to 4 extra movements per hour. As a consequence this application is unlikely to see a significant increase in vehicle movements over and above the existing use of the lane. As a consequence in traffic impact terms of this proposal cannot be considered to be severe in terms of Section 4 of the National Planning Policy Framework (NPPF).

It is likely that a high percentage of traffic will utilise the junction of Knapp Lane with The Shambles. The junction is narrow but does provide sufficient space to allow two standard sized cars to pass although visibility is considered to be limited in both directions although it is noted that a one-way system is in place as such traffic will only be coming from the left. From visiting the site there is a section of pavement/hard standing outside the existing dwelling on the left of the junction. However from reviewing the road record it is apparent that this area private and not adopted highway. Consequently this area could be parked upon and therefore obstruct the visibility further. As a consequence the Highway Authority would have concerns over any proposal that would result in a significant increase in vehicle movements on this junction. However as set out above this proposal would only result in an extra 4 movements per hour, therefore although the proposal would result in an increase in traffic through the junction it is unlikely that it would be severe enough in capacity and safety terms to warrant an objection on highways grounds.

Having reviewed the submission the applicant has not provided a Travel Plan document. Please note that Somerset County Council's Travel Plan guidance states that a Measures Only Travel Statement would need to be provided for a proposal of this size and scale this will need to be submitted for comment and secured via a S106 agreement.

Turning to the internal layout the applicant has proposed a 5.0m wide access, which is sufficient to allow two-way vehicle flow with splays of 2.4m x 43m in either direction. These splays are based on Manual for Street design guidance and in keeping with the 85%tile speeds that were recorded by the ATC data provided in the TS as such they are considered to be acceptable.

The applicant should note that a 2.0m wide footway should be provided on one side of the carriageway throughout the site whilst the Highway Authority would also require a 1.0m margin throughout the site. Please note that the Advance Payment Code (APC) would apply as some of the site will result in the laying out of a private street as the allotment parking area will need to remain private. In terms of the footpath link shown to the south would the applicant be able to confirm whether this is going to be offered up for adoption. If it were to be utilised by both pedestrians and cyclists it would need to provide a minimum width of 3.0m. In regards to the attenuation pond who is going to be responsible for this? Please note that should be a minimum distance of 5.0m between this and the adopted highway. Finally the applicant has proposed a pedestrian link to join Knapp Lane. Would the applicant

be able to confirm whether it is proposed to offer this for adoption by the Highway Authority? If it were to be put forward for adoption the stair providing the link to Knapp Lane would need to be subject to a review by Somerset County Council's Structure Team. Where this footpath joins the adopted highway suitable pedestrian visibility should be provided in either direction. It is noted that details of these splays have been provided as part of the appendices in the TS and are in keeping with the 85%tile speeds which were recorded on Knapp Lane. Consequently these splays are considered to be acceptable.

In regards to the site drainage the applicant reviewed a variety of SuDS methods with the preferred option utilising surface attenuation with runoff generated by the proposed development being routed into a detention basin or similar feature. This will then run surface water into the existing drainage system located within Moor Lane. Although no details have been provided on whether there is suitable capacity in the existing system to accommodate the proposed development. Consequently the applicant will need to prove there is sufficient capacity in the system.

In conclusion the proposal will result in an increase in vehicle movements over and above the existing use of Knapp Lane. However the proposed development will only result in an extra 4 movements per hour which is not considered to be severe enough to object on traffic impact grounds. The Highway Authority accepts that the junction of Knapp Lane with The Shambles is substandard in terms of visibility however it is noted that the junction is within the one-way system of the village. However as the proposal will not lead to a significant increase in traffic at this junction it would be un-reasonable for the Highway Authority to raise an objection on the use of this junction. No Measures Only Travel Plan Statement has been provided as part of this proposal the applicant will need to provide one and it would need to be secured via a S106 agreement. In regards to the internal site arrangement this is broadly considered to be acceptable although there are some elements that would need to be addressed as part of any S38 submission. Finally in terms of the drainage the proposed SuDS are considered to be acceptable although the applicant will need to prove that there is sufficient capacity within the existing system to accommodate this proposal.

Therefore taking into account the above information on balance the Highway Authority raises no objection to this proposal and if permission were to be grant we would require the following elements to be secured.

- *Travel Plan via a S106 agreement.*
- *A condition survey of the existing public highway will need to be carried out and agreed with the Highway Authority prior to any works commencing on site, and any damage to the highway occurring as a result of this development is to be remedied by the developer to the satisfaction of the Highway Authority once all works have been completed on site.*
- *No development shall commence unless a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved plan. The plan shall include:*
 - *Construction vehicle movements;*

- *Construction operation hours;*
 - *Construction vehicular routes to and from site;*
 - *Construction delivery hours;*
 - *Expected number of construction vehicle per day;*
 - *Car parking for contractors;*
 - *Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;*
 - *A scheme to encourage the use of Public Transport amongst contractors; and*
 - *Measures to avoid traffic congestion impacting upon the Strategic Road Network.*
- *The proposed estate roads, footways, footpaths, tactile paving, cycleways, 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, motorcycle and cycle parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing. 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.*
 - *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.*
 - *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.*
 - *The gradients of the proposed drives to the dwellings hereby permitted shall not be steeper than 1 in 10 and shall be permanently retained at that gradient thereafter at all times.*
 - *In the interests of sustainable development none of the dwellings hereby permitted shall be occupied until a network of cycleway and footpath connections has been constructed within the development site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.*
 - *No work shall commence on the development site until an appropriate right of discharge for surface water has been obtained before being submitted to and approved in writing by the Local Planning Authority. A drainage scheme for the site showing details of gullies, connections, soakaways and means of attenuation on site shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be carried out in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.*

- *There shall be no obstruction to visibility greater than 300mm above adjoining road level in advance of lines drawn 2.4m back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 43m either side of the access. Such visibility shall be fully provided before the development hereby permitted commenced and shall thereafter be maintained at all times.*

NOTE:

Where works are to be undertaken on or adjoining the publicly maintainable highway a licence under Section 171 of the Highways Act 1980 must be obtained from the Highway Authority. Application forms can be obtained by writing to the Traffic and Transport Development Group, County Hall, Taunton, or by phoning 0300 123 2224. Applications should be submitted at least four weeks before works are proposed to commence in order for statutory undertakers to be consulted concerning their services.

The fee for a Section 171 Licence is £250. This will entitle the developer to have their plans checked and specifications supplied. The works will also be inspected by the Superintendence Team and will be signed off upon satisfactory completion.

WESSEX WATER -

New water supply and waste water connections will be required from Wessex Water to serve this proposed development. Application forms and guidance information is available from the Developer Services web-pages at our website www.wessexwater.co.uk.

Further information can be obtained from our New Connections Team by telephoning 01225 526222 for Water Supply and 01225 526333 for Waste Water. The developer has discussed preliminary drainage design with Wessex Water, including an off-site surface water outfall. We approve the proposals in principle, and will provide further comments and advice when detailed design is produced for a S104 adoption submission.

ENVIRONMENT AGENCY - No comments received.

BIODIVERSITY - The application is for the erection of 20 dwellings with provisions of public space on land south of Knapp Lane, North Curry. This application differs slightly to the previous application in that the position of the attenuation pond has been moved.

The Somerset Levels and Moors Ramsar site lies 1 km to the north of the site.

The site consists of arable land. It is bounded on all sides by hedgerows. The development proposals include the retention of all hedgerows on site with the exception of the removal of a small section of the northern hedge for the access road.

Ethos Environmental Planning carried out an Ecological Assessment of the site in February 2016. Findings were as follows

Bats

Trees in the hedgerow had no potential for bats. During the activity survey there was very low levels of bat activity recorded, restricted to a total of two common pipistrelle bats passing the site along the SW boundary and a single noctule flying

above the site. The static survey recorded seven species of bat, considered to be commuting bats. I support recommendations with regard to sensitive lighting for bats and the incorporation of bat bricks in the new build houses.

Reptiles

The site had low potential for reptiles.

Badgers

Initially no evidence of badgers using the site was noted. However on advice from local residents I visited the site and confirm that badgers are using the site so should be protected throughout any development.

Birds

Birds are likely to use the crop on site as well as the hedgerows for foraging. Removal of vegetation should only take place outside of the bird nesting season. I support the recommendation to erect four bird boxes on site.

Dormice

The site has low potential for dormice in the hedgerows. I support the suggested precautionary recommendations.

Condition for protected species:

The development hereby permitted shall not be commenced until details of a strategy to protect and enhance the development for wildlife has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of Ethos Environmental Planning's Ecological Assessment Report, dated February 2016 and include:

1. Details of protective measures to avoid impacts on protected species during all stages of development;
2. Details of the timing of works to avoid periods of work when wildlife could be harmed by disturbance.
3. Measures for the enhancement of places of rest for wildlife

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.

The development shall not be occupied until the scheme for the maintenance and provision of the new bird and bat boxes and related accesses have been fully implemented

Thereafter the resting places and agreed accesses shall be permanently maintained

Reason: to plan the protection of wildlife and their habitats from damage during construction works and to enhance the site for wildlife.

Informative Note

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 wildlife will be protected through the development process and to be provided with a mitigation proposal that will maintain favourable status for these species 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.

In the UK badgers are protected under the Protection of Badgers Act 1992.

Planning and licensing applications are separate legal functions

All excavations left open at night should either be cover plated or have a means of escape should an animal fall in.

Any chemicals should be stored away from any obvious badger runs, which should not be obstructed with any materials.

Security lights should be directed away from areas of the site where badger runs are evident.

SOMERSET WILDLIFE TRUST -

We would request that all of the proposed enhancements listed in Section 7 of the Ecological Statement are incorporated into the planning conditions if it should be decided to grant planning permission. In addition we would also request that any boundary fences are designed with small gaps underneath them so as to allow the free passage of small animals.

LANDSCAPE -

The attenuation pond has been repositioned. The layout is more contained leaving a slightly larger public open space. A small wildlife area could be planted up with whips in the area to the NE of the proposed attenuation pond.

SOUTH WEST HERITAGE, LAURA BOYT -

The proposed site lies outside of the North Curry Conservation Area, located on the western side of the historic core. The nearest listed buildings/structures to the proposed site are as follows;

- Methodist Church on Windmill Hill
- No. 10 Queen Square
- No. 19 Queen Square

Historically, the development line follows Knapp Lane, along the road edge. The 1840 Tithe map shows this clear delineation along the lane. There is a strong architectural and vernacular style to North Curry which should be respected. The proposed development will have minimal to no impact on the setting of the adjacent Conservation Area and any existing listed buildings.

HOUSING ENABLING -

25% of the new housing should be in the form of affordable homes, which based on the scheme of 20 properties would equate to 5 affordable dwellings, which is proposed.

The required tenure split of 60% social rented and 40% shared ownership is sought.

The proposed mix and location of the units is considered acceptable with the affordable housing units forming an integral part of the site.

The developer should seek to provide the Housing Association tied units from Taunton Deane's preferred affordable housing development partners list.

LEISURE DEVELOPMENT -

In accordance with retained policy C4 provision for children's play should be made for the residents of these dwellings. The proposed centrally located LEAP with a minimum of 5 different play experiences is to be welcomed. TDBC Open Spaces should be asked to comment on the design and content of the play area when known.

DIVERSIONS ORDER OFFICER - Mr Edwards -

The Public Footpath T17/50, Parish of North Curry is affected by this proposal. Subject to planning consent being granted an immediate contact should be made with the undersigned to comply with any Public Rights of Way legislation which may need to be brought into play.

SCC - RIGHTS OF WAY -

NATURAL ENGLAND -

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 04 April 2016 (attached).

The advice provided in our previous response applies equally to this **proposal**.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

SCC - FLOOD RISK MANAGER -

The development indicates an increase in impermeable areas that will generate an increase in surface water runoff. This has the potential to increase flood risk to the adjacent properties or the highway if not adequately controlled.

The applicant has indicated within section 2.2 of the submitted design and access statement, an intention to create a landscaped attenuation pond within the site, boundary to achieve the requirements of the surface water drainage strategy, this is also shown on drawing ref: 201102_SK01 Proposed Offsite Surface Water Drainage Route. There is also a 150 Dia outfall pipe shown on this drawing with notes stating that discharge will be limited to greenfield runoff rates and a maximum of 9 l/s.

However, the applicant has not provided any detailed design information or calculations to support the proposed drainage designs for the capture and removal of surface water from the development. Due to the location of the site and the proposed increase in impermeable areas it will be necessary to provide these details.

The LLFA has no objection to the proposed development, as submitted, subject to the following drainage condition being applied.

Condition: No development shall be commenced until details of the surface water drainage scheme based on sustainable drainage principles together with a programme of implementation and maintenance for the lifetime of the development have been submitted to and approved by the Local Planning Authority. The drainage strategy shall ensure that surface water runoff post development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works shall be carried out in accordance with the approved details.

These details shall include: -

- Details of phasing (where appropriate) and information of maintenance of

drainage systems during construction of this and any other subsequent phases.

- Information about the design storm period and intensity, discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance (6 metres minimum), the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters.
- Any works required off site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant).
- Flood water exceedance routes both on and off site, note, no part of the site must be allowed to flood during any storm up to and including the 1 in 30 event, flooding during storm events in excess of this including the 1 in 100yr (plus 30% allowance for climate change) must be controlled within the designed exceedance routes demonstrated to prevent flooding or damage to properties.
- A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management company or maintenance by a Residents' Management Company and / or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development

Reason: To ensure that the development is served by a satisfactory system of surface water drainage and that the approved system is retained, managed and maintained in accordance with the approved details throughout the lifetime of the development, in accordance with paragraph 17 and sections 10 and 11 of the National Planning Policy Framework, Paragraph 103 of the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework (March 2015).

PLANNING POLICY -

The application site lies currently outside the 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 currently in the open countryside, the northern part of the applicant site is proposed to be included within the settlement limit of North Curry pending the allocation of the land at Knapp Lane within the draft Site Allocations and development Management Policies Plan (SADMP).

This application is a revised scheme to a previous planning application (24/16/0007) south of Knapp Lane, North Curry which was refused by the Borough Council on 24/06/2016. This revised application boundary remains the same as with previous application but some changes have been made to take in consideration better design of development. Some changes include moving the attenuation pond to the south of the site. The affordable housing units have also been integrated within the rest of the market housing, and the play area has been moved from the south of the site to the north of the site, in the centre of the proposed row of dwellings which ensures that the play area can be overlooked by the housing development.

North Curry 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. North Curry is therefore identified as a sustainable

settlement to accommodate further growth. In line with the adopted TDBC Core Strategy, new housing development within these settlements will include an appropriate balance of market and affordable housing together with some live-work units and will be small scale allocations, proportionate to the role and function of North Curry, sites within the development boundary (primarily on previously developed land) and sites fulfilling affordable housing exceptions criteria outside of development boundaries.

Following the adoption of the Taunton Deane Core Strategy in September 2012, the Council prepared a draft Site Allocations and Development Management Policies Plan (SADMP). The SADMP reflects the overall approach established in the adopted Core Strategy, allocating land to meet the housing requirements in the identified settlement hierarchy. The SADMP also includes detailed development management policies against which planning applications will be considered. It is anticipated that through the SADMP 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 SADMP has undergone a number of stages of preparation, starting with an Issues and Options consultation in January/February 2013, a Preferred Options consultation in October/November 2013 and a Draft Plan consultation in January-March 2015. The SADMP was submitted to the Secretary of State for independent examination on July 13th 2015. An initial hearing sessions were held on 1st and 2nd of December 2015 to discuss the proposed urban extensions at Staplegrove and Comeytrowe. Further hearing sessions concerning the soundness of the rest of the SADMP were held between 30th of March 2016 and 5th of April 2016.

A hearing session to discuss the proposed allocations in the minor rural centres was held on 31st of March 2016. The Planning Inspector in his post hearing letter to the Council dated 13th of May 2016 stated that he had reached a preliminary view that the Main Modifications discussed at the preliminary and main hearings into the Plan are all that are necessary to make the Plan sound. The Inspector's proposed main modifications to the Plan did not include the Knapp Lane site. Consultation on the proposed Modifications to the Plan document were submitted for 6 weeks public consultation on 3rd of June 2016. The Inspector in his letter to the Council indicated that once the consultation process is complete, he will consider any further representations before reaching his final conclusions and completing his final report to the Council. With this in mind, significant weight can be put on the Draft Plan Document.

The SADMP is proposing to allocate two sites in North Curry; land at Knapp Lane for around 20 dwellings and land at Overlands for around 30 dwellings. The site at Overlands already benefits from outline planning consent for 30 dwellings granted at appeal in March 2014. The Knapp Lane site will deliver 25% of affordable housing and associated planning obligations. The policy makes a requirement for the development to provide a hard surfaced pedestrian link to, and similar improvements to the existing right-of-way the west of the allocation.

The red line boundary for policy MIN7 is arbitrary in a sense that the purpose for drawing a line on the SADMP policy was to ensure that no more than 20 dwellings would be developed on this site. Also, since the SADMP was prepared, a more detailed landscape assessment has been prepared for this site by the applicant. In order to ensure that all 20 dwellings remain within the red line boundary as shown on SADMP policy MIN7, the play area would not fit within the SADMP red line boundary and would have to be moved to the south of the site meaning that it could not be overlooked by the housing development.

Although the SADMP has not yet been adopted, the draft Plan has reached an advanced stage and the Plan has been subject to extensive community engagement prior to being submitted for examination. As this proposal still remains proportionate to the number of dwellings identified for the Knapp Lane site through the draft Plan, and the northern part of the site is proposed to be included within the settlement limit of North Curry (pending the allocation of the Knapp Lane site within the SADMP), development of this site is considered acceptable in principle. The revised scheme is a better designed proposal, therefore, it would not seem appropriate to restrict development within the MIN7 boundary. With this in mind, it is considered that this proposal should be considered on its merits. There are no policy objections to this proposal on these grounds.

OPEN SPACES MANAGER - no comments received.

SCC - NOW HISTORIC ENV SERVICE(AS NOT PART OF SCC 2015) -

SOMERSET DRAINAGE BOARDS CONSORTIUM -

The site is located outside of the boundary of the Parrett Internal Drainage Board area, however any surface water run-off generated will discharge into the Board's area within which it has jurisdiction and powers over matters relating to Ordinary Watercourses. The Board's responsibilities require it to ensure flood risk and surface water drainage are managed effectively.

The Board has viewed the application details produced to support the submission and the surface water drainage strategy indicates the provision of a balancing pond with an off-site sewer to discharge to the land drainage system north of the site. The mechanism to secure the off-site connection is via the statutory undertakers powers and therefore, will be constructed as public surface water from day one. The Board would have hoped a more sustainable approach would be used however this concept secures the connection point and any infrastructure constructed will be adequately maintained by Wessex Water Plc.

If the committee of the Local Planning Authority are of a mind to approve the application the condition set out below must be included within the certificate.
Condition: No development should proceed until foul and surface water drainage, including any watercourse proposals, have been agreed with the Local Planning Authority in conjunction with the Parrett Internal Drainage Board.

Reason: The application details have insufficient details to determine if drainage matters are to be properly addressed. It is not possible at this time if the development of the site will have an adverse impact on flood risk elsewhere which is contrary to the principles set out in Section 103 of the NPPF and Section 2 of the Technical Guidance to the National Planning Policy Framework.

The Board had brief discussions with the developer's agent regarding surface water disposal as part of the previous application submission. Clearly changes have been made since the earlier details but it is important that surface water run-off and flood risk is considered and improvements made. Any infrastructure proposed as part of the submission must be adequately maintained by an appropriate authority these proposals will require Wessex Water to take that responsibility on.

The above requirements are based on the principles set out in Section 103 of the NPPF and Section 2 of the Technical Guidance to the National Planning Policy Framework, which requires that the development should not increase flood risk elsewhere.

Representations Received

Ward Cllr Stone - As Ward Councillor for North Curry and Stoke St Gregory Ward I object to this application on the basis of inadequate Highway access, because a significant part of the development is outside of the site allocated in the draft Local Plan and that the fact that Planning consent has already been granted for the number of houses required in North Curry in that plan. From a Highways viewpoint it is technically inadequate and unacceptable in a number of ways. A key document in the application, the Design and access statement, shows the layout from the previous application 24/160007, not the layout now proposed. The layout of the new application is difficult to even find and yet the differences are very significant, the houses having a totally different arrangement. I believe that this application should have been considered invalid as it is inaccurate, misleading and it is impossible to comment accurately on the revised proposals within the site. One of the main objections to the application, as with the previous one is the road and pedestrian access to the site. When this site was first suggested in the earlier part of the SADMP process the Parish Council objected strongly on the basis that Knapp Lane is totally unsuitable for additional two way traffic, being very narrow (down to only about 3.5 mts at one point) with stone walls on either side and no scope to widen the road. The road is so inadequate that it is impossible to comply with the manual for street design which the County Council should require developments to comply with. Comments from SCC Highways Development go into great detail about the internal layout of the roads and pavements within the site but fail to even mention the fact that no continuous pavement is proposed or is possible along Knapp Lane which is the route most pedestrians are likely to take to get to the facilities in the centre of the village. Even according to the developer, Knapp Lane has over 200 traffic movements per day and the development will add another 100 but surveys carried out by local residents show much higher levels, especially when contractors are moving slurry, silage and other crops on a frequent basis with very large machinery. The road access is so poor and dangerous that the Highways Development Team should have ruled out the development of this site at an early stage. Now that they have failed to do this, having not visited the site when it was first proposed, it would seem that they have now chosen to ignore the seriously dangerous situation for pedestrians which the applicant is proposing.

This is an unacceptable situation which the Deane planners should recognise and deal with. If an alternative path for pedestrians is created along the existing public footpath to the West of the site, this will not solve the problem as it is not a direct route to the facilities in the village centre and the this path emerges onto a dangerous bend on Windmill Hill with no pavement to the village centre without crossing the road where visibility is non-existent. There also seems to be some doubt about whether the connection to this path is deliverable if the representation

from the owner of the land on which the public footpath runs is considered. The Knapp Lane site as defined in the draft Local Plan documents is much smaller than the present application site, with approx one third of the proposed houses outside the boundary defined in the SADMP documents. When this discrepancy was recognized by the Planning Committee when they considered the previous application (but not pointed out by planning officers in their presentation), there was concern amongst Members of the Committee about this and yet the new application has not tried to address this issue. This is an extremely irregular situation and one which, in itself, should lead to rejection of the application. North Curry was due to have approx new 40 dwellings as part of the Local Plan proposals. This number has already been built or are being built on newly allocated in the village. Analysis of the numbers of houses already built and given planning consent in the minor village centers shows that the target of 250 houses has already been exceeded, with 120 likely to be built in Creech St Michael alone. This additional 20 houses in North Curry is not required to meet Taunton Deane's housing targets and would be a very minor contribution to the total Local Plan requirement of 17,000 by 2028. These 20 houses in addition to the 40 already provided would however put further strain on village services such as the health centre, the school drainage etc and this is reflected in the number of objections from local residents.

County Cllr Fothergill - I strongly object to this application on the following grounds:

It is plain that a significant number of concerns raised at the hearing of the previously rejected application have not been overcome, namely: a. the footpath access, b the ecology of the site and in particular badger setts, c. the water run-off and storage, d. the impact on the visual amenity of the village, e. non agreed footpath access across adjoining land.

2. The significant detrimental impact upon existing properties in Knapp Lane caused by the topography of the site, the height of the new properties and their proximity to adjoining boundaries.

3. Given the previous strength of opposition to the scheme i am very surprised at the speed at which it has been resubmitted with obviously no local consultation whatsoever! I believe that this application is premature and unnecessary. North Curry has already accepted significant developments which need to be assimilated into the community, the local services and the Primary School. The TDBC 20 year allocation of housing for a rural development centre will have been met within the first few years! if the matter goes to committee I wish to register my intention as the local County Councillor to speak.

80 letters of objection from 58 properties raising the following objections

- Contrary to policy MIN7 of Site Allocations and Development Management Plan as part of housing outside defined line
- Applicant has not consulted on new submission
- Concern over overshadowing and loss of light
- Detrimental to amenity
- overlooking
- Loss of privacy
- Impact on human rights

- No plans for storage of waste
- Development not in keeping as lack of terraced housing and garages set back on detached properties
- Overdevelopment
- Overbearing to lane
- Compromise the visual and historic value of village
- Position of footpath a security risk,
- Target for number of houses met for the village,
- North Curry ridge is a Special Landscape Feature and should be protected.
- Clarification of house types and affordable split should be sought
- No need for further housing
-
- No work prospects in the village
- Lack of public transport with limited bus service
- Increase traffic through the conservation area
- Light and noise pollution
- Demands on facilities not sustainable
- Infrastructure such as doctors and school is at capacity
- School indicate another classroom will be needed if numbers increase
-
- Extra traffic and growth of agricultural vehicles not recognised by Somerset highways
- Changes in farming have increased large agricultural traffic
- Knapp Lane too narrow for development with blind bends & inadequate junctions
- Vehicle dimensions using the lane are larger than considered
- Excess traffic on narrow, dangerous road,
- Increased risk of accidents
- Footpath leads to a dangerous crossing where traffic cannot be seen adequately
- Traffic volume forecasts are unrealistic
- Contrary to policy DM1 on highway grounds
- Queen Square junction is dangerous with poor visibility and random parking
- Increase in traffic and damage to property
- Danger for cyclists and pedestrians
- No safe provision for pedestrians on road

- The footway out of the site to the north east should be a slope not steps
- Any footway to the south should go between house plots to be more usable
- No street lights
- Would increase parking problems in village
- Risk of vehicle collisions given road widths
- No permission to link to public footpath
- Footpath link would need to cross ditch and there is no lighting or barriers
- Footpath is dangerous route to village
- Increase risk of flooding,
- The drainage plan is out of date
- No agreed plan with Wessex Water, surface water plans are inadequate
- Risk of flooding from attenuation pond which is at highest point of site
- Noise
- Loss of agricultural land
- Impact on wildlife

Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for Taunton Deane comprises the Taunton Deane Core Strategy (2012), saved policies of the Taunton Deane Local Plan (2004), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015), and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below. Policies from emerging plans are also listed; these are a material consideration.

NPPF - National Planning Policy Framework,
 SP1 - TD CORE STRATEGY SUSTAINABLE DEVELOPMENT LOCATIONS,
 CP1 - TD CORE STRAT. CLIMATE CHANGE,
 CP4 - TD CORE STRATEGY - HOUSING,
 CP6 - TD CORE STRATEGY - TRANSPORT AND ACCESSIBILITY,
 CP8 - CP 8 ENVIRONMENT,
 DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,
 DM2 - TD CORE STRATEGY - DEV,
 C4 - TDBCLP - Standards of Provision of Recreational Open Space,
 M4 - TDBCLP - Residential Parking Provision,
 EN23 - TDBCLP - Areas of High Archaeological Potential,

Draft Site Allocations and Development Management Plan

Policy I4: Water Infrastructure
Policy ENV2: Tree Planting within residential areas
Policy ENV3: Special Landscape Features
Policy MIN7: Knapp Lane, North Curry

Local finance considerations

Community Infrastructure Levy

This development measures approx. 2875m².

The application is for residential development outside the settlement limits of Taunton and Wellington where the Community Infrastructure Levy (CIL) is £125 per square metre. Based on current rates, the CIL receipt for this development is approximately £359,500.00. With index linking this increases to approximately £424,000.00.

New Homes Bonus

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

1 Year Payment

| | |
|-------------------------|---------|
| Taunton Deane Borough | £21,581 |
| Somerset County Council | £5,395 |

6 Year Payment

| | |
|-------------------------|----------|
| Taunton Deane Borough | £129,488 |
| Somerset County Council | £32,372 |

Determining issues and considerations

The main considerations with the proposal here are the compliance with Local Plan housing policy, the impact on highway safety, flooding, landscape, wildlife and residential amenity.

Policy

The site lies on the edge of the village of North Curry which is designated a Minor Rural Centre under policy SP1 of the Core Strategy. Policy SP1 does not set a maximum number of houses for Minor Rural Centres. The draft Site Allocations and Development Management Plan has identified residential development sites in North Curry of which the site for 20 dwellings here is identified under policy MIN7. This Plan is at an advanced stage in the process and while it has not yet been formally adopted the Inquiry Inspector has advised that the main modifications discussed at the hearings are all that is necessary to make the Plan sound. As this makes no reference to the deletion or addition of housing sites it is considered that the allocation at North Curry is as stated in the Plan and therefore significant weight can be put on the Draft Plan Document.

MIN7 of the Site Allocations and Development Management Plan identifies land at Knapp Lane for around 20 dwellings. The line of the plan was an arbitrary one but

provided so it would restrict the housing numbers on the site to 20. As long as only 20 houses are provided the preciseness of that line is not considered sacrosanct as it was drawn without any landscape assessment. The policy requires a hard surfaced pedestrian link as well as improvements to the right of way to the west. This is proposed through the Section 106 and a condition to require the provision of these improvements prior to occupation of any dwelling is considered an appropriate and necessary condition.

The policy also requires the proposal to comply with other policy requirements, including strategic landscaping, other environmental matters, affordable housing, design and a mix of dwellings and recreational open space where appropriate. An indicative plan was drawn up for the Local Plan indicating the dwellings to the north of the site. However this was produced without the benefit of a landscape assessment. Part of the requirement of this site is to provide a children's play area. Locating this in the proposed open space to the south, however, would not secure adequate surveillance of such an area as required by the Leisure Officer. Consequently the play area has been located centrally which pushes development further south. However there is still a proposed area of open space around 30m to 50m wide which will have strategic planting within it. An area for allotments is also provided as well as an attenuation pond for surface water drainage. There is not considered to be any harm to the area as a result of the revised layout design, despite it not complying with the arbitrary line drawn in the development brief. Adhering strictly to the line on MIN7 would mean no adequate surveillance of the play area and a more dense layout with greater impact on adjacent properties. A condition to secure provision of the play area is considered appropriate.

The proposed scheme provides for 20 units of accommodation and 5 of which would be affordable in line with policy CP4 of the Core Strategy. The Housing Enabling Officer is satisfied with the mix proposed and the affordable units will need to be secured through a Section 106 agreement. The revised layout gives longer gardens, that reflect the market housing and parking is at the front rather than a rear parking court.

The design of the dwellings proposed are two storey and are to be constructed in brick and render with slate or tiled roofs. These designs and materials are considered in keeping with the village and are not dissimilar to those already approved at the Overlands site which is being carried out by the same developer. There is space for cycle and bin storage within the plots and adequate parking space. The development provides for 2 x 5 bedroomed dwellings, 9 x 4 bedroomed units, 6 x 3 bedroomed units and 3 x 2 bedroomed units and this mix of housing is considered an acceptable one.

This resubmission seeks to address Members concerns over the scheme previously refused. The affordable housing has been relocated within the scheme, not on the edge and the gardens are designed to reflect those of other adjacent properties. The car parking is not located in a rear court but has been designed at the front of the dwellings. The revised scheme is considered to address the concern raised by Members in refusing the previous scheme. The layout as designed would preclude the addition of further dwellings in the future.

Highway Access

The access into the site is via a new entrance off Knapp Lane and provides for 2.4m x 43m visibility in both directions. The access is of an appropriate width and with a footway both sides of the access. This access is considered suitable to the Highway Authority. Mention was made by objectors to the Knapp Lane Acre refusal and appeal. However the highway reason for refusal in this instance was a lack of visibility at the junction of the site with Knapp Lane where the applicant had no control over land ownership, a lack of turning space and a lack of access to a suitable footway. These issues were reflected in the Inspector's decision and are not comparable with the current site.

The revised site layout provides a minimum 2 spaces per dwelling and in cases where garages are provided meets more than the optimum requirements of the County Council parking strategy. A footway link is to be provided to the existing public footpath to the west and an upgraded link to the village centre is proposed. This will need to be secured through a Section 106 agreement. It is also considered necessary to ensure that this link is provided before occupation of any dwellings to ensure a suitable safe pedestrian access is formed and a condition is proposed to address this. The other pedestrian access and visibility to the north is considered acceptable to the Highway Authority. There is an existing pedestrian access via Town Farm which has a footpath to the village shop which the new scheme can link to.

Significant objection has been made in terms of the increase in traffic and safety of the Knapp Lane junction with The Shambles. This junction however, although it has limited visibility, is part one way. The Highway Authority has assessed the impact of the scheme in terms of additional traffic movements. While the Highway Authority considers there would be concerns over any proposal that would result in a significant increase in movements on this junction, the proposed movements (an additional 4 per hour) would not constitute a severe impact in capacity and safety terms to warrant an objection on highway grounds.

A Travel Plan will be a requirement of a development of this scale and this will be secured through a S106 agreement. In addition to the legal requirements a number of conditions are also proposed for any approval. A number of these are considered unnecessary or unenforceable and therefore conditions in respect of visibility, drainage, access and cycle/footpath connections are proposed.

Drainage/Flood Risk

The proposal involves separation of foul and surface water drainage and Wessex Water advise that the connection of foul drainage to adopted systems would be acceptable. The main issue is the treatment of the surface water from the site after Wessex Water advised that the existing surface water system has limited capacity. This is reflected in the Parish Council and objector comments. In order to address this a new surface water sewer is proposed that would be adopted and the surface water from the site would drain to the attenuation pond and would then be released to the sewer at greenfield run-off rates which would drain away from the village and thus avoid the exacerbation of the potential flood situation. The new sewer would be provided and adopted by Wessex Water in a precise location to be agreed. The water would drain to a new attenuation pond to the south of the site. While this is not the lowest part of the site it would mean lowering the land of the pond to enable suitable drainage to this point. While this would be more costly, there is no technical

reason that this could not be achieved.

The Environment Agency and the Lead Local Flood Authority raise no objection on flood risk grounds and the latter recommends a condition to ensure adequate surface water drainage is provided. Given the flood risk in the area it is considered that a condition to ensure the surface water drainage provision is provided on site at an appropriate time is necessary.

Landscape

The application site lies on the existing edge of North Curry and a Landscape and Visual Appraisal was submitted with the application by a qualified Landscape Consultant. Clearly the development will have a visual impact on its surroundings, however the site is bounded by the edge of North Curry to the east and south and given the topography the views of the site are limited and localised. The site will be visible from the footpath to the west however the view will be against the back drop of the existing properties. The site does not directly impact on any Listed Building, the Conservation Area or SSSI.

Objections have also been received quoting an adverse impact on the North Curry Ridge. The Ridge is a Special Landscape Feature that is protected under policy ENV3 of the draft Site Allocations and Development Management Plan. This policy seeks to prevent development that would harm the appearance and character of the area. However the site is not readily visible from long distance views beyond the site. The natural view from the river has an extensive foreground and is dominated by the pastoral landscape of the floodplain and rolling agricultural landscape. At a distance from the ridge to the north, the site is not clearly visible and in wider landscape terms views of roofs of houses associated with other house roofs is not considered harmful to the character and appearance of the area.

The Landscape Officer agreed with the findings of the Appraisal report and previously advised "Given the relatively small size of the site and scale of the development along with the existing boundary vegetation and proposed landscaping, the development can be assimilated into the local area with only minimal landscape and visual effects". A landscape condition to control species, numbers and planting is proposed.

Wildlife

An Ecological Assessment has been submitted with the application and an updated report provided. Badgers have been identified as present within the locality and the Biodiversity Officer is satisfied that suitable mitigation measures can be employed as part of a standard condition to address badgers and other species identified, given that no setts are directly affected by the development on site. Consequently a condition to address this matter is proposed should the development be acceptable.

Residential amenity

The site lies on the edge of the village and therefore has residential properties to the north, south and east. To the north the new dwellings are set at field level which is over 1m above the road. However the dwellings are set so that they are around 18m from the boundary with the road and where there are other residential properties on

the opposite side of the road are arranged so there are around 28m in terms of window to window distances. The garages are slightly closer at 10m or more off the boundary and this distance, together with their lower height, is considered adequate to prevent an overbearing impact. This proposed layout is considered to protect privacy and amenity and while it will affect the view out of the existing dwellings there is no right to a view. Two of the three first floor windows to the rear of Plot 8 are a landing and bathroom and are conditioned to be obscure glazed to prevent any direct overlooking of 2 Knapp Lane. The revised plot 12 position is around 9m off the boundary with 2 Knapp Lane, however there are no windows in the gable elevation and planting is proposed along this boundary. These elements are considered to safeguard the right of peaceful enjoyment and private and family life specifically to the adjacent property under the Human Rights Act. Overshadowing plans have been provided which indicate that there will be no significant adverse impact due to the revised layout.

The new properties to the south east will back onto the gardens of Town Farm. The gardens of the detached units will be over 20m in length while the area to the rear of the affordable terraced properties will be 16m. While the site is slightly higher than neighbouring gardens the window to window distances are of well in excess of 60m. There will also be views from the open space to the south east, however the amenity impact of this on gardens is considered acceptable and it is considered that with appropriate boundary treatments of fencing within the site this will avoid any significant harm to amenity and loss of privacy.

Conclusion

In conclusion the residential development here is considered to comply with policy MIN7 of the Site Allocations and Development Management Plan. The layout has been revised to address Members' objection in terms of the siting of the affordable units, the size of their gardens and positioning of the parking. It is considered that the scheme will not significantly harm wildlife, the landscape character of the area, residential amenity, flood risk or highway safety and is considered to be development in accordance with the development plan and is recommended for approval subject to a Section 106 Agreement.

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

Enforcement Appeal

**Site: LANGDON INDUSTRIES SITE, WALFORD CROSS, TAUNTON, TA2 8QP
Alleged Breach of planning control: ALLEGED UNAUTHORISED B2 (WOOD
CHIPPING) BUSINESS USE OF FORMER B1 / B8 INDUSTRIAL UNIT.**

Reference Number: E/0035/14/15

Appeal decision: DISMISSED

Appeal Decision

Site visit made on 10 August 2016

by Melissa Hall BA (Hons), BTP, MSc, MRTPI

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

Decision date: 21 September 2016

Appeal Ref: APP/D3315/C/15/3141203

Land at Walford Cross Units, Walford Cross, Taunton, Somerset TA2 8QP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Nigel Dunn of Chipmunk South West Limited against an enforcement notice issued by Taunton Deane Borough Council.
 - The Council's reference is E0035/14/15.
 - The notice was issued on 8 December 2015.
 - The breach of planning control as alleged in the notice is:
Without planning permission, change of use of the site from B1 Office and B8 Storage and Distribution Business Use to B2 General Industrial Use as a wood processing business'.
 - The requirements of the notice are:
 - (i) *Cease the unauthorised use of the site for wood processing and associated storage; and*
 - (ii) *Remove from the site all equipment and materials associated with the unauthorised use.*
 - The period for compliance with the requirements is one month from the date of the Notice in respect of (i) and two months from the date of the Notice in respect of (ii).
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (c), (e) and (f) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. Since the notice is found to be a nullity no further action will be taken in connection with this appeal. In the light of this finding the Local Planning Authority should consider reviewing the register kept under section 188 of the Act.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Procedural Matters

3. Although not specified in the appeal form, the appellant's submissions relate to ground (e) in addition to grounds (a), (c) and (f). As the Council has had an opportunity to respond to the appellant's case advanced on ground (e), no party would be prejudiced by my consideration of the appeal on this basis.

4. The appellant's appeal statement also refers to a ground (b) appeal. However, it has since been clarified that this reference was made in error and no ground (b) appeal is being made.
5. In addition, the appellant claims that the unsigned and undated Enforcement Notice ("the EN") as served did not provide a copy of a plan showing the precise boundaries of the land to which it related (albeit reference to the plan was made in the EN) contrary to the requirements of Regulation 4 of The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 ("the ENAR"). The Council has not disputed this claim. Furthermore, the appellant states that as required by Regulation 5 of the ENAR, the accompanying note to the EN does not provide name and address details of parties on whom the EN was served. These matters raise the question of nullity, which I am bound to consider.
6. Following the serving of the EN, the appellant removed the wood chip processing equipment comprising of two driers and two biomass boilers from the site. The Council subsequently visited the site and wrote to the appellant on 15 February 2016 confirming that it considered that the B2 activities had been removed and the EN had been complied with.

Reasons

7. Section 173(10) of the Act states that '*An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an EN served under s172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under s174*'. The additional matters are prescribed in the ENAR.
8. Regulation 4(c) of the ENAR states that an EN shall specify the precise boundaries of the land to which the Notice relates, whether by reference to a plan or otherwise.
9. The EN describes the land to which it relates as 'Land at Walford Cross Units, Walford Cross, Taunton, Somerset TA2 8QP ("the site") as shown edged red and shaded pink on the attached plan.' However, no plan was attached to the EN as served and the recipient would therefore need to rely on the description to identify the boundaries of the land to which the EN relates.
10. The appeal site comprises two linked buildings, part of a separate building which is in use as office and welfare facilities and a partly covered external yard. It forms part of a larger group of units at Walford Cross, which I am told have established storage and distribution uses. The unit immediately to the south is attached whilst the other units in the group are detached from the appeal site. Merely describing the appeal site as 'Walford Cross Units' does not identify the number of units to which it relates, be it linked or otherwise, nor does it distinguish those the subject of the EN from the other units within the larger group. Hence the description is not sufficiently precise to be able to identify the boundaries of the land to which the Notice relates as required by Regulation 4(c). In failing to comply with Regulation 4(c) there is also a failure to comply with section 173(10).
11. Furthermore, Regulation 5(c) requires that an EN must be accompanied by an explanatory note that shall include a list of the names and addresses of the persons on whom a copy of the EN has been served.

12. The Council has supplied the names (or identified contacts within companies) and full addresses of those persons on which it served the Notices with a covering letter in its appeal submissions. However, the list of names and addresses which appeared in the note accompanying the EN's as served appears to be incomplete, listing only the company names and little other detail.
13. These errors cannot be corrected by the explanation given and a copy of the plan provided by the Council at the appeal stage. Neither does the Council's contention that the official EN containing all relevant information required by the Act held on its Enforcement Register suffice. Unfortunately it appears that the Council has prematurely issued a draft notice that was incomplete. However, that was the official notice to those concerned and it fails to meet the statutory requirements of section 173(10) of the Act and regulations 4 and 5 of the ENAR. Accordingly, I find it is defective on its face and therefore a nullity. As the EN is a nullity, it is not capable of correction.
14. The Council also failed to sign and date the copy of the EN it served on the appellant. Although I do not find the appellant to be substantially prejudiced by this omission given that the covering letter which accompanied the EN was signed and dated, and S176(5) of the Act gives me the power to disregard non-service, it nonetheless adds to my concern regarding the completeness of the Notice as served.
15. As I have found the EN to be a nullity, the appeal under grounds set out in sections 174(2)(a), (c) and (f) to the 1990 Act, as amended, and the application for planning permission deemed to have been made under section 177(5) of the Act as amended do not fall to be considered.

Conclusions

16. For the reasons given I conclude that the appeal should succeed. Since the Notice is a nullity it is of no worth as a document and no appeal can be founded on it.

Melissa Hall

Inspector

Costs Decision

Site visit made on 10 August 2016

by Melissa Hall BA (Hons), BTP, MSc, MRTPI

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

Decision date: 21 September 2016

Costs application in relation to Appeal Ref: APP/D3315/C/15/3141203 Land at Walford Cross Units, Walford Cross, Taunton, Somerset TA2 8QP

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Nigel Dunn of Chipmunk South West Limited for a full award of costs against Taunton Deane Borough Council.
 - The appeal was against an enforcement notice alleging the change of use of the site from B1 Office and B8 Storage and Distribution to B2 General Industrial Use as a wood processing business.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

The Submissions for the appellant

2. The Council served an unsigned and undated Notice, and has subsequently accepted that they were at fault and that the EN was not properly served.
 3. The Council has not engaged in positive discussion or correspondence with the appellant following the serving of the Enforcement Notice ("the EN") to clarify its intentions. Correspondence in respect of compliance with the EN following the removal of the boilers and driers was not received until some 7 weeks after their removal and after the appeal had been significantly progressed.
 4. The Councillors rejected the Officer's recommendations without any substantive evidence to support their reasons for refusal. No professional or technical evidence has been provided to contradict the findings of the submitted professional technical reports which accompanied the planning application.
 5. The steps required to comply with the requirements of the EN were excessive. It did not take into account the permitted usage under the extant B1/B8 permission. The Notice should have identified precisely the nature of the equipment and its activity and its location on a plan that needed to be removed and ceased. The EN is unclear, failing to properly identify the activity which represented the breach and is therefore unreasonable.
 6. In light of the above, unnecessary and wasted expense has been incurred in professional fees to prepare and submit the enforcement appeal and associated documents.
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The response by the Council

7. The Council made its decision based on the information and evidence supplied by the appellant and comments received in accordance with the legislation and procedures. The decision was taken to issue an EN for an activity that had been refused planning permission and for which a number of complaints had been received.
8. The activity that is subject to the EN is unauthorised and the appellant has not pleaded ground (b) in making his appeal. Rather, he has relied on ground (a) that planning permission should be granted. Thus the expense of preparing this aspect of the appeal is not unnecessary.
9. The Council did communicate with the appellant during the course of the appeal, including a telephone conversation regarding the content of the EN. The activity is unauthorised and the appellant is seeking to regularise the activity through ground (a). It is not considered that any additional communication would have made any difference to the amount of resource expended by the appellant. Any perceived lack of communication has not put the appellant to any unnecessary expense.
10. It was the appellant's decision to comply with the EN despite pursuing the appeal against the Notice. Thus, it does not consider that the appellant has incurred any unnecessary or wasted expense.

The response by the appellant

11. In refuting the claims in the Council's response, and in addition to elaborating upon the points already made, the appellant adds that the Council is duty bound to prepare an EN which is clear and unambiguous. The plan which was submitted as part of the Council's appeal submissions identifies the entire site and not just the location of the boilers and driers. Not all the activity on the site is unauthorised; storage is authorised and should not therefore be referred to in the EN.

Reasons

12. The Government's Planning Practice Guidance ("the PPG") advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The appellant suggests that the Council's behaviour falls into several categories of unreasonableness as outlined above and set out in the PPG.
13. The shortcomings of the EN are such that I have found that it is a nullity. The Council has a duty to ensure that the Notices served and the accompanying note are clear, accurate, complete and correctly worded in all respects. The Council had the option of withdrawing the EN and issuing a second in light of the concerns regarding its completeness and accuracy. It did not. I therefore conclude that an EN which was defective on its face amounts to unreasonable behaviour causing the appellants to incur unnecessary expense in appealing. A full award of costs is therefore being made in this respect.

Costs Order

14. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and County Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Taunton Deane Borough Council shall pay to Chipmunk South West Limited, the costs of the appeal proceedings described in the heading of this decision.
15. The appellant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of these costs with a view to reaching an agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for detailed assessment by the Senior Court Costs Office is enclosed.

Melissa Hall

Inspector

Appeal Decisions – 21 October 2016

Site: 10 TRISCOMBE ROAD, TAUNTON, TA2 7PG

Proposal: Erection of fence above front wall and raising of fence to side of 10 Triscombe Road, Taunton (retention of works already undertaken)

Application number: 38/16/0080

Reasons for refusal

The fence above the existing wall, by virtue of its, design, height and positioning, appears as an incongruous addition to the street scene, in a prominent corner position and does not relate well to the surroundings thus detracting from the character and visual amenity of the area and as such, it is considered contrary to policy DM1d (General Requirements) of the Taunton Deane Core Strategy.

Appeal decision: DISMISSED

Appeal Decision

Site visit made on 24 August 2016

by David Walker MA MRTPI

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

Decision date: 12th September 2016

Appeal Ref: APP/D3315/D/16/3153942
10 Triscombe Road, Taunton, Somerset TA2 7PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Nick Wright against the decision of Taunton Deane Borough Council.
 - The application Ref 38/16/0080, dated 27 February 2016, was refused by notice dated 29 April 2016.
 - The development proposed is a fence above front wall and raising front fence to side of house.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in the appeal is the effect of the proposal on the character and appearance of the area.

Reasons

3. Triscombe Road is a residential street with a range of house types, designs and external finishes along its length. On the appeal site side of the street, however, there is more architectural uniformity in a row of semi-detached houses of similar design. The appeal site being is last property of the row before Triscombe Road turns to link with Quantock Road.
 4. At my site inspection it was apparent that many of the properties along the street had been improved and so there was some variety in the appearance of individual houses. However, with the exception of the tall fence installed at the appeal site, front boundary enclosures were predominately less than one metre in height. I find these low height enclosures to be an important factor in retaining satisfactory openness between opposing properties along the otherwise narrow street.
 5. In this context, therefore, the height of the proposed fence stands out as a discordant feature that is out of character with the uniformity I have identified along this side of the street. I acknowledge the tall front boundary fence at a nearby corner property, but as I have nothing before me to explain the history of that fence I do not afford it significant weight.
 6. In reaching my findings, I acknowledge that a close neighbour raises no objection to the proposal. I am mindful, however, of the risk of precedent that
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would arise were the proposed fence be approved. Given the number of similar properties along the street a precedent would allow a proliferation of other tall fences that would give rise to significant harm to the visual qualities of the area.

7. Overall, therefore, the harm to the character and appearance of the area I have identified conflicts with criterion 'd.' of Policy DM1 of the Taunton Deane Borough Council Adopted Core Strategy 2011-2018 which requires that the appearance and character of a street scene is not unacceptably harmed by development.

Conclusion

8. For the reasons given above I conclude that the appeal should be dismissed.

David Walker

INSPECTOR

Appeal Decisions – 12 October 2016

Site: MOUNTLANDS SCHOOL, 103 SOUTH ROAD, TAUNTON, TA1 3EA

Proposal: Replacement of timber windows with double glazed white Upvc at Mountfields School, 103 South Road, Taunton

Application number: 38/16/0101

Reasons for refusal

The proposal would result in a poor appearance through the use of unsympathetic modern materials that would be at odds with the otherwise traditional character and appearance of the dwelling and surrounding Conservation Area. The proposal would therefore fail to enhance or maintain the character and appearance of the Conservation Area, contrary to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. There would be no overriding public benefit to justify this harm and, therefore, the proposal will conflict with Taunton Deane Core Strategy Policies DM1(d) and CP8 and Paragraphs 132 and 134 of the National Planning Policy Framework.

Appeal decision: Dismissed

Appeal Decision

Site visit made on 5 September 2016

by Thomas Bristow BA MSc MRTPI

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

Decision date: 13 September 2016

Appeal Ref: APP/D3315/W/16/3152484

103 Mountlands School, South Road, Taunton, Somerset TA1 3EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr N Smy against the decision of Taunton Deane Borough Council.
 - The application Ref 38/16/0101, dated 16 March 2016, was refused by notice dated 24 May 2016.
 - The development proposed is the replacement of existing windows with double glazed white uPVC.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. This appeal follows two unsuccessful planning applications for the replacement of windows at No 103 with uPVC units.¹ The Council have explained that the proposal to which this appeal relates is the same as its predecessors, which accounts for the 2010 date given on the associated drawings.² However, as each proposal must be determined on its merits in the light of present circumstances, the planning background to this appeal is of limited significance.

Main Issue

3. The main issue is whether or not the proposal would preserve or enhance the character or appearance of the surrounding *South Road Conservation Area* (the 'Conservation Area').

Reasons

4. No 103 is a fine late Victorian semi-detached villa currently arranged and occupied as 6 flats. Whilst several mature trees partially screen views of the property, its principal elevation is nevertheless visible from various nearby public vantage points. Part of the late nineteenth century development of the area, No 103 typifies the largely consistent form, pattern and design of many nearby properties: grand houses set back from the highway constructed chiefly

¹ Applications Ref: 38/10/0351 and 38/14/0367.

² An untitled site plan, untitled block plan, and drawings entitled 'SR10/04 01' and 'SR10/04 02 Rev: B'.

of brick with accentuated courses which commonly host a variety of intricate design features commensurate with their historic origins including bay windows, turrets, oriel windows, stone quoins and ornate pilasters.

5. It appears that No 88 South Road, likewise an historic property, opposite the appeal site hosts modern windows. However it is the side elevation of this property that directly faces the highway which contains only two modest rectangular windows, meaning that the presence of non-original windows here is not readily apparent. Whilst occasionally uPVC windows are present within the Conservation Area, they are far from a common feature. Indeed, to the contrary, traditional timber framed windows of intricate design appeared to me to be a largely consistent unifying characteristic of the area: such windows are clearly visible at nearby Nos 91, 93, 95 and 97 South Road.
6. The Conservation Area hosts some modern development, notably what appeared to be relatively newly created outbuildings associated with nearby Nos 101 and 99, and No 84 itself which is of more modern appearance than the prevailing nature of properties in the area. The appellant has highlighted a number of such more recent developments. Nevertheless I have identified above that there is a strong consistency to the Conservation Area in respect of the form, pattern, design features and building materials of properties which includes timber framed windows of detailed design. There is furthermore limited information before me in respect of the planning considerations relevant to the other development within the Conservation Area that the appellant has mentioned, and, moreover, the presence of incongruous development does not justify unacceptable development in the present.
7. Windows within the principal elevation of No 103 facing South Road appeared to be universally timber framed sash or casement windows of classical design. Potentially original to the property, their timber frames are consistent with the historic palette of materials present. Most host a single delicate central mullion, with glazed panes and frames of curved form to match the arched stone window heads of the property. Whilst No 103 hosts some uPVC windows and non-original external doors, these relate to its side and rear elevations within the lower floors of the property, and as such are not readily apparent from public vantage points. No 103 as viewed from the public domain therefore retains its historical architectural coherence, an integral part of which are its windows both in respect of their traditional materials and delicate design. In turn No 103 reinforces the characteristics of the Conservation Area and contributes positively to it.
8. Policy CP8 '*Environment*' of the *Taunton Deane Borough Council Core Strategy 2011-2028* adopted on 11 September 2012 (the '*Core Strategy*') prevents development that would harm the historic environment, unless other factors outweigh this harm. More generally criterion (d) of policy DM1 '*General Requirements*' of the *Core Strategy* establishes that development must not unacceptably harm the character and appearance of its surroundings. Similarly, Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* (the '*1990 Act*') requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Likewise the *National Planning Policy Framework* (the '*Framework*') sets out that great weight should be given to the conservation of designated heritage assets, including Conservation Areas. It further requires

that any harm that would result from development proposed is balanced against the public benefits that would arise.

9. The proposal is to replace the existing windows of No 103 with double-glazed uPVC units. There is, however, no substantive detail before me as to the proposed design of these units; the appellant indicates that they would be of 'similar appearance' to the existing units but there are no detailed drawings or specifications to demonstrate that this would be so. The Council sets out, however, that the curved form of the existing windows would not be reproduced, and the appellant appears not to dispute this point.
10. On this basis the proposal would result in the use of incongruous modern materials in what is presently a property with a clear historic integrity. The proposal would furthermore compromise the appearance of the windows by reducing the fine detailing currently present. This would, in my view, be highly detrimental to the character and appearance of the property and the Conservation Area given that classical timber-framed windows are an important characteristic feature of both. Although I acknowledge that the simultaneous replacement of all units would ensure their consistency, this would not obviate the harm that would arise.
11. I appreciate that it has been stated that this proposal has been made with the objective of improving the living conditions of the occupants of the property in respect of insulation and fuel efficiency.³ However there is no robust evidence before me in respect of the current state of repair of the windows, in respect of the benefits of the uPVC units proposed compared with alternative options for securing the same benefits, or that existing windows result in the property being inherently unsuitable for continued occupation. Moreover these stated benefits are chiefly private rather than public, with reference to paragraph 134 of the Framework.
12. For these reasons the proposal would significantly compromise the currently coherent traditional character of No 103. As the property is visible within and reinforces the largely consistent historic characteristics of the Conservation Area, the proposal would thereby harm the Conservation Area and fail to preserve or enhance its character and appearance. Although the proposal may entail some benefits to its occupants, these benefits have not been robustly justified, and there is no evidence before me to find that the public benefits of the proposal would outweigh the harm that would result. The proposal therefore conflicts with the relevant provisions of policies CP8 and DM1 of the Core Strategy, and with relevant elements of the Framework.

Other Matters

13. The appellant avers that the differential planning requirements for buildings containing one or more flats as opposed to dwellinghouses in respect of replacing windows is unreasonable, which may relate to permitted development

³ There is also mention within the appellant's *Design and Access Statement* supporting the original application of replacement windows providing a means of emergency escape for occupants, however this matter is not subsequently referred to in the appellant's appeal statement, nor is there evidence before me to indicate that the current access arrangements for the building are inadequate.

rights.⁴ However there is no explicit reference within legislation to the replacement of windows, and the Government's *Permitted development rights for householders, Technical Guidance*, dated April 2016, does not specifically establish that uPVC windows are appropriate replacements for existing units in all instances.⁵ Moreover the Council have explained in their appeal statement that they may consider using planning enforcement powers to address breaches of planning control where they consider it expedient to do so. Consequently neither this, nor any other matter, is so significant as to outweigh my finding on the main issue in this case.

Conclusion

14. For the above reasons, and taking all other matters into account, the proposal conflicts with the development plan taken as a whole and with the approach in the Framework. The proposal does not represent sustainable development, and I therefore conclude that the appeal should be dismissed.

Thomas Bristow

INSPECTOR

⁴ Buildings containing one or more flats do not benefit from permitted development rights under Schedule 2, Part 1, Class A of *The Town and Country Planning (General Permitted Development) (England) Order 2015* that otherwise apply to dwellinghouses.

⁵ Page 31 thereof states that '*it may be appropriate to replace existing windows with new uPVC double-glazed windows*', rather than that it is appropriate, given that this is essentially a matter of judgement based on the nature of the development proposed and its particular context.

APPEALS RECEIVED

Site: LAND TO THE SOUTH OF KNAPP LANE, NORTH CURRY

Proposal: Residential development with the erection of 20 No. dwellings (including 5 affordable dwellings) with provisions of public open space, children's play area and allotments on land to the south of Knapp Lane, North Curry

Application number: 24/16/0007

Appeal reference: APP/D3315/W/16/3155452

Enforcement Appeal

RE-START OF PREVIOUS APPEAL

Site: FAIRFIELD STABLES, MOOR LANE, CHURCHINFORD, TAUNTON, TA3 7RW

Alleged breach of planning control: UNAUTHORISED SITING OF MOBILE HOME AND CHAGE OF USE OF STABLE TO RESIDENTIAL OCCUPATION AT FAIRFIELD STABLES, MOOR LANE, CHURCHINFORD

Reference number: E/0196/10/15

Appeal reference: APP/D3315/C/16/3149290
