

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 2 November 2016 at 17:00.

Agenda

- 1 Apologies.
- 2 Minutes of the meeting of the Planning Committee held on 21 September, 12 October 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 14/16/0031 Outline application with some matters reserved for the erection of 35 No. dwellings on land to the South West of Creech Medical Centre, Hyde Lane, Creech St Michael
- 6 09/16/0006 Change of use and conversion from water treatment works to single storey dwelling with extensions to North and West elevations at The Old Waterworks, Chipstable
- 7 10/16/0008 Change of use of land and buildings from equine to commercial dog breeding business to include retention of mobile home for use as temporary workers dwelling at Fairfield Stables, Moor Lane, Churchinford (retention of works already undertaken)
- 8 The Latest Appeals and Decisions received

Bruce Lang
Assistant Chief Executive

02 March 2017

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

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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 Bishop Fox's 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

WEST OF ENGLAND DEVELOPMENTS (TAUNTON) NO2 LTD

Outline application with some matters reserved for the erection of 35 No dwellings on land to the south west of Creech Medical Centre, Hyde Lane, Creech St Michael

Location: LAND SOUTH WEST OF CREECH MEDICAL CENTRE, HYDE
LANE, CREECH ST MICHAEL, TAUNTON TA3 5FA

Grid Reference: 326626.125794 Outline Planning Permission

Recommendation

Recommended decision: Refusal

- 1 The proposed development lies outside settlement limits of Creech St Michael and would add to the existing housing already granted impacting on the scale and character of the village while adversely impacting on landscape views from the canal. The development is considered to be contrary to policies SP1, CP8 and DM2 of the Taunton Deane Core Strategy 2011- 2028 and policy SB1 of the draft Site Allocations and Development Management Plan.
- 2 The proposal does not provide a suitable means for securing the appropriate affordable housing and maintenance of on site leisure facilities, including any Sustainable Urban Drainage scheme for the site and Travel Plan and therefore would be contrary to policies CP4, CP5 and CP6 of the Taunton Deane Core Strategy, and retained policy C4 of the Taunton Deane Local Plan.

Recommended Condition(s) (if applicable)

Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council works in a positive and pro-active way with applicants and looks for solutions to enable the grant of planning permission. However in this case the applicant was unable to satisfy the key policy test and as such the application has been refused.

Proposal

The proposal seeks outline permission for the erection of 35 residential properties on agricultural land of 2.64ha with access through the western boundary hedgerow of land to the east which has permission for 44 units.

The application includes a Design & Access statement, a Flood Risk Assessment, an Ecological Survey and an Affordable Housing Statement as well as a draft unilateral undertaking offering land for a footway.

The application is being reported back to Members following deferral on 31st August for consideration as to whether there was further landscape considerations to mitigate landscape harm and any legal mechanism to allow consideration of the offer of the footpath land.

Site Description

The site is an agricultural field surrounded by hedgerows, other than with the canal to the south, and lies outside the settlement limit of Creech St Michael.

Relevant Planning History

The land to the east was put forward as a possible site under the Site Allocations and Development Management Plan and an outline application for the site for 44 units was submitted in December 2012 ref 14/12/0043 and permission was granted with a legal agreement on 2 December 2013. A detailed reserved matters approval 14/15/0013 was subsequently submitted and approved on 15 June 2015.

An outline application for the current site was submitted in November 2015 and was refused on 18 March 2016.

Consultation Responses

WEST MONKTON PARISH COUNCIL - As the development site will be clearly visible from the canal, the amenity of the canal will be negatively affected. The proposed site is outside the village envelope. The 35 extra houses would create extra car movements along Hyde Lane which is already dangerous and probably beyond capacity.

CREECH ST MICHAEL PARISH COUNCIL - I would advise that Creech St Michael Parish Council considered this planning application at its meeting held on 4th July 2016 and decided to OBJECT to the application.

The PC appreciated that this was a resubmission of application 14/15/0034 that was refused by TDBC BUT with a difference in that the application now offers SCC the land for the "safe route to school footway/cycleway) to West Monkton" in return for Permission being granted.

Despite this the PC remains of the view that Creech St Michael has more than shouldered its fair share of development and that this and further applications won't be supported. The PC feels that SCC should be providing a lit footpath/cycleway along Hyde Lane without the village having to accept more development. It also noted that the site was outside of the Village building boundary and that Hyde Lane is insufficient for the volume and use it has at present let along additional building.

SCC - TRANSPORT DEVELOPMENT GROUP - The proposal relates to an outline application for 35 dwellings in Creech St Michael.

Traffic Impact

The applicant has provided a Transport Assessment to accompany the planning application. The Highway Authority has assessed the document and has the following comments to make.

In terms of the vehicle trip rates the applicant has envisaged that it will be similar to the previous residential developments along Hyde Lane. The applicant has indicated that there would be 25 two way movements in both the AM and PM peaks. The Highway Authority has assessed this information and it's of the opinion that it is highly unlikely that the AM & PM Peak flows would be mirrored. However from our interpretation of the submitted document it is apparent that this trip rate had been previously agreed with the Highway Authority as part of the previous proposals.

Regarding actual traffic impact it is likely that the proposal will result in an increase in vehicle movements although it is unlikely that the proposal would be considered to be severe in terms of Section 4 of the National Planning Policy Framework (NPPF). As a consequence it would be unreasonable to object to this proposal on traffic impact grounds.

It is noted that the applicant goes onto state that in terms of the trip distribution there will be a 50/50 split along Hyde Lane. The Highway Authority believes that although at the time when the previous proposals were decided this may have been a realistic representation of the distribution. However since then the Monkton Heathfield development has seen the vehicular link from Hyde Lane to A38 via Brittons Ash has been severed as such this route cannot be seen as an attractive route. Therefore it is the Highway Authority's opinion that it is more likely that this split will be 60/40 or 70/30 with the majority of the traffic turning right into Creech St Michael.

In conclusion in terms of traffic the proposal will result in an increase in traffic however it is unlikely to be considered severe in the terms of the NPPF. However the Highway Authority believes it is unlikely that the proposed trip rates in the AM and PM peak will be mirrored whilst in terms of the trip distribution the applicant has set this as a 50/50 split. However the Highway Authority believes that is not necessarily would be the case with a 70/30 or 60/40 split being more accurate.

Travel Plan & Highways Contribution

It is noted whilst reviewing the TA that the applicant makes reference to the submission of a Travel Plan. As yet the Travel Plan has not been submitted for consideration. The Highway Authority would ask that this occurs as soon as possible. Please note that this document would need to be secured via a S106 agreement.

As part of the previous submission the Highway Authority required the applicant to provide a contribution in terms of delivering the off-site works for Creech St Michael. As part of this submission the applicant has proposed to provide a strip of land for dedication to link the Motorway Bridge and Hyde Lane Cottages for a pedestrian route. This is considered to be acceptable to the Highway Authority although this

would need to be secured via a legal agreement.

Internal Layout

Turning to the internal layout the Highway Authority has reviewed the submitted information and has the following observations to make.

Firstly the Design and Access Statement indicates that the proposal will derive access onto the adopted highway network via the adjoining development site to the east. The road within the adjoining development which this proposal will connect to is proposed to be a shared surface road. However a shared surface road will no longer be appropriate due to the proposed connection with the proposed development site. Consequently a type 4 bitmac carriageway with footways will now be required. As a consequence the applicant will need to contact the adjoining developer to discuss this matter further.

Where the proposal will tie into the existing carriageway allowances shall be made to resurface the full width of the carriageway where it is disturbed by the extended construction and to overlap each construction layer of the carriageway to a minimum of 300mm. Cores will need to be taken within the existing carriageway to ascertain the depths of the bituminous macadam layers. The applicant should also be made aware that the internal layout of the site will result in the laying out of a private street and as such under Sections 219 to 225 of the Highways Act 1980 it will be subject to the Advance Payments Code (APC).

The applicant should be made aware of the fact that the adjoining development site to the east of the application site is currently not a publicly maintained highway. Therefore the application site at present will not have a direct access to the public highway.

The following comments relate points that need to be addressed prior to any further detailed submission.

Adoptable 2.0m wide footways will be required along the length of the access road in lieu of the 1.8m wide footways proposed. Adoptable 1.0m wide hardened margins will be required at the ends of all turning arms within shared surface roads. The shared surface roads should be constructed in block pavements. Bitumen macadam shared surface roads will not be acceptable. The longitudinal gradients of block paved carriageways should be no slacker than 1:80 to aid surface water drainage.

The applicant will need to confirm whether the length of carriageway serving bays 19-23 to remain within private ownership or will be offered for adoption. If it is to remain private then a suitable cut off point will need to be agreed.

Where private access paths crossover the prospective public highway margins they should be constructed as per typical Somerset County Council specification. Paving slabs will not be permitted. Grass margins should not be laid up to vertical faces. The last 200mm should be of a hardened surface (mowing strip). Grass margins should not taper off into nothing with the last being bitmac.

Somerset County Council as the Highway Authority has a policy whereby only two dwellings can be served via a private drive. Therefore, can the applicant please look

at extending the limits of adoption up to and including plots 5, 9 and 29 with appropriately dimensioned turning heads provided.

If the parking bays serving plots 19-23 are to but up against any form of structure, including plants or any other type of street furniture they should provide a minimum length of 5.5m.

Turning to drainage where works have to be undertaken within or adjoining the public highway a Section 50 licence will be required. These are available from the Streetworks Team on 01823 357521. Where an outfall, drain or pipe will discharge into an existing drain, pipe or watercourse not maintainable by the Highway Authority, written evidence of the consent of the authority or owner responsible for the existing drain will be required with a copy of the consent forwarded to the Highway Authority. Please note that surface water from all private areas, including drives and parking bays, will not be permitted to discharge out onto the prospective public highway. Private interceptor drainage systems must be provided to prevent this from happening.

From reviewing drawing 2156/500 it is noted that it states that an attenuation basin will be maintained by a private management company. Somerset County Council the full details of this company for our records.

Finally, the Design and Access Statement indicates that permeable surfaces will be used as part of the overall surface water drainage strategy. Permeable paved areas should be constructed to fall away from the prospective public highway areas such that if they should fail to perform in the future then this will not result in discharge onto the highway. There should also be a form of suitable buffer between such areas and the highway to ensure that the infiltration doesn't have any detrimental effect upon the structural integrity of the carriageways and footways.

Drainage

The applicant has submitted, as part of the proposal, a drainage strategy which broadly consists of all highway and rooftop being discharged into the Bridgwater and Taunton Canal with a discharge rate restricted to a maximum of 3.0l/s. As this proposal will look to discharge into the canal the acceptability of this drainage proposal will need to be agreed with the organisation that maintains this water way.

Conclusion and Recommendation

Therefore to conclude in traffic impact terms it is unlikely that the proposal will result in a significant increase in traffic on Hyde Lane although the Highway Authority is of the opinion that it is unlikely that the proposal will result in a mirroring of traffic movements in the AM & PM peak periods. In addition we are also of the opinion that the previous understanding of an even 50/50 split is now unlikely with the closure of Hyde Lane instead it is likely to be either a 60/40 or 70/30 split. At present no Travel Plan has been submitted as part of the application although the applicant has indicated that one will be provided.

Turning to the internal layout it is appreciated that this application is for outline permission but the applicant is urged to take account of the above information prior to any further detailed submission if permission were to be granted. Finally in terms

of drainage the applicant will need to speak to gain permission from the organisation that manages the water way which they have proposed to discharge into.

Taking into account the above information the Highway Authority raises no objection to this proposal and if permission were to be granted then the following conditions would need to be attached.

- S106 to include a Travel Plan and secure the dedication for land for the pedestrian link.
- The applicant shall ensure that all vehicles leaving the site are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. In particular (but without prejudice to the foregoing), efficient means shall be installed, maintained and employed for cleaning the wheels of all lorries leaving the site, details of which shall have been agreed in advance in writing by the Local Planning Authority and fully implemented prior to the commencement of development and thereafter maintained until the use of the site discontinues.
- No development shall commence unless a Construction Environmental 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 vehicles per day;
 - Car parking for contractors;
 - Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;
 - 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 plans and sections, indicating as appropriate, the design, layout, levels, gradient, 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 have 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 with the Local Planning Authority.

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 Traffic and Transport Development Group, County Hall, Taunton TA1 4DY or by telephoning 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 his plans checked and specification supplied. The works will be also be inspected by the Superintendence Team and will be signed off upon satisfactory completion.

FURTHER HIGHWAY COMMENTS FOLLOWING DEFERRAL

I have looked at the monies that have been secured, and confirm that some (but not all) have been received.

SCC is currently undertaking a study of what can be delivered within the existing highway limits; however there are concerns that the funds secured may not be sufficient to deliver the optimum scheme in terms of highway safety. As I am sure you are aware, when a contribution is secured it is on a 'best estimate' of cost, at the time the negotiation takes place.

Currently it would appear that there are constraints to delivery, which may necessitate additional crossings of Hyde Lane, which is not ideal for journeys, especially to school.

Should the above development be granted consent, the current proposal would provide additional land to the Highway Authority, which would unlock this footway

scheme and provide a better and safer link than SCC is likely to be able to deliver.

Therefore, whilst the SCC recommendation made in relation to the planning application is unchanged, if TDBC is minded to grant consent for this development, it is recommended that the land is secured for a better footway scheme, however occupations are restricted until this footway has been provided and is available for use.

SCC - RIGHTS OF WAY - I can confirm that there is a public right of way (PROW) recorded on the Definitive Map that runs along the access to the site at the present time (footpath T 10/26). I have attached a plan for your information. We would request improved surfacing of the existing right of way through the access to the development. Associated infrastructure (eg. fencing) may be required. Authorisation for such works must be obtained from SCC Rights of Way Group. I have attached a form that should be completed and returned to Sally Vickery (Rights of Way Officer).

We have no objections to the proposal, but the following should be noted:

The health and safety of the public using the footpath must be taken into consideration during works to carry out the proposed development. Somerset County Council (SCC) has maintenance responsibilities for the surface of the footpath, but only to a standard suitable for pedestrians. SCC will not be responsible for putting right any damage occurring to the surface of the footpath resulting from vehicular use during or after works to carry out the proposal. It should be noted that it is an offence to drive a vehicle along a footpath unless the driver has lawful authority (private rights) to do so.

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

A PROW being made less convenient for continued public use.

- New furniture being needed along a PROW.
- Changes to the surface of a PROW being needed.
- Changes to the existing drainage arrangements associated with the PROW.

If the work involved in carrying out this proposed development would

- make a PROW less convenient for continued public use (or)
- create a hazard to users of a PROW

then a temporary closure order will be necessary and a suitable alternative route must be provided. A temporary closure can be obtained from Sarah Hooper on (01823) 483069.

HOUSING ENABLING - 25% of the new housing should be in the form of affordable homes. The required tenure split is 60% social rented and 40% shared ownership.

The proposed scheme incorporates:

Social Rented - Plots 15, 16, 21, 22, 23 (2 x 1 b flats, 2 x 2b bungalow and 1 x 2b house)

Shared Ownership - Plots 17, 18, 19, 20 (2 x 2b bungalows, 1 x 2b house, 1 x 3b

house)

(NB – This is taken from Drg No 15.37.01D. The affordable housing statement refers to plot 12 instead of plot 21, which does not tie up with the Site Layout Plan. I have taken this to be an error and used the details set out on the Site Layout Plan.)

This scheme was considered as part of the previous planning application (14/15/0034) and is considered broadly acceptable but I would flag up the following points. Potential concerns regarding the service charge of the shared surface areas that serve the bungalows and the parking court arrangement not being ideal owing to this being remote from the properties it serves, particularly the southernmost terraced properties (plots 21, 22 and 23).

It is noted that Code for Sustainable Homes Level 3 is being wound up and we would therefore seek for the properties to be constructed to the relevant standards that supersede this at the date of approval of the planning application.

Additional guidance is available within the Adopted Affordable Housing Supplementary Planning Guidance.

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

WESSEX WATER - The site will be served by separate systems of drainage constructed to current adoptable standards please see Wessex Water's [S104 adoption of new sewer guidance DEV011G](#) for further guidance.

The applicant has indicated that foul water sewers and public water supply mains will connect via the recently approved neighbouring development at Land to South of Hyde Lane Creech St Michael; this is acceptable in principle to Wessex Water.

The applicant has indicated that surface water will be disposed of from site via an on site pond to the neighbouring development pond before discharge to a small length of existing public surface water sewer which outfalls to the canal. The canal trust in their response advise;

“Drainage - We note that the applicant intends to send surface water drainage from this site into attenuation basin for the land adjoining. Surface water then appears to run into the canal via the Wessex Water storm water drain. Wessex Water will need to satisfy themselves that this discharge rate and water quality will not have an adverse impact on the canal.”

Wessex Water are conveying surface water from site to canal; the developer will have sized attenuation storage and sewers to replicate greenfield run off rates. The run off quality will alter depending upon the current land use in relation to the proposed.

We believe, however, that a new outfall from the proposed attenuation pond on this site direct to the canal will help mitigate potential impact of discharging into the canal all at just one single position and simplify proposed arrangements.

The applicant should discuss these matters further with our development engineer and the canal trust if approval is gained and prior to reserved matters.

LEISURE DEVELOPMENT - In accordance with Local Plan Policy C4. Provision for play and active recreation should be made for the residents of these dwellings.

The development proposal comprises 35 dwellings, 32 of which are family sized 2 bed+ dwellings. Both equipped and non-equipped on-site children's play should be provided of 20 square metres per the family sized dwelling at total of 640 square metres. The equipped play area should be a LEAP of a minimum of 400 sq metres suitable for use for children aged up to 8 years. The LEAP should contain at least 5 pieces of play equipment, seating, signage and bin. Play spaces should be centrally located, overlooked to promote natural surveillance and sited away from the main access road. TDBC Open Spaces should be asked to comment on the design and content of the equipped play area.

BIODIVERSITY - See comment made in connection with 14/15/0034

Habitats

The proposal would result in the loss of approximately 1.8 ha of improved grassland and a small section of species poor hedgerow for access. The proposal includes a buffer area of meadow grass and tree planting to the canal, as well as a new attenuation pond. I agree that, during construction, measures should be put in place to avoid potential pollution of the canal.

Bats

There are no trees with bat roosting potential on site. Bats are likely to forage around the hedgerows, trees and canal. I support the recommendation for sensitive lighting to avoid light spill.

Birds

Birds are likely to nest within the hedgerows on site so vegetation should only be removed outside of the bird nesting season

Dormice

Dormice may be present in the hedgerows so clearance of the short section of hedgerow should be undertaken in a precautionary manner. If any dormice or active nests are found then works must stop and the applicant will need to apply to Natural England for a licence. Alternatively a two stage clearance can be undertaken

Water Vole and otter

The canal adjoining the site may be used by water vole and otters. The proposed buffer adjacent to the canal will give increased cover for these animals. The attenuation pond may provide additional habitat for water vole.

Reptiles

If the site is left unmanaged it could be colonised by reptiles. To prevent this the grass should be cut

Suggested Condition for protected species:

The development hereby permitted shall not be commenced until details of a strategy to protect wildlife, has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be based on the advice Richard Green Ecology's Ecological Appraisal dated October 2015 and include:

- Details of protective measures to include method statements to avoid impacts on protected species during all stages of development;
- Details of the timing of works to avoid periods of work when the species could be harmed by disturbance
- Measures for the retention and replacement and enhancement of places of rest for the species
- Details of lighting
- A Landscape and Ecological Management Plan (LEMP) for the site

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

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

Informative Note

1. The condition relating to wildlife requires the submission of information to protect wildlife. The Local Planning Authority will expect to see a detailed method statement clearly stating how wildlife will be protected through the development process

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

ENVIRONMENT AGENCY - The Environment Agency has no objections to the proposed development, but wishes to make the following comments:

The site is located partly within Flood Zones 1 and 2, being at low and medium risk of flooding. The Environment Agency would normally object to applications which do not include a Flood Risk Assessment but are within Flood Zone 2. However, we have considered whether the proposed development would be exposed to an unacceptable flood risk or would increase the risk or extent of flooding to other properties/uses. There is only a small portion of the site that is located within Flood Zone 2, and provided there is an 8m easement from the top of the bank of the canal to the edge of the development, then the development will be located outside of the flood zone. Therefore, it has been concluded that there would be no material exacerbation of flood risk as a consequence of this development.

The Local Planning Authority (LPA) must be satisfied the requirements of the Sequential Test under the National Planning Policy Framework (NPPF) are met.

SCC - FLOOD RISK MANAGER - The development indicates an increase in impermeable areas that will generate an increase in surface water run-off. This has the potential to increase flood risk to the adjacent properties or the highway if not adequately controlled.

The applicant has indicated within the submitted drainage strategy plan, ref:2156/500 dated November 2015, an intention to attenuate surface water run off within a detention basin located in the public open space area to the south of the site, this includes a flow control unit to maintain discharge rates at 5l/s. It is intended that this discharge will flow to the existing attenuation pond located within the adjacent previously developed site. However, the applicant has not provided detailed drainage calculations to support the proposed attenuation basin or to evidence that the existing attenuation pond on the adjacent site has spare capacity to accommodate these additional flows.

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 (6m 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 100 year (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 Resident's 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 NPPF, paragraph 103 of the NPPF and the Technical Guidance to the NPPF (March 2015).

PLANNING POLICY - The application site lies beyond existing settlement limits in open countryside. Hence the proposal is counter to policies in the adopted Taunton Deane Core Strategy policies CP8, SP1 and DM2). Despite being in the open countryside, the application site is located on the edge of the settlement of Creech St Michael and has good levels of access to a range of services and facilities in the village. The site is also well-related to transport infrastructure, which includes an hourly service to Taunton with a journey time of approx. 30 minutes.

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

Following the adoption of the Taunton Deane Core Strategy in September 2012, the Council 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 alterations to the proposed allocations in the minor rural centres. Consultation on the proposed Modifications to the Plan document was 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 three sites in Creech St Michael; Land at Hyde Lane for around 40 dwellings, Land north of the school for around 55 dwellings and land off Hyde Lane for around 44 dwellings. The land at Hyde Lane already benefits from full planning consent for 35 dwellings with an amendment for a further 6 units. The site north of school already benefits from a full planning consent for 55 dwellings. The site off Hyde Lane also already benefits from full planning consent for 44 dwellings. All three sites will deliver 25% affordable housing in line with adopted Core Strategy policy CP4.

The proposal is contrary to the emerging Site Allocations and Development Management Policies Plan. The draft SADMP has already identified enough land in Creech St Michael (around 139 dwellings in total through the three allocations) to meet a significant proportion (over 50%) of the adopted Core Strategy housing requirement for Minor Rural Centres. This would equate to over 12% of growth over the current settlement size.

Although the adopted Core Strategy does not set a ceiling for the number of dwellings to be accommodated within each Minor Rural Centre, the Council anticipated through the SADMP that growth in the Minor Rural Centres should be in the region of 10% without comprising the role and function and the capacity of local infrastructure, services and facilities as well as taking into account the availability of suitable and achievable development sites.

As the Council's housing trajectory demonstrates, even without any allowance for further allocations in the Major and Minor Rural Centres it appears likely that the Core Strategy requirement for 1,500 dwellings in the rural areas would be met. On this basis the Council proposed that only a minimum number of new units for allocation through the SADMP, this will help to ensure that the Core Strategy and the Council's approach to focusing development in Taunton in the first instance is not undermined. As the three allocated sites already benefit from full planning consents there is certainty regarding the likelihood of these sites coming forward.

The latest Strategic Housing Land Availability Assessment (SHLAA) 2015 currently identifies a five year deliverable supply of 6.11 years when planning for a five percent buffer of housing land and 5.34 years when planning for a twenty percent buffer. This figure assumes that the historic shortfall is spread evenly over the remaining years of the Plan period. A further calculation has been incorporated in line with the National Planning Practise Guidance where the shortfall is met upfront.

This calculation identified 5.73 years of housing land with five per cent buffer and 5.01 years supply with a twenty per cent buffer. In all scenarios the Council is able to demonstrate a five year land supply.

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. Therefore, from a planning policy point of view it would not seem preferable to see development come forward on this site as it has not been identified through the Plan making process.

LANDSCAPE - The site is elevated sloping down to the canal. It will be prominent in the landscape when viewed from the canal and railway line to the south. The existing hedge to the east forms a logical boundary to the former development. The new development appears to be jutting out into the open landscape to the west and so appears less well contained.

COMMENTS ON AMENDED PLAN

I do not consider that additional structural planting will make the site more acceptable for housing. This new development pushing west into the open countryside, is not adequately contained and so will harm the rural character of the area.

OPEN SPACES MANAGER - No comment.

THE CANAL & RIVER TRUST (FORMERLY BRITISH WATERWAYS) - After due consideration of the application details, the Canal & River Trust has **no objections** to the proposed development, subject to the imposition of suitably worded conditions.

Drainage

We note that the applicant intends to send surface water drainage from this site into attenuation basin for the land adjoining. Surface water then appears to run into the canal via the Wessex Water storm water drain. Wessex Water will need to satisfy themselves that this discharge rate and water quality will not have an adverse impact on the canal.

Landscaping

Landscaping adjacent to the Canal can affect how a development is perceived from the waterspace and towpath and needs to be designed and located to ensure it has no structural impact on the waterway and that the species are suitable for a waterside location. We note that the proposal includes additional specimen tree planting in close proximity to the canal. We suggest that further details of the landscaping adjacent to the Canal is provided and that the Canal & River Trust is given the opportunity to comment on its suitability due to the possibility of tree roots impacting on the structural integrity of the canal bank. This may be overcome by moving the trees further from the edge, or providing a root barrier. Whilst the canal bank is the responsibility of the applicant, any failure of the bank, or overhanging of

the canal by tree branches may impact on the navigation of the canal. We would request that the existing canalside hedge is retained to provide habitat and screening.

We request that further information is provided prior to determination in order to avoid the need for a condition and to ensure any retained planting is protected during construction work if necessary.

Pollution

During the construction phase of the development there is the possibility of pollutants entering the waterway, either through spillage, surface water run off or wind blow. This will be covered by our third party works process which controls works adjacent to a waterway.

Contamination from car parking areas can also cause pollution and so suitable Oil interceptor traps should be provided to prevent pollution entering into ground or surface water.

Lighting

In order to protect the appearance of the canal and reduce the impact of the development on habitat no lighting should be provided adjacent to the waterway.

Conditions

Details of the proposed lighting for the development including details of foundations shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the agreed details unless otherwise agreed in writing.

Reason: To comply with paragraph 125 of the National Planning Policy Framework as the lighting at waterside developments should be designed to minimise the problems of glare, show consideration for bats and unnecessary light pollution should be avoided by ensuring that the level of luminance is appropriate for the location, is sustainable and efficient, and protect the integrity of the waterway infrastructure.

In addition, if further information is not provided prior to determination we request that the following condition is also imposed.

Notwithstanding the plans submitted prior to the commencement of development, further details of additional or retained landscape screening and tree planting shall be submitted to and agreed in writing by the Local Planning Authority, in conjunction with the Canal & River Trust, and thereafter implemented in accordance with the agreed details unless otherwise agreed in writing.

Reason: Landscaping should enhance the biodiversity of an area and provide screening. The type and location of landscaping also has the potential to impact on the integrity of the waterway and navigational safety.

If the Council is minded to grant planning permission, it is requested that the following informative is attached to the decision notice:

“The applicant/developer is advised to contact the Principal Waterway Engineer on 03030 404040 in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust “Code of Practice for Works affecting the Canal & River Trust”.

Representations Received

Cllr Cavill – I write in support of the above application. I believe that the future safety of the local school children outweighs the impact of this development as it adjoins new development on the edge of Creech St. Michael. A very sustainable site having local school, shop and pharmacy in close proximity.

It is worth noting that the CSM Parish Council was split over its views on this site and that it was only by the Chairman’s casting vote that the council objected to the development.

11 objections on the grounds of

- too many houses,
- outside of settlement limits,
- site access is on a bend and is inadequate,
- increase danger to children,
- Hyde Lane is dangerous,
- safe footpath is a sop to gain approval and should be provided anyway,
- will increase traffic in proximity of school and medical centre,
- detrimental impact on scale and character of the village,
- impact on quality of life,
- should refuse as before and not accept "bribe" of footpath,
- it does not satisfy Local Plan requirements,
- unless amenities and transport links are improved no further applications should be considered for approval,
- unnecessary extension to the village,
- contrary to policies SP1, CP8 and DM2 of Core Strategy and SB1 of Draft SADM plan, and CP4, CP5, CP6 and CP7 of the Core Strategy and C4 of the TDLP.
- School and health centre will not cope with increase,
- increase noise and disturbance,
- increase in pollution from traffic,
- impact on wildlife,
- ground unsuitable.

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,
SD1 - SD 1 TDBC Presumption in Favour of Sustain. Dev,
SP1 - TD CORE STRATEGY SUSTAINABLE DEVELOPMENT LOCATIONS,
CP4 - TD CORE STRATEGY - HOUSING,
CP5 - TD CORE STRATEGY INCUSIVE COMMUNITIES,
CP6 - TD CORE STRATEGY - TRANSPORT AND ACCESSIBILITY,
CP8 - TD CORE STRATEGY- ENVIRONMENT,
DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,
DM2 - TD CORE STRATEGY - DEV,
C4 - TDBCLP - Standards of Provision of Recreational Open Space,
M4 - TDBCLP - Residential Parking Provision,

Local finance considerations

Community Infrastructure Levy

Using house sizes given on drawing no. 15.37.01D this development measures approx. 3730m².

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 £466,000.00. With index linking this increases to approximately £550,000.00.

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

6 Year Payment

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

Determining issues and considerations

The main considerations with the proposal are the policy issues, sustainable location, landscape and biodiversity impact, community issues, affordable housing, drainage, access and highway safety.

Policy

The Planning Policy team have commented that the application site lies beyond existing settlement limits in open countryside. Hence the proposal is counter to policies in the adopted Core Strategy (policies CP8, SP1, DM2). While the application site is close to the settlement boundary of Creech St Michael, a Minor Rural Centre which has good access to a reasonable level of services and facilities, it is in the countryside and beyond the housing allocations identified in the Site Allocations and Development Management Plan (SADMP). It is not a site identified in the SHLAA and the 3 sites identified for housing extension of Creech St Michael in the draft plan have now all had planning permission in detailed form and the increase in housing for Creech St Michael totals 140 dwellings. This would equate to over 12% of growth of the current settlement size.

A plan-led route would be most appropriate way for this site to be assessed, however the application has been submitted and must be considered now and on its own merits in light of its location and policy guidance. The SADMP is a strong material consideration until the time of adoption. The legal test here is whether there are any material considerations that outweigh the development plan.

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

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

In this instance it is considered that the development plan is not silent as it recognises Creech St Michael as a sustainable location for development. The Site Allocations and Development Management Plan (SADMP) is also well advanced and is awaiting the Inspector's report and all the identified sites to be allocated for residential development in the village have received planning permission. The site lies outside of that identified in policy SB1 of the SADMP. There is a five year land supply and the Core Strategy policy SP1 indicates allocation of small scale sites and ideally on sites within the development boundary. However the site lies outside of existing and proposed settlement limits and so is contrary to the development plan and draft Site Allocations and Development Management Plan which must be accorded significant weight.

The following sections consider the impacts of the proposed development.

Sustainable Development and Accessibility

The settlement of Creech St Michael is identified in the Core Strategy as a sustainable location for development under policy SP1 and this states that at least 250 dwellings should be provided over 5 settlements. The proposal is for 35 units and would add to the 140 dwellings already granted which meets over 50% of the adopted Core Strategy housing requirement for Minor Rural Centres. There are existing local facilities within the village and the school and doctors are within easy walking distance within 400m and there is a regular bus service to Taunton. In addition there are local footpath links and access to the cycle route along the canal. Access to the secondary school is possible via Hyde Lane but is considered dangerous in its current state and the Highway Authority is seeking a contribution to secure improvements in light of other contributions received from the other sites developed. Other than this the site is generally considered accessible and sustainable.

Landscape and Biodiversity Impact

The site is a sloping pasture field bounded by hedgerows to the west, east and north and lies between an approved residential development and doctor's surgery to the east and fields to the west. The site will be visible from the residential properties to the east and north and it will be prominent in the landscape when viewed from the canal and the railway line to the south. The existing hedge to the east forms a logical boundary to the former development. This new development appears to be jutting out into the open landscape to the west and so appears less contained particularly from views from the south across the canal. The land falls away to the south and while the development of the site has been designed to restrict development to the northern part of the field it would be visible in short and in long distance views and it is not considered that this can be suitably mitigated by landscape planting. The development would therefore extend urbanisation into the countryside in a prominent location contrary to policy.

There is scope to enhance the existing planting to the west and south, however this would have limited impact in screening new housing. Planting would also be required to landscape the attenuation pond and the Canal and Rivers Trust consider there needs to be control over any planting close canal as well as control over lighting in proximity to the canal. A condition to address this could be imposed and is considered appropriate if other matters were acceptable.

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

Community Issues

The Community Leisure Officer requires provision for adequate play and recreation provision in line with retained policy C4 of the Taunton Deane Local Plan. In light of assessing the illustrative layout it is considered that such facilities should partly be

provided on site and this could be conditioned as part of any approval. A play area can be provided on site and the provision for outdoor active recreation will need to be sought through CIL towards facilities off site. The maintenance of any on site play area will need to be secured through a Section 106 agreement.

Affordable Housing

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

Drainage

A Flood Risk Assessment has been submitted with this application which is located in flood zone 1 which is an area of least risk. The site lies out of the flood risk zone so meets the sequential test. Proposals are set out for the disposal of foul and surface water drainage. The foul drainage will link to the existing sewer system directly via the site to the east. Wessex Water has confirmed the existing treatment works has capacity and a condition to ensure an appropriate drainage strategy is recommended by Wessex Water and the Lead Flood Authority.

With regard to surface water drainage a Sustainable Urban Drainage scheme is proposed. This utilises an attenuation pond which will feed into the attenuation pond previously approved and then links to Wessex Water storm sewers but with additional on site infiltration and storage capacity. The Lead Flood Authority and Environment Agency has raised no objection to this scheme and the former recommends a condition to ensure an adequate strategy is provided on site.

Access and Highway Safety

The access to the site lies off an existing adopted highway where there is adequate visibility in both directions given the road speed limit. The applicant is proposing a footpath link from the site to the existing residential development on Hyde Lane. The Highway Authority is satisfied with access and capacity of the road to take the additional traffic generated.

A previous concern and potential objection was in terms of pedestrian safety over the stretch of road between the M5 bridge and the junction with Hyde Lane Cottages to the west where the road will be closed and a footpath cycle link to the school provided. Highway safety concerns have also been raised by the Parish Council and a number of objectors. The applicant is proposing a unilateral undertaking to provide land to allow for the highway improvements. The Highway Authority recommend contributions from this site to address the highway safety concerns or the unilateral undertaking offered. Previously contributions have been sought under Section 106 agreements to secure the recommended highway improvements in terms of a footway for Hyde Lane towards the secondary school. Such provision was provided for prior to the implementation of the Community Infrastructure Levy via the three allocated sites in the draft plan. The footway is considered important to the Highway

Authority who would accept the unilateral undertaking offered. Following legal advice the interpretation of the amended Regulation 123 list would allow for development that is not strategic transport improvement associated with the growth of Taunton or Wellington. It is, therefore, considered that the footpath is not a CIL item in terms of the Regulations as the site is outside a Minor Rural Centre.

The contribution previously sought for improvements was £1000 per dwelling and so over £100,000 would be collected through existing legal agreements to contribute to the Highway Authority's request. This would provide potential improvements to safety along the road to the west. As part of the current proposal the applicant is attempting to offset the policy objection to the development by offering land for the necessary highway improvement works previously sought by the Highway Authority. While the offer of land would be beneficial and is not objected to by the Highway Authority, it would not seem to be reasonable or necessary to make this development acceptable in planning terms in relation to the other developments granted and could be viewed as an unjustifiable obligation for a development that is considered contrary to policy and otherwise unacceptable.

A Travel Plan is also a requirement of the Highway Authority and one has yet to be submitted and agreed and this would need to be agreed by the Highway Authority and also need to be secured through the legal agreement if the development was otherwise acceptable.

The Highway Authority recommend conditions, however it is considered that a number of these are either unnecessary or unenforceable and consequently if the proposal is considered acceptable, conditions could be imposed in respect of visibility, highway details, parking, turning, drainage and footpath/cycle links.

Other Issues

The receipt of the New Homes Bonus is noted, as is the likely CIL contribution, however it is considered that such matters will always be the case with new housing schemes and the weight attributable is therefore considered limited.

Conclusion

The proposal has been considered against the relevant development plan policies in the Core Strategy as well as the principles identified in the NPPF. The application is not genuinely plan led in that it is contrary to the well advanced Site Allocations and Development Management Plan and the adopted Core Strategy and there is an identified 5 year housing supply. While it would deliver 35 additional homes and provide community benefits in terms of affordable homes and land for highway works, the latter is considered unreasonable in relation to the development and the development would have an adverse landscape impact beyond an existing clearly defined hedgeline projecting into the countryside. It is considered that the landscape impact of the new housing here in a village which has already taken a considerable increase in housing as part of the Local Plan proposal would not be warranted given local housing need in this rural location and therefore planning permission is recommended for refusal.

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

09/16/0006

MR T & MRS L MORROW

Change of use and conversion from water treatment works to single storey dwelling with extensions to north and west elevations at The Old Waterworks, Chipstable

Location: THE OLD WATERWORKS, CHIPSTABLE ROAD, CHIPSTABLE,
TAUNTON, SOMERSET, TA4 2PZ

Grid Reference: 304412.127273 Full Planning Permission

Recommendation

Recommended decision: Refusal

- 1 The proposed development, by virtue of the overall size and scale of the extension required in order to facilitate the conversion of the property into residential use, demonstrates that the building is not of a size suitable for conversion without significant extension. The proposal is therefore contrary to Policy DM2.7(a) of the Taunton Deane Core Strategy.
- 2 Although alternate uses for the building have been considered in accordance with the sequential test requirements of Policy DM2.7(b), there are considered to be no exceptional circumstances to warrant the conversion of the building to a residential use outside settlement limits. In particular, the building is of no specific historic or architectural merit and there is no public benefit to be gained to allow for a departure from policy. The proposal is therefore contrary to Policy DM2.7(b) of the Taunton Deane Core Strategy.

Recommended Conditions (if applicable)

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. However in this case the applicant was unable to satisfy the key policy test and as such the application has been refused.

Proposal

Permission is sought for a change of use and conversion of a former water treatment works building to a single-storey dwelling with extensions to the north and west elevations.

The proposal represents a re-submission of a previously refused scheme, refused under application ref. 09/16/0002. It is now proposed to incorporate a smaller

extension to the property, whereby the size of the extension has been reduced from 93% to 63%. It is also proposed to re-locate the proposed cycle store (4 spaces) to the rear of the building and to retain a landscaped bank to the front (in an effort to try and overcome concerns raised by the Landscape Officer as part of the previous submission). The septic tank is proposed to run parallel to the road behind the existing landscaped bank.

It is proposed to create one new disabled parking space to the front of the property, adjacent to an existing parking space.

Site Description

The application site concerns a former single-storey water authority building, situated on a hill toward the north of Chipstable; approximately 12 miles west of Taunton. The property itself is constructed of block and render with a pitched slate roof and is set into a small triangular curtilage of land. Access to the site is derived from Chipstable Road to the south. There is an existing landscaped bank running along the western edge of the site adjacent to the road. The application site is situated outside defined settlement limits.

Relevant Planning History

09/16/0002 – Change of use and conversion from water treatment works to a single storey dwelling, with extensions to the north and west elevations and a detached cycle store to the north. Permission refused 11th April 2016:

The above application for a similar scheme was subsequently refused, as the proposal failed to meet the requirements of Policy DM2 of the Taunton Deane Core Strategy. In particular, significant extension works were required in order to convert the building and there were no exceptional circumstances (ie. buildings of historical or architectural merit) to warrant the creation of a new dwelling outside settlement limits. The works necessary to convert the building were also considered to have a domesticating and urbanising effect in an open countryside location, to the detriment of the landscape setting and rural character of the area.

Pre-application advice was provided following the refusal of the application (ref. 09/16/0005/ENQ). The advice provided confirmed that there is no specific written guidance on what constitutes a 'significant' extension but stated that anything over or above 30% of the original size of the property would be considered 'significant' in planning terms. It was also confirmed that 'exceptional circumstances' would be if the property were listed or a designated heritage asset, where the need to retain such a building would outweigh other matters. Advice in relation to a proposal which sought a 64% extension was provided, where it was confirmed that an extension of this size would still be considered too large to comply with policy. It was confirmed that a re-submission would likely be refused as it would be contrary to Policy DM2.

Consultation Responses

CHIPSTABLE PARISH COUNCIL - Supports the granting of permission:

- Slightly less development.
- Off-road parking for two cars.

SCC - TRANSPORT DEVELOPMENT GROUP - The application was originally referred to standing advice. However, the Highways Authority withdrew this response once it was recognised that the application is a re-submission of a previously refused scheme. No comments have been received to date.

ENVIRONMENT AGENCY - No response received.

DRAINAGE ENGINEER - This application falls below the requirements for LLFA statutory consultation.

LANDSCAPE - Comments as follows:

Still consider the plot to be too small to accommodate the extension but concede that the removal of the cycle store from the application is an improvement.

It is noted that the majority of the existing roadside embankment will now remain intact so this is also a positive change.

Representations Received

A site notice was erected 17th August 2016 and neighbours notified 16th August 2016.

One letter of support has been received, summarised as follows:

- Existing small / boring building would benefit from becoming a dwelling.
- The building is so small it needs making larger with a front porch and extension to make it look like a house.
- Development is part of Chipstable and is currently an eyesore.

One neutral letter was received, where there was no objection to the principle of the change of use, provided it would not set a precedent for further extended development of the village in this direction, which would affect the character of the rural landscape / village as well as the amenity of neighbours. Other comments raised in the letter are summarised as follows:

- No justification for the development.
- The site is very small and the extension, even without the cycle store, would occupy a large proportion of it.
- Proposal would set precedent for future development of adjacent land.
- The application site is part of the Brendon Fringe LCA (Local Character Area), where the tranquil rural character and intimate mix of woodland, farmland, wetland and small scale development should be preserved.

- No new windows should be inserted that would give rise to overlooking of adjacent neighbours.

A petition of support, signed by 37 local residents has been received, their comments summarised as follows:

- Existing building situated within a prominent position on entry into the village, which has been vacant for many years. An improved re-use of the building would be supported.
- The use as an attractive dwelling would enhance the appearance of the area.
- Applicants have been reasonable in amending the application in a reasonable way to meet the Council's objections.
- Views of local people should be given significant weight in the determination of the application.

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.

CP1 - Climate change,
CP8 - Environment,
DM1 - General requirements,
DM2 - Development in the countryside,
SP1 - Sustainable development locations,

Local finance considerations

Community Infrastructure Levy

The creation of a new dwelling is CIL liable. The proposed dwelling measures approximately 69.3m².

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 the development is approximately £8,500.00. With index linking this increases to approximately £10,500.00.

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	£1,079
Somerset County Council	£270

6 Year Payment

Taunton Deane Borough	£6,474
Somerset County Council	£1,619

Determining issues and considerations

The main issues in the consideration of this application are the principle of development, impact upon visual amenity / landscape, residential amenity and highways & parking.

Principle of development

The principle of development was previously assessed under application ref. 09/16/0002 and was subsequently refused on these grounds, as it was considered to be in direct conflict with Policy DM2 of the Taunton Deane Core Strategy. In assessing the current application, it must therefore now be considered whether the proposed development and/or policy context has changed substantially to overcome the previous reason(s) for refusal.

The application site is situated outside settlement limits, where Policy SP1 of the adopted Taunton Deane Core Strategy, identifies the proposed development site as 'open countryside'. Accordingly, development in such locations is not usually supported due to the lack of accessible services and increased reliance on the private motor vehicle. Nevertheless, Policy DM2 does allow for the conversion of existing buildings and is considered to be the most relevant policy consideration in this instance. DM2.7 is split into two parts where (a) deals with conversions and alterations to existing buildings and (b) sets out the sequential test for a change of use.

DM2.7(a) allows for conversions provided that extant buildings are of a "permanent and substantial construction" and are of a "size suitable for conversion without major rebuilding or significant alteration or extension". Having visited the site, it is evident that the building is of a permanent and substantial construction. Additionally, it is recognised that the overall size and scale of the property is rather small, whereby some degree of extension and alteration works would be required in order to facilitate an appropriate conversion of the building. Following the previous refusal under application ref. 09/16/0002, the size of the proposed extension has been reduced, with the submitted supporting statement confirming a footprint reduction of the extension from 93% to 63%. Consideration therefore needs to be given as to

whether this reduction in size is suitable to overcome the previous reason for refusal, in accordance with the requirements of Policy DM2.7(a).

There is no specific written guidance on what constitutes a 'significant' extension to a building but best practice indicates that anything above 30% of the original size of the property would be considered 'significant' in planning terms. This advice was provided as part of pre-application advice (ref. 09/16/0005/ENQ) following refusal of the previous scheme. On this basis, a proposed extension of 63% would still be considered too large within the context of Policy DM2. Having assessed the existing and proposed floor plans, it is noted that the existing floor area of the property is approximately 28m², with the proposed extension falling just under 24m² in size. As such, the overall size of the extension is actually considered to be greater than the 63% footprint stated in the supporting information and is considered to be more indicative of an extension which is nearly double the size of the existing building. Furthermore, it is evident from the accompanying elevation drawings, that the appearance of the proposed extension would make the building appear significantly larger than existing. In this respect, it is fair to say that the extension is 'significant' in size and it is evident that the building is not of a size suitable for conversion without significant extension works. The proposal is therefore contrary to the requirements of Policy DM2.7(a) and fails to overcome the previous reason for refusal.

In terms of DM2.7(b) the policy allows for certain uses to be supported following a sequential approach, provided the proposal is in compliance with DM2.7(a). Although it has been established that the proposal conflicts with the policy requirements of part (a), it is still deemed pertinent to assess the proposals compliance with part (b) of the policy. The sequential approach for alternate uses was previously assessed and agreed under the previous application (ref. 09/16/0002). However, Policy DM2 only allows for the conversion to residential use in 'exceptional circumstances', where the conversion to residential uses should only be allowed if the building is of particular architectural or historic value worthy of retention. In this respect, the former water authority building is considered to be neither of these and is again in conflict with the requirements of Policy DM2.7(b).

Local support for the proposal has been noted and whilst it is understood that an effective re-use and renovation of the site would be desirable, it is evident that the proposal fails to accord with the policy requirements of DM2 of the Taunton Deane Core Strategy. Whilst it is recognised that the proposal has been amended following the determination of application ref. 09/16/0002, the application has failed to overcome the previous reasons for refusal whereby the principle of development is still considered to be unacceptable. No grounds have been given as to why the Local Planning Authority should allow for a departure from this policy. As such, it is recommended that permission be refused on these grounds.

Visual amenity / landscape

The application has been amended to overcome previous design, visual and landscape concerns raised under the previous application (ref. 09/16/0002). Namely, the proposed cycle storage has been moved to the rear of the building, the proposal would retain an existing landscaped bank to the front and the size of the extension has been reduced to provide a larger curtilage area. Whilst the Landscape Officer notes that the plot is still rather small to accommodate an extension of the size

proposed, the changes made to the application are largely positive. As such, the development is not considered to give rise to any significant landscape impact to warrant refusal in this respect.

Residential amenity

The nearest residential property is Glebe Cottage to the south of the site at approximately 41m distance. Due to the fact that no windows would be sited on the south elevation, there would be no potential for overlooking or loss of privacy to this property or to other properties further away such as The Old Rectory, The Grange and The Old Post Office. Similarly the development would not give rise to any issues in relation to overbearing or loss of light.

The overall size of the outside curtilage / amenity area would be limited given the size of extension proposed. However, this is not considered a significant issue to warrant refusal and the development is therefore considered to be acceptable on residential amenity grounds.

Highways and parking

At the time of writing, no response has been received from the Local Highways Authority in respect of this application, however, it is noted that aside from the relocation of the proposed cycle storage area, the proposal is largely the same as the previous application in respect of highways and parking issues. The proposed level of parking provision is deemed appropriate for a development of this scale and the creation of one new dwelling is not expected to give rise to a significant increase in traffic that would cause harm to highway safety.

Conclusion

Principally, the proposal has failed to overcome the previous reason(s) for refusal following the determination of application ref. 09/16/0002. The proposed development, due to its proposed size and scale in relation to the existing building is not acceptable in principle, as it does not meet the requirements set out in Policy DM2.7(a), which does not allow for significant extensions to existing buildings to facilitate a change of use. Whilst it is accepted that the applicants have correctly followed the sequential test set out in Policy DM2.7(b) the application is not in compliance with Policy DM2.7(a) and there are considered to be no 'exceptional circumstances' to warrant a residential use outside settlement limits.

Fundamentally, it is evident that the principle of development is unacceptable as the proposal is contrary to the requirements of Policy DM2 of the Taunton Deane Core Strategy. No grounds have been given as to why the Local Planning Authority should allow for a departure from this policy and it is therefore recommended permission be refused.

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

Contact Officer: James Culshaw

10/16/0008

MS S LOCK

Change of use of land and buildings from equine to commercial dog breeding business to include retention of mobile home for use as temporary workers dwelling at Fairfield Stables, Moor Lane, Churchinford (retention of works already undertaken)

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

Grid Reference: 321927.112356

Retention of Building/Works etc.

Recommendation

Recommended decision: Refusal

- 1 The proposed dog breeding business, by virtue of its siting within close proximity of residential properties, would cause harm to the residential amenity of neighbouring occupiers by way of noise. In particular, it is considered that the identified 'adverse' noise impact would give rise to significant disturbance and nuisance to the occupiers of Fairhouse Farm. The proposal is therefore contrary to Policy DM1 of the Taunton Deane Core Strategy and Paragraph 123 of the National Planning Policy Framework.
- 2 The proposed dog breeding business would give rise to increased levels of noise disturbance within an area of the Blackdown Hills AONB. In particular, it is considered that the proposal fails to enhance or preserve the tranquillity of the area, which would cause harm to the special recreational and amenity value of this designated asset. The proposal is therefore contrary to Policies CP8 and DM1 of the Taunton Deane Core Strategy, Policy PD5/A of the Blackdown Hills AONB Management Plan and Paragraph 123 of the National Planning Policy Framework.
- 3 No evidence has been submitted to accompany the application to satisfy the requirements for a temporary workers dwelling to be situated on site. Fundamentally, as the proposed dog breeding business is considered to be unacceptable on noise grounds, the functional need for residential occupation of the site has not been satisfied. The proposal is therefore contrary to Policy DM2 of the Taunton Deane Core Strategy and emerging Policy H1b of the Taunton Deane Site Allocations and Development Management Policies.

Recommended Conditions (if applicable)

Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has looked for solutions to enable the grant of planning permission. However in this case the applicant was unable to satisfy the key policy test and as such the application has been refused.

Proposal

Retrospective permission is sought for a change of use of land from equine to a commercial dog breeding business use. The application 'red-line' has also been amended to include an unauthorised mobile home on site. This would regularise an existing situation, where it is assumed some degree of residential occupation would be required to operate the business.

All dogs would be housed in the former timber stable building, which would be altered internally to create 5no. individual kennels. Outdoor run areas would be created to the front of each kennel using temporary (moveable) fencing panels.

It is also proposed to create an isolation kennel in the existing block stable building, which is situated across the yard from the timber kennels, allowing the necessary separation of animals if required.

All dogs would be exercised daily in the existing exercise areas, formally used as the riding area and woodchip turn out area.

The breeding element of the business would involve 10 bitches and two dogs, with 10 litters of puppies being produced each year. The proposed breeds are Golden Retrievers, German Shepherds and Cairn Terriers.

An acoustic barrier is proposed along the southern and eastern boundaries of the kennel run (as per the acoustic report) but this is not indicated on any plan.

Site Description

The application site concerns Fairfield Stables; an existing equestrian site, situated approximately 0.3m to the east of the village of Churchinford. The site is accessible via Moor Lane to the south.

The site is situated in a reasonably remote and rural location, with agricultural land surrounding the majority of the site. However, there is a residential property, Fairhouse Farm, situated to the south of the site on the opposite side of the road. A sewage treatment works is situated to the west of the site.

The site consists of two main stable buildings to the south-western corner of the site, with an unauthorised mobile home situated in-between. There are two exercise areas; one situated to the south-east of the southern most stable building and one

area situated to the east of the access point.

The barns are reasonably well screened by existing trees and other vegetation planting situated along the southern boundary of the site.

Relevant Planning History

E/0196/10/15 – Enforcement application relating to the unauthorised mobile home. Appeal decision ref. APP/D3315/C/16/3149290 is still ongoing but has been held in abeyance following the outcome of this application.

10/14/0025 - Permission for a new detached dwelling was sought in association with the equestrian business. However, the financial information submitted was insufficient to demonstrate that the business was financially viable and was refused on these grounds 2nd October 2014. An appeal decision (ref. APP/D3315/A/14/2228121) was subsequently dismissed 19th February 2015.

10/08/0026 – Change of use of land for the provision of a temporary occupational dwelling in the form of a mobile home for a period of three years. Permission was refused 27th November 2008, as the development was considered to be visually intrusive within the AONB and would result in increased traffic generation to a site that would have been car dependant. However, permission was subsequently allowed at appeal (ref. APP/D3315/A/09/2105152) 3rd September 2009.

Consultation Responses

CHURCHSTANTON PARISH COUNCIL - Objects to the granting of permission:

The noise level is unacceptable in a residential area, The Council have already received complaints from householders who live more than 600m from the site.

For 10 breeding bitches, resident on-site supervision is required. No business plan has been supplied to justify residential accommodation on this agricultural site.

The Council objects to the urbanisation of an agricultural field.

SCC - TRANSPORT DEVELOPMENT GROUP - Refer to standing advice. Standing advice requires:

Sufficient parking and turning space should be provided.

PLANNING ENFORCEMENT - No response received.

[Case Officer Note: There have been numerous verbal discussions relating to the unauthorised mobile home, which was agreed could be considered as part of this application].

BLACKDOWN HILLS AONB SERVICE - Applications for commercial development in the AONB do require careful consideration to ensure that they contribute to conserving and enhancing the natural beauty of the area and are not detrimental to the AONB's special qualities. Particular considerations for this proposal in relation to conserving and enhancing the AONB include:

- Impact on the tranquillity of the AONB - The AONB management plan encourages quiet enjoyment of the AONB, and supports the restriction of developments and activities that detract from the tranquillity of the Blackdown Hills. Experience from elsewhere in the AONB suggests that despite best intentions groups of dogs do bark, whine and howl, including when able to see, smell or hear people and other dogs nearby. In this location, as well as affecting nearby neighbours, this would affect those using the lanes around the village and the wider tranquillity of the AONB.
- Impact on local character – through adding to the equestrian structures with the development of runs, exercise areas and associated paraphernalia.

It is also considered that the residential use of this site should be resolved prior to any further usage or development.

LANDSCAPE - Comments as follows:

The change of use will not result in any further landscape impact.

ENVIRONMENTAL HEALTH - NOISE & POLLUTION -

Original comments received prior to the submission of noise report:

It is difficult to comment on noise issues regarding the above as a noise report has not been provided by the applicant.

However it should be noted that this department has received complaints regarding dog barking from Fairfield Stables and we have concerns about noise of this nature causing disturbance to neighbouring properties in the future. From the application it can be seen that there are no barriers to reduce noise between the open kennels/exercise areas and neighbouring properties. In addition to this the construction materials of the kennels are not effective for minimising noise.

We would also expect that there will be an increase of people/vehicles entering the site to view and purchase puppies. This disruption may cause increased noise from the dogs and disturbance to neighbouring properties.

Comments received following submission of noise report:

The report includes a description of the site and the proposed business. It notes that the kennels are to be sited in an existing stable block and so are likely to be less well sealed against noise breakout than purpose built kennels, which confirms my previous comments. The report also proposes that an acoustic barrier is built along the southern and eastern sides of the kennel/open run area, and the calculation of the noise impact does assume that this barrier is in place.

To assess the potential impact of noise from the kennels Soundguard Acoustics used noise measurement data that they had from monitoring at another kennels, and also data from a guide on kennel design. Measurements of background noise levels were taken at the kennel site.

The report reviews the different standards and guidance that are available to assess the impact of noise and notes that there are no specific guidance or criteria for assessing noise from dog barking.

There is an assessment using British Standard BS4142:2014, which estimates the rated noise level of the dog barking at nearby houses and compares it to the existing background level. This found that the rated level could exceed the background level by 9dB during the daytime. BS4142 suggests that a difference of +5dB or more is likely to be an indication of an adverse impact; and that an exceedence of 10dB or more is likely to be an indication of a significant adverse impact (depending on context).

It is noted by the consultant that the guidance says that it should not be used for assessing noise from domestic animals, which would imply that it should not be used for assessing dog barking in kennels. However, as there is no specific guidance for dog barking it is not uncommon for this standard to be used to give an indication of any potential impact in a variety of circumstances.

When considering planning applications for commercial developments where the BS4142 standard would apply (for example, noise from fixed machinery at a factory), Environmental Health would normally recommend that the level of noise from any new development should not exceed the background level, although, depending on the location and context an exceedence of 3dB has been agreed.

The report does say that “active dogs are considered during daytime hours, most notably at feeding time, and during exercise or play”. It also says that noise impact could be minimised by exercising dogs in land to the north of the site and that the owners will “avoid concentrated exercise area at the site”. However, the plans show the exercise areas to the south east of the site, close to residential properties, the lane and the entrance to the site. There is no mention of a noise barrier around the exercise areas which, as the report says, are likely to be where dogs are active, and so potentially noisy. The report does not include an assessment of noise from the exercise areas shown on the plan.

The report also quotes sections from the National Planning Policy Framework (NPPF) which says that planning policies and decisions should aim to “mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development.” At this site the proposed kennels are located close to the lane and the open runs are adjacent to the lane, rather than on the far side of the kennels. The kennel building is not purpose built and is not likely to give good level of noise attenuation. The noise report recommends that the exercise areas should be on land to the north of the site, however, the plans show them close to neighbour properties and the lane.

The noise assessment using BS4142 concludes that the development will not lead to “significant adverse impacts”, but only “adverse impact”. This assessment does rely on a 3m high noise barrier, does not include the exercise areas and even then

it is still only 1dB from significant impact (although it is recognised that this assessment method is not appropriate for assessing dog barking).

As the report has stated, there are no criteria for assessing the impact of noise from dog barking at kennel. It can be hard to estimate the level of noise as it can vary depending on the individual dogs, the number on site, the location and layout of the kennels, exercise areas and acoustic barriers and the management of the premises. Any quantitative assessment using BS4142 should only be used to give an indication of potential noise. It is likely that the noise from dog barking will be audible at nearby premises, but it is hard to make an objective assessment of the potential impact.

ECONOMIC DEVELOPMENT - No response received.

Representations Received

A site notice was erected 10th May 2016 and neighbours notified 21st April 2016.

A total of four letters of objection have been received, their comments summarised as follows:

Noise impact

- Application site outside settlements limits and within AONB. The development, by virtue of increased noise (barking) fails to conserve or enhance the tranquillity of the AONB.
- Noise impact would cause unacceptable harm to the residential amenity of neighbours.
- Unacceptable noise levels within area, are exacerbated when walkers walk past the site along the lane.
- The location fails to help mitigate against potential noise impacts. Should be situated in an isolated location or on a site where the noise and traffic would not have an adverse effect on residential amenity (ie. beside a motorway/industrial site).
- Any proposed expansion of the business would increase noise impact.
- Isolation kennel situated even closer to Fairfield Farm (neighbouring property) increasing noise impact.

Business use / functional need for dwelling

- The intent of the applicant seems to be to develop a business to establish an 'essential functional need' that will allow residential permission on the site. Whilst this is understandable it is not a reason to grant permission.
- A business plan to support the residential development has not been submitted.
- Concern as to whether 10 litters of puppies would constitute a viable

business.

Other

- It is proposed to dispose of runoff from the kennels via a soakaway – this should be treated as trade effluent, not as surface water.
- No sewer connection available.
- No consideration for impact upon local wildlife.
- Increased traffic.

Further neighbour consultation was conducted 10th August 2016 following the submission of an acoustic report. Two objection letters have been received, their comments summarised as follows:

Noise comments in relation to acoustic report

- Noise impact still too severe by virtue of the developments proximity of neighbours / Moor Lane (which is popular walking route).
- The (noise) assessment and its suggestions to mitigate the noise levels are unconvincing and would not be able to coexist with neighbours due to increased amenity issues.
- Report makes clear inherent limitations to this assessment – not least due to the lack of clear published guidance.
- Report does not take into account amenity of Little Fayrefield (directly behind Fairhouse Farm).
- Report does not specify which dogs and how many were present on site during the assessment.
- The bigger dogs are most frequently put in the large exercise area, away from the noise monitoring equipment.
- Existing kennels are not purpose built for dog breeding and fail to mitigate noise issues.
- Increase in visitors (to view and buy puppies) will inevitably lead to increased noise.
- Excessive noise levels are currently experienced from site, which would be made worse with any expansion of the business.
- The effectiveness of the proposed acoustic barrier fencing in reducing the noise nuisance is questionable.

Other

- Business is already operational without planning consent.
- This sort of 'puppy farm' is considered very bad practice (possibly illegal) and the RSPCA considers that such businesses should not be allowed to operate.

- Concerns about welfare of dogs (breeding without licence).
- It would not be possible to screen the large exercise areas closest to neighbours.
- The LPA should consider all other relevant legislation in relation to such businesses. *[Case Officer Note: The LPA can only consider relevant planning legislation in this respect].*

A further 9 letters of support were received 27th September 2016, their comments summarised as follows:

- Applicant has always worked with animals, which are well cared for.
- Applicant has lived and run a successful business at Fairfield Stables for many years. She should be allowed to continue to live on site.
- When walking toward the site dogs do not bark. For the few seconds spent walking past the site several of the dogs do bark but stop once passed.
- Applicant reassures dogs to be quiet when needed.
- Kennels themselves clean, tidy and well maintained with good welfare standards.
- Applicant needs to reside on site to care for the dogs.
- Site is situated a sufficient distance from local residents and causes no disruption.

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.

SP1 - Sustainable development locations,
 CP8 - Environment,
 DM1 - General requirements,
 DM2 - Development in the countryside,
 H1B - Temporary rural workers dwellings,
 PD 5/A - Blackdown Hills AONB Management Plan

Local finance considerations

Community Infrastructure Levy

The development would not be liable for any Community Infrastructure Levy (CIL) payments in this instance.

Determining issues and considerations

The application is, in effect, seeking planning consent for two separate aspects; a dog breeding business and a workers dwelling. It is therefore considered practical to assess the application in two parts. First, consideration needs to be given as to whether the principle of establishing a dog breeding business is acceptable, taking into account the potential issues associated with such a business. Secondly, it must be established whether there is a 'functional need' for a workers dwelling to be situated on site to operate the business.

1. COMMERCIAL DOG BREEDING BUSINESS

In relation to the first matter, the main issues for consideration in this application include the principle of development, noise impacts in relation to residential amenity and setting within AONB, impact upon visual amenity / landscape and impact upon highways.

Principle of development

It is proposed to utilise and convert existing stable buildings and associated land previously in use for equestrian purposes, for use as a commercial dog breeding business. The application site itself is situated outside defined settlement limits, which, in accordance with Policy SP1 of the Taunton Deane Core Strategy (TDCS), is considered to be development within the 'open countryside'. The conversion of existing buildings to a more beneficial business use is considered to accord with the general aspirations of TDCS Policy DM2 and the principle of developing a commercial dog breeding business in a predominantly rural and remote location is considered to be acceptable in this respect.

Noise – Residential amenity

The development would utilise existing buildings and land previously in use for an equestrian business. As such, the development would not give rise to any increased residential amenity impact by way of overbearance, privacy or light. That being said, it is recognised that the nature of the proposed dog breeding business may give rise to significant disturbance and nuisance by way of noise.

Following a number of neighbour concerns, including concerns raised by the TDBC Environmental Health Team in relation to noise complaints received, a noise impact

assessment was prepared and submitted by 'Soundguard Acoustics' in order to assess the significance of potential noise disturbance.

Environmental Health have provided comments in relation to the submitted details and, although they have not formally objected to the proposal, they have confirmed that, from the information contained within the submitted noise impact assessment, there is the potential for a significant noise nuisance to arise as a direct result of the development.

It is acknowledged that there is no specific guidance, standard or criteria available to assess noise impact from dog barking. It is therefore considered pertinent to make an assessment using the British Standard BS4142:2014, which estimates the related noise level of dog barking at nearby houses and compares it to the existing backgrounds level. This approach was indeed taken by the acoustic consultant who prepared the submitted noise impact assessment. The submitted report indicated that, in accordance with this standard, the rated level could exceed the background level by 9dB during the daytime. This in itself is defined as an 'adverse impact' and is only 1dB below that considered to be a 'significant adverse impact'.

If this were a planning application for a commercial development, the noise level should not exceed the background level, although, depending on the location and context an exceedance of 3dB has been agreed. In this application however, the noise level could reach three times the maximum noise level of a commercial site, where impact by way of noise is highly likely to cause a significant nuisance and disturbance to nearby neighbours. Whilst it is agreed that noise levels would not be consistently audible at 9dB, the unknown timing, frequency and duration of potential noise impact is considered to be an even greater nuisance than if the noise were consistent. Furthermore, as the noise impact relates to disturbance directly from animals, any impact would be extremely difficult to control.

There are a few other key points raised within the submitted acoustic report. The report acknowledges that it is proposed to utilise existing stable block buildings and, because of this, the buildings themselves are likely to be less well sealed against noise breakout than purpose built kennels. The report also proposes that an acoustic barrier is built along the southern and eastern sides of the kennel/open run area, and the calculation of the noise impact does assume that this barrier is in place – it is not, however, shown on plan as part of the development. Whilst the report acknowledges that there is the potential for dogs to be exercised to the north of the site, again this is not shown on plan and the report does not include an assessment of noise from the exercise area that is shown immediately adjacent to the site access, which is less than 15m away from the neighbouring residential property, Fairhouse Farm, to the south.

Paragraph 123 of the NPPF states "planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development". The noise impact assessment concludes that the development will not lead to "significant adverse impacts", but only "adverse impact". However, this assessment does rely on a 3m high noise barrier, does not include the exercise areas and even then it is only 1dB from significant impact. Whilst it is acknowledged that it is very difficult to ascertain how significant the noise impact would be by way of dog barking, it is evident that the development would give

rise to some degree of impact. This, in addition to the developments siting adjacent to Moor Lane, is highly likely to result in an unacceptable level of disturbance and nuisance by way of noise, which would cause significant harm to the residential amenity of neighbouring occupiers. For this, it is recommended permission be refused.

Noise – Blackdown Hills AONB

The application site is situated within the Blackdown Hills; a designated area of outstanding natural beauty (AONB), where careful consideration has to be given to development proposals to ensure that they contribute to conserving and enhancing the natural beauty of the area and are not detrimental to the AONB's special qualities.

Paragraph 123 of the NPPF states that “planning policies and decisions should aim to identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.” Additionally, the Blackdown Hill AONB Management Plan encourages quiet enjoyment of the AONB, and supports the restriction of developments and activities that detract from the tranquillity of the Blackdown Hills. Most notably, Policy PD5/A states that the tranquillity of the AONB should be conserved and enhanced by restricting or reducing noise and the Local Planning Authority should avoid or restrict development which would detract from the tranquillity of the Blackdown Hills.

The Blackdown Hills AONB Officer has confirmed that, despite best intentions, groups of dogs do bark, whine and howl, including when able to see, smell or hear people and other dogs nearby. In this location, this would affect those using the lanes around the village and the wider tranquillity of the AONB. Furthermore, it is evident from the submitted noise impact assessment that the development would result in an ‘adverse’ noise impact, which is considered to harm the tranquillity of the AONB. The development is therefore considered to be in direct conflict with the core aims of the Blackdown Hills AONB Management Plan, the NPPF, as well as Policies CP8 and DM1 of the Taunton Deane Core Strategy. It is therefore recommended that permission should be refused on these grounds.

Visual amenity / Landscape

The site is reasonably well screened by trees and other vegetation planting that are situated along the boundary, with the only direct sightlines of the site available through the access gate itself. In addition to this, it is recognised that the development would utilise existing buildings currently on site and there would be no increased development of the site. On this basis, the development is not considered to cause any significant harm to the visual amenity of the area or surrounding landscape.

Notwithstanding the above, it is noted from the submitted noise impact assessment, that a 3m high acoustic barrier should be used to help mitigate against potential noise impacts. Details of this have not been submitted to accompany the application and consideration has therefore not been given to the impact such a barrier would have on the character of the landscape. Further consideration would be required to assess any potential visual amenity impact in this regard.

Highways

There is sufficient parking and turning space available within the site and the development is not expected to give rise to any significant increase in vehicle movements that would cause harm to highway safety.

Conclusion

It is recognised that the impact of such a development by way of noise is extremely difficult to assess and there is no clear guidance or criteria in place in which to do so. However, it is evident that the development would give rise to an increased 'adverse' noise impact, which for the reasons outlined above, is considered to impact directly upon the residential amenity of neighbouring occupiers and the tranquillity of the Blackdown Hills AONB. It is therefore recommended permission be refused.

2. TEMPORARY WORKERS DWELLING

In relation to the second matter, the main issue for consideration is the principle of development and whether the application is able to satisfy the policy requirements for a workers dwelling to be situated on site.

It is understood that there is currently an unauthorised mobile home on site, which is currently being considered under an enforcement appeal (ref. APP/D3315/C/16/3149290). Nevertheless, it is appreciated that some form of residential accommodation would likely be required in order to support the running of a commercial dog breeding business – albeit on a temporary 3 year basis in the first instance.

Policy CP8 of the Taunton Deane Core Strategy prevents isolated new dwellings in the open countryside. However, paragraph 55 of the NPPF sets out circumstances in which isolated dwellings may be permissible in the open countryside, including where it is essential for the proper functioning of an agricultural or rural enterprise. It is considered that, where the case is properly demonstrated, this outweighs the general presumption against the development outlined in the development plan.

Whilst Policy DM2 of the Taunton Deane Core Strategy would also apply, it does not provide specific detail in relation to the creation of new agricultural workers dwellings. Emerging Policy H1b of the Site Allocations and Development Management Policies (SADMP) is therefore afforded a great deal of weight in this instance. This policy sets out criteria where new temporary rural worker's dwellings may be permissible in the open countryside.

Emerging Policy H1b clearly states that permission should only be granted if all the criteria requirements are satisfied. In this respect, no information has been provided to support the case for a workers dwelling on site. Fundamentally, however, as the dog breeding business is considered to be unacceptable on noise grounds, there is clearly no functional need for residential occupation of the site. It is therefore recommended permission be refused on these grounds.

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

Contact Officer: James Culshaw

Enforcement Appeal

**Site: JARVEYS COTTAGE, 16 STOKE ROAD, NORTH CURRY, TAUNTON, TA3
6LR**

**Alleged Breach of planning control: ALLEGED UNAUTHORISED DEMOLITION
OF BOUNDARY WALL IN CONSERVATION AREA AT JARVEYS COTTAGE, 16
STOKE ROAD, NORTH CURRY**

Reference Number: E/0226/24/15

Appeal decision: ALLOWED

Appeal Decisions

Site visit made on 30 September 2016

by Gareth Symons BSc(Hons) DipTP MRTPI

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

Decision date: 12 October 2016

Appeal A: APP/D3315/C/16/3148394

Jarveys Cottage, 16 Stoke Road, North Curry, Taunton, Somerset TA3 6LR

- 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 David Skilton against an enforcement notice issued by Taunton Deane Borough Council.
 - The notice was issued on 1 April 2016.
 - The breach of planning control as alleged in the notice is "Without planning permission in a conservation area, the demolition of a boundary wall as shown for identification purposes only on the 3 photographs attached to this Notice marked 1-3 ("the Original Wall") and erection of a new boundary wall as shown on the 4 photographs attached to this Notice marked 4-7 ("the Unauthorised Replacement Wall"). The Unauthorised Replacement Wall is in the approximate position marked by a blue line on the plan attached to this Notice.
 - The requirements of the notice are: 1. Demolish the Unauthorised Replacement Wall. 2. Construct a replacement wall in the approximate position of the Original Wall and of a similar design and height to the Original Wall using reclaimed blue lias stone and lime mortar.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/D3315/W/16/3146461

Jarveys Cottage, 16 Stoke Road, North Curry, Taunton, Somerset TA3 6LR

- 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 David Skilton against the decision of Taunton Deane Borough Council.
 - The application Ref: 24/15/0054, dated 12 January 2016, was refused by notice dated 26 February 2016.
 - The development proposed is described as "Retrospective application for the demolition of an approximately 1m high existing stone retaining wall and its replacement to the same height using the same materials and detailing as used in the original wall. Where possible original stone has been re-used. The original gate location has been repositioned to improve highway safety".
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Summary of Decisions

1. Both appeals are allowed in the terms set out below in the Formal Decisions.
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Application for Costs

2. Applications for costs made by Mr David Skilton against Taunton Deane Borough Council are the subject of a separate Decision.

Preliminary Matter

3. The descriptions for each development used on the enforcement notice and the application form contain details about what has happened. However, for the purposes of considering the act of development in each case (the deemed planning application under Appeal A and the refusal of planning permission for the application made under Appeal B) the works should be more appropriately and precisely described as "Demolition of an existing stone boundary wall and the erection of a new stone boundary wall". These changes would not cause any prejudice to either main party. I shall consider both appeals accordingly.

Main Issue – planning merits

4. The main issue is whether the development has preserved or enhanced the character or appearance of the North Curry Conservation Area.

Reasons

5. The new wall, it is claimed, has been constructed from the blue lias stones used in the previous wall. They are of differing sizes which have been laid in a random manner with a 'cock and hen' finish to the top of the wall similar to the previous structure. The replacement wall has a relative newness due to its recent construction. Possibly some new stones rather than originals were used as well. However, this freshness will dull over time and its look is similar to the style and materials prevalent in other roadside boundary walls in the Conservation Area. There is no substantive evidence that the former wall had lime mortar joints instead of the cement now used.
6. The height of the original wall may have been over 1m high for some of its length whereas the new wall has a uniform height of about 1m. It has also been rebuilt not quite on the line of the former wall. However, at the time of considering the planning application the Council's Heritage section advised that "the original wall would appear to have been a relatively recent construction...not on the line of an earlier boundary wall" and "its intrinsic historic value is therefore limited". While the view was also held that the former wall made a positive contribution to the character and appearance of the conservation area, its precise alignment was not crucial in this regard. Moreover, the Council now states that the new wall is a "replica in a very similar location". Against this background any height and location changes have been inconsequential. I also find that the new wall is not a stark feature that bears little resemblance to the original wall.
7. The main visual change has been the removal of garden vegetation and the loss of a strip of roadside grass verge next to Manor Lane. However, seeing more of the house has not harmed the street scene given that it has an attractive traditional appearance and seeing houses is part of the general street scene. I also saw at my site visit that there has been some replacement planting on the garden side of the wall anyway. Moreover, the Council's position is that the removal of the vegetation and the grass in this case did not require any consent from the local planning authority. It could thus have been done in the absence of demolishing the original wall and building the new one.

In my opinion the loss of what appeared to be a very narrow strip of rough grass along one side of Manor Lane has not harmed the character and appearance of the area given the retention of the slightly wider main grass verge along Stoke Road. The grass verge along Manor Lane was also not, in any event, required to be reinstated by the enforcement notice.

8. Objectors have referred to the possibility that the works were undertaken in order to improve driver visibility at the Manor Lane and Stoke Road junction to support a housing proposal further up the lane. However, whether that was the case or not, it is not a matter that has any bearing on considering the merits or otherwise of the development before me. Nor does it matter that the agent for the housing scheme and these appeals is apparently the same. I recognise that carrying out works without first obtaining the relevant permission, and thus without any prior notification or consultation, does little to engender a local community's acceptance of a scheme. However, the planning system does allow for development to be considered retrospectively and this does not affect the judgement, based on planning merits, about whether to grant planning permission.
9. In view of the above, the development has preserved the character and appearance of the North Curry Conservation Area. Thus it has also not harmed the significance of the designated heritage asset. As such it accords with policy CP8 from the Taunton Deane Core Strategy which, amongst other things, seeks to conserve or enhance historic assets.

Other Matters

10. Some objectors have questioned the appeal procedure. However, it has not followed the Householder Appeal Service and all parties have had the opportunity to make full representations detailing their concerns. I also note highway safety concerns over the changes to the Manor Lane and Stokes Road junction. However, there is no evidence that the junction in its original state was dangerous and although the vehicular entrance to 16 Stokes Lane is now in a slightly different position, the works have not led to any material changes to the highway layout. I also do not have any objection by the Local Highway Authority. I have considered all other matters, including the agent's incorrect reference to other walls in the area and that the host property is currently up for sale. Nevertheless, nothing else outweighs my previous findings.
11. The Council has not suggested any conditions that should be imposed if either appeal was to succeed. I have noted that when the application under Appeal B was recommended for permission at the Council's Planning Committee a landscaping condition was proposed. However, given my above findings I do not consider this to be necessary to make the development acceptable in planning terms. As the development has been carried out it is also not appropriate to impose the standard time limit for commencement of the development or the normal plans condition.
12. As the ground (a) appeal under Appeal A is succeeding the associated ground (f) appeal does not fall to be considered.

Conclusions

13. It is concluded that both appeals should succeed.

Formal Decisions

Appeal A

14. In view of the Preliminary Matter section above, it is hereby directed that the enforcement notice be corrected by deleting the text under paragraph 3 and replacing that with "Demolition of an existing stone boundary wall and the erection of a new stone boundary wall". Subject to this correction, the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under S177(5) of the 1990 Act for the demolition of an existing stone boundary wall and the erection of a new stone boundary wall at Jarveys Cottage, 16 Stoke Road, North Curry, Taunton, Somerset TA3 6LR.

Appeal B

15. The appeal is allowed and planning permission is granted for the demolition of an existing stone boundary wall and the erection of a new stone boundary wall at Jarveys Cottage, 16 Stoke Road, North Curry, Taunton, Somerset TA3 6LR in accordance with the terms of the application Ref: 24/15/0054, dated 12 January 2016.

Gareth Symons

INSPECTOR

Costs Decisions

Site visit made on 30 September 2016

by Gareth Symons BSc(Hons) DipTP MRTPI

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

Decision date: 12 October 2016

Costs application in relation to Appeal Ref: APP/D3315/C/16/3148394 Jarveys Cottage, 16 Stoke Road, North Curry, Taunton TA3 6LR

- 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 David Skilton for a full award of costs against Taunton Deane Borough Council.
 - The appeal was against an enforcement notice alleging, in short, the demolition of an existing stone boundary wall and the erection of a new stone boundary wall.
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Costs application in relation to Appeal Ref: APP/D3315/W/16/3146461 Jarveys Cottage, 16 Stoke Road, North Curry, Taunton TA3 6LR

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr David Skilton for a full award of costs against Taunton Deane Borough Council.
 - The appeal was against the refusal planning permission for demolition of an existing stone boundary wall and the erection of a new stone boundary wall.
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Decisions

1. The applications for an award of costs are refused.

Reasons

2. Planning Practice Guidance 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 expense in the appeal process.
 3. When a local planning authority has refused planning permission for development that has already been carried out, the next logical step is often to issue an enforcement notice that seeks to remedy the breach of planning control if it is considered expedient to do so. Waiting for the outcome of the S78 appeal before taking such action runs the risk that if the appeal is dismissed the Council then has to issue the enforcement notice with the potential that gives for another appeal. In the meantime, the unauthorised development remains in place which can undermine public confidence about the effectiveness of enforcing planning control. Against this background, in my experience it is not unusual or unreasonable for a Council to issue an enforcement notice soon after the refusal of planning permission so that the planning and the enforcement notice appeals (the S78 and the S174 appeals)
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can be linked as happened in this case. This saves work, time and expense on both sides. I therefore find that the Council was not premature in issuing the enforcement notice when it did and there was nothing unreasonable about the Council's actions in this respect.

4. Turning to the planning merits of the appeals, although the planning application was recommended for approval the Council's reason for refusal and the reasons for issuing the enforcement notice were clearly referenced to relevant development plan policy. Also, there were differences, albeit subtle, between the former wall and the new wall which I have had to consider such as the slightly different position and whether it is a stark feature. Furthermore, the issue of the impact of the development on the character and appearance of the designated Conservation Area, and the statutory test this engages, is a subjective judgement. While I acknowledge that the Council's case was not the strongest given the Conservation and Landscape officer views at the application stage, it does not mean to say that it was without any substance. It was, on balance, on the side of respectability. As such, I can also see that the Council considered it was expedient to take enforcement action.

Conclusion

5. In view of the above and having had regard to all other matters raised, it is concluded that the Council did not behave unreasonably in either appeal. Accordingly, an award of costs is not justified and so both applications should be refused.

Gareth Symons

INSPECTOR