

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 5 April 2017 at 17:00.

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### Agenda

- 1 Apologies.
- 2 Minutes of the meeting of the Planning Committee held on 1 March 2017 (attached).
- 3 Public Question Time.
- 4 Declaration of Interests  
To receive declarations of personal or prejudicial interests, in accordance with the Code of Conduct.
- 5 06/16/0036 Erection of 3No. dwellings with associated car parking, landscaping and drainage infrastructure at Station Farm, Station Road, Bishops Lydeard
- 6 11/17/0006 Replacement of agricultural building with the erection of a single unit of self catering holiday accommodation for disabled visitors at The Old Poultry House, Trebles Holford (resubmission of 11/16/0010)
- 7 38/16/0227 Change of use of land from siting of agricultural workers accommodation to siting of holiday accommodation on land to the north of Cutcliffe Farm, Sherford.
- 8 42/16/0040 Erection of gospel hall & associated external works at land at Killams Lane, Trull
- 9 43/16/0130 Construction of additional tennis court and associated works, including erection of fencing and alterations to access arrangements at Wellington Tennis Club, Courtland Road, Wellington (resubmission of 43/16/0066) as amended.
- 10 43/17/0002 Outline Application with all matters reserved, except for means of access, for the erection of up to 205 dwellings and up to 60 apartments with care (Class C2), with public open space, landscaping, sustainable drainage system and vehicular access points from Exeter Road on land to the west of Bagley Road, Rockwell Green

- 11 48/16/0046 Erection of agricultural building for the housing of livestock at Quantock Farm, West Monkton, Taunton
- 12 53/16/0012 Outline planning application with all matters reserved, except for access, for a residential development of up to 30 No. dwellings, 3 No. live/work units, public open space, landscaping and associated highways, engineering and infrastructure works on land east of North and West Villas, Dene Road, Cotford St Luke as amended.
- 13 Latest Appeals and Decisions received

Bruce Lang  
Assistant Chief Executive

22 June 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.

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



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

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

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**Planning Committee Members:-**

Councillor R Bowrah, BEM (Chairman)  
Councillor M Hill (Vice-Chairman)  
Councillor J Adkins  
Councillor M Adkins  
Councillor C Booth  
Councillor W Brown  
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

## Planning Committee – 1 March 2017

Present: - Councillor Bowrah (Chairman)  
Councillor Mrs Hill (Vice-Chairman)  
Councillors M Adkins, Mrs Adkins, Booth, Gage, C Hill, Nicholls,  
Mrs Reed, Sully, Townsend, Watson, Wedderkopp and Wren

Officers: - Matthew Bale (Area Planning Manager), Gareth Clifford (Principal Planning Officer), Martin Evans (Solicitor, Shape Partnership Services), Tracey Meadows (Democratic Services Officer) and Rosie Walsh (Development Officer)

Also present: Councillors Berry and Coles. Mrs A Elder, Chairman of the Standards Advisory Committee.

(The meeting commenced at 5 pm)

### 12. Apologies/Substitutions

Apologies: Councillors Brown, Martin-Scott and Morrell

Substitutions: Councillor Gage for Councillor Brown  
Councillor Sully for Councillor Martin-Scott

### 13. Declarations of Interest

Councillors M Adkins, Coles and Wedderkopp declared personal interests as Members of Somerset County Council. Councillor Booth declared that he was the Ward Member for application No. 38/16/0472. He declared that he had spoken to residents but had not 'fettered his discretion'. Councillor Mrs Hill declared personal interests as a trustee to Hestercombe House and Gardens, a trustee to the Somerset Building Preservation Trust and as a Director of Apple FM. Councillor Townsend declared personal interests as Vice-Chairman of Kingston St Mary Parish Council and Chairman of the Kingston St Mary Village Hall Association. Councillor Wren declared a personal interest as he was Clerk to Milverton Parish Council.

### 14. Applications for Planning Permission

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

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

**47/16/0015**

**Erection of a two storey extensions, re-location of garage and re-positioning of access at Walnut Tree Cottage, Meare Green, Wrantage**

- (a) The development hereby permitted shall be begun within three years of the date of this permission:-
- (b) The development hereby permitted shall be carried out in accordance with the following approved plans:-
- (A1) DrNo WDS1700 Rev A1 Proposed;
  - (A3) DrNo WDS1703 Location Plan;
  - (A3) DrNo WDS1702 Site Plan;
  - (A3) DrNo WDS1701 Location Plan;
- (c) The mitigation measures as detailed in the updated Report from Patrick West STM Environmental Consultants Ltd dated 6 February 2017 shall be fully implemented before the two storey extensions are brought into use;
- (d) The development hereby permitted shall not be commenced (including any demolition) until a bat survey report has been submitted to, and approved in writing by, the Local Planning Authority. The survey(s) shall ascertain the usage of the site by bats. They shall be undertaken by an appropriately qualified person at an appropriate time of year (May to July) and use techniques and equipment appropriate to the circumstances. The survey and report shall include an identification of species present, an impact assessment and mitigation/avoidance measures in order to safeguard protected species in accordance with the law;

(Notes to applicant:- (1) Applicant was advised that in accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council had worked in a positive and pro-active way with the applicant and had negotiated amendments to the application to enable the grant of planning permission; (2) Applicant was advised that it should be noted that the protection afforded to species under UK and EU legislation was irrespective of the planning system and the developer should ensure that any activity they undertook on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation.)

**38/16/0472**

**Demolition of garage blocks and erection of 2 No. blocks of flats (forming 8 No. 1 bedroom flats) on corner of Laxton Road and Blackbrook Road, Taunton**

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

- (A4) DrNo S-02 Location Plan;
- (A2) DrNo A-05 Rev A Proposed Floor Plan;
- (A2) DrNo A-07 Rev A Proposed Elevations Block A;
- (A2) DrNo A-08 Rev A Proposed Elevation Block B;
- (A2) DrNo A-09 Proposed Sections;
- (A3) DrNo A-11 Block Plan;

- (c) The upper floors windows on the north elevations of Blocks A and B shall be glazed with obscure glass and fixed shut and shall thereafter be so retained. There shall be no alteration or additional windows in this elevation without the further grant of planning permission;
- (d) No wall construction shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out and thereafter retained as such, in accordance with the approved details as above;
- (e) (i) Before any part of the permitted development is occupied, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to, and approved in writing by, the Local Planning Authority; (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority; (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy, weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs as may be approved in writing by the Local Planning Authority;

(Notes to applicant:- (1) Applicant was advised that in accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council had worked in a positive and pro-active way with the applicant and entered into pre-application discussions to enable the grant of planning permission; (2) Applicant was advised that it should be noted that the protection afforded to species under UK and EU legislation was 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. All British birds (with exceptions) were protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended). No work should proceed while birds were building a nest, on a nest, or until the young became fully independent. Generally this would be from April until September.

## 15. Appeals

Reported that one appeal decisions and two new appeals had been received details of which were submitted.

**Resolved** that the report be noted.

(The meeting ended at 6.05 pm)



## **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

06/16/0036

C/O AGENT

**Erection of 3No. dwellings with associated car parking, landscaping and drainage infrastructure at Station Farm, Station Road, Bishops Lydeard**

Location: STATION FARM, STATION ROAD, BISHOPS LYDEARD, TAUNTON  
TA4 4BU

Grid Reference: 316325.128886

Full Planning Permission

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## **Recommendation**

### **Recommended decision: Refusal**

- 1 The proposed residential development is contrary to Core Strategy Policies CP2 'Economy' SP1 'Sustainable Development Locations' and SP4 'Realising the vision for rural areas' together with Site Allocations and Development Management Policy MAJ5 'Land west of Bishops Lydeard Station' in that it would lead to the loss of a site allocated for recreational, tourism, commercial and other employment generating uses which would represent an unsustainable form of development in this Major Rural Centre. The proposal does not support Objective 3 (Employment: Enhance opportunities for employment in the Parishes by maintaining and increasing the range, extent and scale of commercial and light industrial premises) or Objective 4 (Tourism: Facilitate opportunities to capitalise on the presence of the Quantock Hills AONB and West Somerset Railway in the Parishes) of the adopted Bishops Lydeard and Cothelstone Neighbourhood Plan

### **Recommended Conditions (if applicable)**

#### Notes to Applicant

- . 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**

It is proposed to erect 3 detached dwellings on a tourism/employment allocated site at Station Farm, Bishops Lydeard. The application is submitted in full and the proposed dwellings would be 2-storey, with 4 or 5 bedrooms and 2 parking spaces in front of either a single or double garage. Access would be via the existing residential estate where a turning head is already in place.

The application is accompanied by a Planning Statement, Statement of Community Involvement, Flood Risk Assessment, Ground Investigation Report, Transport

Assessment, Design and Access Statement, Ecological Assessment as well as detailed plans and elevations.

Subsequently a marketing report was submitted from a local firm of estate agents who were instructed to market the site for commercial development from April 2013.

## **Site Description**

The application site is on the south eastern corner of the adjoining residential estate and has open fields to the south and east. Further to the east is the West Somerset Railway and Station House. Two-storey detached dwellings surround the northern and western sides of the site and there is a field access that runs along the western boundary.

The adjoining residential estate is the recently constructed Taylor Wimpey residential development for 39 dwellings, known as Station Green.

## **Relevant Planning History**

### **Original mixed use proposals**

The relevant site history dates back to 2007, when the developer GADD Homes secured a resolution to grant planning permission for the following applications:

06/07/0027 – Erection of mixed use development comprising tourist facilities, 29 open market houses, 8 affordable units and associated infrastructure works. The tourist element of the proposals provided for a café, micro-brewery, creative industry centre, cycle hire centre and an ice cream kiosk.

06/07/0028 – Erection of Public House with restaurant.

06/07/0042 – Erection of 2 detached dwellings plots 38 & 39.

06/07/0043 – Erection of single storey building to form museum and carriage shed.

06/07/0044 – Erection of two storey office building.

Those applications were then held in abeyance as the developer went into administration. The applications were formally consented in August 2011 once the technical information on ecological and flooding matters were finalised.

### **Subsequent change of house types**

In September 2011, Taylor Wimpey sought permission under application 06/11/0032 to change the consented house types for their own design and some minor alterations to the layout of the scheme, including the provision of SUDS.

The application carried forward the main enabling works to secure:

- Transfer of land to WSR for the provision of tourism facilities related to the functions of a Heritage Railway;
- Provision of a Tourist Information Facility

and through a Grampian Condition that required:

- No more than 50% of the open market housing to be occupied until the following highway works had been delivered:
  - a) Improvements to the junction of Greenway Road/Station Road to include yellow lining of the bridge approaches;
  - b) Provision of shuttle traffic signals at the approach to the bridge and footway works over the bridge;
  - c) Provision of a new roundabout at the junction of Station Road and the A358.

In addition there were planning obligations related to the development i.e. affordable housing provision.

The application was approved by the Planning Committee. The transfer of the land known as the 'tourism land' to the WSR has been executed.

### **Applications for housing on the public house and office sites:**

In October 2012, an application (06/12/0036) to erect 5 dwellings on the site of the approved public house and restaurant was recommended for approval by officers and refused by the Planning Committee for the following reason:

*The proposed residential development is contrary to Core Strategy Policies CP2 'Economy' and SP4 'Realising the vision for rural areas' together with Taunton Deane Local Plan Policy EC22 'Land west of Bishops Lydeard Station' in that it would lead to the loss of a potential tourist/employment use that has an extant consent and no evidence in the form of marketing has been submitted to demonstrate that such a use is not viable and material considerations do not outweigh the loss of the tourist/employment use.*

A second application to erect 3 dwellings (06/12/0007) on the site of the approved office building was recommended for approval by officers and refused by the Planning Committee for the following reason:

*The proposed residential development is contrary to Core Strategy Policies CP2 'Economy' and SP4 'Realising the vision for rural areas' in that it would lead to the loss of a potential employment use that has an extant consent and that no evidence in the form of marketing has been submitted to demonstrate that such a use is not viable and material considerations do not outweigh the loss of employment land.*

Both of these applications became the subject of a Planning Appeal. An Inquiry was opened and the Council's evidence was heard. The appellant then requested an adjournment and submitted two revised applications for 6 dwellings on the public house site and 3 dwellings on the office site (applications 06/12/0068 and 06/12/0067). These applications were accompanied by an offer of £106,311.74 plus

VAT to improvements to existing parking provision or facilitate new car parking provision at the West Somerset Railway. Both of these applications were recommended for approval by officers and refused by the planning committee for the same reasons as above.

The appeal was subsequently withdrawn.

In 2015 an application (06/15/0023) was submitted for the erection of 15 dwellings across both sites allocated for employment and/or tourism. This was refused in February 2016 for the following reason:

*The proposed residential development is contrary to Core Strategy Policies CP2 'Economy' SP1 'Sustainable Development Locations' and SP4 'Realising the vision for rural areas' together with Taunton Deane Local Plan Policy EC22 'Land west of Bishops Lydeard Station' and Site Allocations and Development Management Policy MAJ5 'Land west of Bishops Lydeard Station' in that it would lead to the loss of sites allocated for recreational, tourism, commercial and other employment generating uses which would represent an unsustainable form of development in this Major Rural Centre.*

## **Consultation Responses**

*BISHOPS LYDEARD & COTHELSTONE PARISH COUNCIL* – The Parish Council objects to the granting of permission for the following reasons:

- This application follows previous similar applications (06/15/0023, 06/12/0007, 06/12/0036, 06/12/0067 and 06/12/0068) to erect dwellings on this piece and one other piece of land at Station Farm. The Parish Council has objected to the granting of permission previously and would like the comments previously made in relation to those applications considered again in relation to this application. Once again, it is hoped that the Case Officer will take due note of the decisions of the Planning Committee in respect of the previous applications and will recommend refusal. Nothing has changed since those decisions, although the Parish Council is concerned that if this application is granted it will lead to a further application for the second piece of land also included in the 06/15/0023 application.
- Once more, the Parish Council is surprised and dismayed that this application has been submitted in advance of the completion of all agreed infrastructure works outlined in the planning consent for the 39 houses already built at Station Green, in particular, the works to improve the highway (A358 roundabout) and improvements to footpath links (both on Station Green to Station Road and on the opposite side of the road at Greenway). No further consent should be granted or implemented until these works are completed. Furthermore the Parish Council notes that the land upon which planning permission is requested, was left in a mess following the construction of the 39 houses on Station Green and that Taylor Wimpey should put this land and the second piece of land back in the condition that it was in prior to the construction of those houses.

- The original application relating to the 39 houses already built at Station Green was granted as an exception to policy as it was to act as an enabling development to support the longterm strategic objective of boosting tourism and employment at the southern terminus of the West Somerset Railway. This goal will be further eroded if this application is permitted. The demand for commercial space in the village remains high, evidenced by the quick take up of any units in the Broadgauge Business Park if/when they become available. Indeed the comments from David Evans, the Economic Development Manager at TDBC confirm the Parish Councils view and state that 'I am aware that the Railway still has ambitions to grow, increasing its storage as well as the customer facilities it offers. I would therefore wish to ensure that all avenues have been explored and exhausted over the railway's use of this site before a decision is taken to reallocate its use.' David Evans continues to state that 'As things stand I see no significant changes to the availability of employment land in the Bishops Lydeard area to justify the change of use of this site.'
- The Parish Council considered the Statement of Community Involvement which was submitted with this application. The Parish Council considers the statement to be misleading. In particular:
  - Paragraph 3.6 states that 'Taylor Wimpey intend to write to the Parish Council to offer to answer any queries regarding the application during the determination period.' To date (14<sup>th</sup> September 2016), the Parish Council has not received any correspondence from Taylor Wimpey regarding the application.
  - Paragraph 4.1 states that 'The development proposal for the site has previously been discussed with both the planning officers of Taunton Deane Borough Council and local residents via the Parish Council. These discussions have proved productive in influencing the development proposals'. Taylor Wimpey has not recently discussed any proposals with the Parish Council as a method of engaging with local residents. Indeed, Taylor Wimpey acknowledges that there has been no public consultation at paragraph 3.0 headed "Involvement" in its Design and Access Statement!
- Finally, the application and supporting statements makes limited reference to the recently adopted Bishops Lydeard and Cothelstone Neighbourhood Plan. The Parish Council feels that the application does not support Objective 3 (Employment: Enhance opportunities for employment in the Parishes by maintaining and increasing the range, extent and scale of commercial and light industrial premises) or Objective 4 (Tourism: Facilitate opportunities to capitalise on the presence of the Quantock Hills AONB and West Somerset Railway in the Parishes). Furthermore the Neighbourhood Plan in paragraphs 5.2.14 to 5.2.19 supports the TDBC SADMP Policy MAJ5 which supports the retention of Policy EC22 of the Taunton Deane Local Plan (saved by the Core Strategy) which allocates this land for recreational and tourist development as a mechanism to achieving objectives 3 and 4 of the Neighbourhood Plan.

With regards to traffic impact the proposed development has the potential to generate 24 vehicle movements per day. It is noted that this development is located within the larger Station Farm development. Consequently in terms of traffic impact this proposal will result in an increase in vehicle movements but when weighed against the traffic associated with the existing Station Farm development it is unlikely to result in a significant increase in vehicle movements as a consequence it would be unreasonable to raise an objection to this proposal based on traffic impact grounds.

Having reviewed the submitted plan the applicant should be aware that it is likely that the internal layout of the site will result in the laying out of a private street, and as such, under Section 219 to 225 of the Highway Act 1980, will be subject to the Advance Payment Code (APC). However the applicant will need to make sure that the layout is built to an appropriate standard. In terms of drainage the applicant will need to provide sufficient drainage to accommodate surface water runoff. Whilst permission would be required before any connections are made to the existing system.

Regarding the internal layout the applicant will need to make sure that the turning area is sufficient to be able to accommodate an 11.4m refuse vehicle. In regards to parking the applicant has made provision for 11 parking spaces. This is considered to be acceptable and in keeping with Somerset County Council's Parking Strategy.

Therefore in conclusion when taking into account the above information the Highway Authority raises no objection to this proposal and if permission were to be granted the following conditions will need to be attached.

- The proposed estate roads, tactile paving, street lighting, sewers, drains, service routes, surface water outfall, vehicle overhang margin, visibility splays, accesses, drive gradients and car parking shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
- Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such provision shall be installed before site is occupied and thereafter maintained at all times.
- The area allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for parking and turning vehicles in connection with the development hereby permitted.

*WESSEX WATER* – I refer to your letter of inviting comments on the above proposed development and advise the following on behalf of Wessex Water as sewerage and water supply undertaker for the area in question:

Water Supply and Waste Connections - New water supply and waste water connections will be required from Wessex water to serve this proposed development. Application forms and guidance information is available from the

Developer Services web-pages at our website [www.wessexwater.co.uk](http://www.wessexwater.co.uk).

Further information can be obtained from our New Connections Team by telephoning 01225 526222 for Water Supply and 01225 526333 for Waste Water.

Separate Sewer Systems - Separate systems of drainage will be required to serve the proposed development. No surface water connections will be permitted to the foul sewer system.

*BIODIVERSITY* – I support the findings of EAD's letter dated 4<sup>th</sup> September 2016. The proposal will have limited ecological impact

*LANDSCAPE* – Comment:

As the adjoining area is already residential these additional houses would not look out of place.

However, I would like to see more landscaping than proposed.

The rear southern boundaries of the properties should be formed with native hedging.

I would like to see the access improved in some way as presently there is a very large area of hard surfacing proposed.

*HOUSING ENABLING* – no observations

*LEISURE DEVELOPMENT* – no observations

*SCC - FLOOD RISK MANAGER* - This application falls below the requirement for LLFA statutory consultation

*ECONOMIC DEVELOPMENT* – Initial comments (26<sup>th</sup> August 2016):

I should be grateful if you would record my observations as follows on the application submitted by Origin 3 for housing on land at Station Farm, Bishops Lydeard.

1. The Station Farm site in totality was originally proposed as a mixed use site, to include facilities to support the growth of the West Somerset Railway. I am aware that the Railway still has ambitions to grow, increasing its storage as well as the customer facilities it offers. I would therefore wish to ensure that all avenues have



been explored and exhausted over the railway's use of this site before a decision is taken to reallocate its use.

2. Previous applications on this piece of land have been supported by a marketing report completed by a local commercial property agent. I would wish to see such a report, which summarises the marketing activity carried out in recent years to demonstrate that there is no demand for an employment site in this location, before the Council determines this application.

3. As things stand I see no significant changes to the availability of employment land in the Bishops Lydeard area to justify the change of use of this site.

#### *Further comments (16<sup>th</sup> December 2016)*

Further to my observations below, I should be grateful if you would add my comment as follows on the application at Station Farm, Bishops Lydeard.

Since the submission of my observations on 26 August 2016 I note that the applicant has supplemented his application with a summary of the marketing carried out on the site to date. The Marketing Report was prepared by Duncan Brown of Greenslade Taylor Hunt, a reputable firm of local chartered surveyors. I have reviewed the Marketing Report and would acknowledge that Mr Brown has carried out an adequate marketing exercise.

I would reiterate points 1 and 3 in my representation of 26th August 2016.

*NATURAL ENGLAND* – no comments to make on this application

## **Representations Received**

1 person OBJECTS on the following grounds:

- There is no safe crossing point to walk into the village

2 people have written letters SUPPORTING the application on the following grounds:

- The site is not appropriate for an office building on safety grounds.
- Site is currently an eyesore
- Commercial traffic should not be routed through a cul-de-sac where children play in the road

## **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), the Taunton Site Allocations and Development Management Plan (2016), the Bishops Lydeard and Cothelstone Neighbourhood Plan(2016) , 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.

SP1 - Sustainable development locations,  
SP4 - Realising the vision for rural areas,  
CP2 - Economy,  
CP4 - Housing,  
CP6 - Transport and accessibility,  
CP8 - Environment,  
DM1 - General requirements,  
DM2 - Development in the countryside,  
DM4 - Design,  
MAJ5 - Land West of Bishops Lydeard Station, Bishops Lydeard,  
A1 - Parking requirements,  
A3 - Cycle network,  
A5 - Accessibility of development,  
ENV2 - Tree planting within residential areas,  
D7 - Design quality,  
D8 - Safety,  
D9 - A Co-Ordinated Approach to Dev and Highway Plan,  
D10 - Dwelling sizes,  
D12 - Amenity space,

Objectives 3 and 4 of the Bishops Lydeard and Cothelstone Neighbourhood Plan 2016

## **Local finance considerations**

### **Community Infrastructure Levy**

Total floorspace of development is approx. 595m<sup>2</sup>.

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 £74,500.00. With index linking this increases to approximately £88,000.00.

### **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	£3,237
Somerset County Council	£809

#### *6 Year Payment*

Taunton Deane Borough	£19,423
Somerset County Council	£4,856

## **Determining issues and considerations**

### **Planning Policy**

This is the key issue in the determination of this application as the site is allocated for recreational, tourism or other commercial employment generating uses by Policy MAJ5 of the newly adopted Site Allocations and Development Management Policies Plan (SADMP). The site was previously unallocated in the Taunton Deane Local Plan and was classed as being open countryside. Due to outline planning permission being granted for an office use in 2011 (as part of a larger mixed use development) the site was put forward as a specific allocation to allow for the mixed use to come forward and to complement the West Somerset Railway. The allocation is intended to provide additional employment generating activities in Bishops Lydeard, assisting in ensuring that an appropriate balance of housing and jobs are provided in this Major Rural Centre, in line with policy SP1 of the Core Strategy.

The SADMP allocates residential development at Bishops Lydeard on a site on the other side of the A358 on land off Taunton Road. This site is allocated for around 150 dwellings with further details being determined by the Neighbourhood Plan.

The Neighbourhood Plan does not have any specific policies on the application site as it was not necessary to repeat the allocation in the SADMP. However, the Neighbourhood Plan does state:

“Planning permission exists for a range of commercial and tourism-based uses such as a restaurant on land to the west of Bishops Lydeard Railway Station... These facilities were granted planning permission as part of a scheme to boost tourism associated with the WSR. In order to ‘enable’ these uses, the project was made viable by the construction of 39 homes on land adjacent to the railway station. The remaining undeveloped land west of the railway station should be reserved for the purposes permitted and any further attempts to gain planning permission for alternative uses will not be supported. This approach is in accordance with Policy EC22 of the Taunton Deane Local Plan (“saved” by the Core Strategy) which allocates this land for recreational and tourist development and as such provides important support for the future development of the heritage railway and associated tourism uses.”

It should be noted that Policy EC22 of the local plan has now been directly replaced by Policy MAJ5, but the intent of the policy remains the same.

Core Strategy Policy CP2 seeks to resist the loss of identified business land to other uses unless the overall benefit of the proposal outweighs the disadvantages of the loss of potential employment on the site. Policy CP2 of the Core Strategy states

that:

*CP2 - Proposals which lead to the loss of existing or identified business, industrial or warehousing land to other uses, including retail, will not be permitted unless the overall benefit of the proposal outweighs the disadvantages of the loss of employment or potential employment on the site.*

It is clear that the policies in the Development Plan (Core Strategy, SADMP and Neighbourhood Plan) seek to retain this site for recreational, tourism, commercial and other employment generating uses. It is therefore considered that the loss of the site to residential development would be contrary to the above policies. It is therefore necessary to consider whether there are any material considerations that would outweigh the policies in the Development Plan. This is discussed in the sections below.

## **Marketing**

In support of the application, the developer has commissioned a local estate agent, Greenslade Taylor Hunt to market the site for both the previously approved uses and alternative employment uses. A marketing report accompanies the application and the agent considers that “due to a now proved lack of demand following over two years of proactive marketing (and the availability of the site on the internet since) rising construction costs and low returns, the building of any form of commercial property on this site would, in my view, be unviable. As referred to earlier, developers are not building speculatively and both developers and owner occupiers prioritise suitability of location before anything else. It is unlikely banks would fund commercial development on the site for similar reasons. We are confident that if the site was going to attract interest from developers, owner-occupiers or investors, our marketing campaign would have done so by now.” The report states that the site was actively marketed for the allocated uses between April 2013 and May 2015, following which details were available on the internet. It is known from consulting other websites that the site has been marketed for residential development since summer 2016.

Advice has been sought from the Councils Economic Development Manager who considers that an adequate marketing exercise has been undertaken, but he also states that he sees “no significant changes to the availability of employment land in the Bishops Lydeard area to justify the change of use of this site.”

The NPPF seeks to build a strong competitive economy and places significant weight on the need to support economic growth through the planning system. It requires local planning authorities to identify and plan for new or emerging sectors likely to locate in their area. Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances.

However, the NPPF also require the regular review of allocated employment sites and paragraph 22 requires:

“Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that

purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.”

The allocation of this site in the new SADMP for recreational and tourism uses which support the visitor attraction of the West Somerset Railway, and other commercial, employment generating uses is considered to comprise a review of the previous local plan policy EC22 and, in this case, the new policy expands the range of uses that would be accepted on the site.

Weight must be given to the marketing report and a judgement has to be made as to whether there is a reasonable prospect of the sites being used for the allocated purposes. In this case, it is considered that new SADMP policy should not be disregarded at such an early stage, especially as it allows for other commercial or employment generating uses.

Previous comments from one of the neighbours is noted with regard to the removal of the marketing boards from the site and it is also noted that the sites have been marketed over a period where the existing planning permissions for the public house and office have effectively expired – the ability to submit reserved matters applications expired in August 2014. The applicants have not sought to renew these planning permission to help market the sites, nor have they sought permission for any other recreation, tourism, commercial or employment generating uses.

## **Design and Layout**

The design and layout of the development is similar in form and density to the existing housing estate. There is a large area of highway access to the front of two of the dwellings which the landscape officer would like to see improved but in terms of the planning layout and design of the proposed dwellings the scheme would integrate with the consented scheme. It is considered that there would be no unreasonable adverse impact on the amenity of nearby residents.

## **Other Issues**

Comments regarding the current appearance of the site and that the development of houses would ‘tidy-up’ or complete the residential are understood, however, it is considered that this is not a sufficient argument to allow development that would otherwise be unacceptable as it could be repeated too often. It is not considered that the current state of this greenfield land harms the character and appearance of the area to such a degree that it could not be left in this state.

## **Conclusions**

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. It is clear that this application is not in

accordance with the policies in the Site Allocations and Development Management Policies Plan (SADMP) and Core Strategy, nor is it in accordance with the adopted Neighbourhood Plan. The marketing of the site for the previously permitted uses is a material consideration that should be given some weight in the determination of this application. A judgement has to be made whether there is a reasonable prospect of the site being used for the allocated purposes. As the allocation has recently been reviewed – as required by the NPPF – and accepted by the Examining Inspector, it is considered that the loss of this site to housing would not represent sustainable development and the application should be refused.

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

**Contact Officer: Mr B Kitching**

11/17/0006

MR, MRS & MISS TOTMAN

**Replacement of agricultural building with the erection of a single unit of self catering holiday accommodation for disabled visitors at The Old Poultry House, Trebles Holford (resubmission of 11/16/0010)**

Location: THE OLD POULTRY HOUSE, TREBLES HOLFORD ROAD, COMBE FLOREY, TAUNTON, TA4 3HA

Grid Reference: 314982.133085 Full Planning Permission

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## **Recommendation**

### **Recommended decision: Refusal**

- 1 The proposed development site lies outside the Development Boundary Limits in an Open Countryside Location and is therefore considered distant from services and facilities. As a consequence, occupiers of the proposed development will be dependent on their private vehicles. Such fostering of growth in the need to travel would be contrary to advice given in the National Planning Policy Framework (NPPF) and Policy CP1 (Climate Change) of the Taunton Deane Core Strategy. Furthermore, no evidence has been submitted to justify the siting of the building in this location, in open countryside, and as to why there are no other suitable sites that could accommodate this proposal. It is not considered that the use of the building and site is sufficient to outweigh the location, outside of defined settlement limits, and as such, the proposal would therefore not accord with Policy DM2 (Development in the Countryside) and Policy CP8 (Environment) 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**

The proposal is to demolish a former poultry building and a erect a 2 storey holiday accommodation building for use by disabled visitors.

The existing poultry building comprises a timber frame construction on a concrete base, with walls clad in vertical timber boarding, beneath a fibre cement clad roof

and is believed to date from the 1960's. The building has a square footprint.

The proposed building will be of an 'L' shape footprint measuring 15m wide by 12m deep (max measurements excluding balcony) with a footprint of 148.8 sq.m (excluding balcony). The footprint of the proposed building is less than a third of the poultry unit.

The building has an eaves height of 2.4m in the southern part, and 3.1m in the northern part, with a ridge of 4.9m and 7.0m respectively. The building is taller than the poultry unit which is 4.1m to ridge and 5.6m to the height of a ventilation stack.

The proposed building will be constructed of natural stone, render, and dark stained timber clad elevations, beneath a roof clad in double Roman clay tiles. Doors and windows are predominantly full height elongated glazing with vertical timber boarding.

The building will consist of a double bedroom with en suite wetroom, separate shower room, kitchen, open plan dining and living area under a vaulted ceiling, utility room and storage space on the ground floor with stairs and a stair lift providing access to a further double bedroom, wetroom, sitting area and balcony with further storage space situated within the roof space.

The existing vehicular access will be utilised and a driveway and turning area formed to the front of the property with the provision of 2 No. disabled parking spaces and 1 standard parking space. The building will be approached from a ramped access from the parking area and a compacted gravel slab pathway and hard paved area will be constructed around the perimeter of the building.

An identical scheme was refused in February 2017 (11/16/0010) using officer's delegated powers. This application sees the resubmission of the scheme and following the Council's Officer's Delegated Powers Procedure this application is to be determined by Committee accordingly. Some comments from statutory consultees and neighbour representations that related to the previous application have been carried through to this application.

## **Site Description**

The site comprises a former Poultry House which was last used for the rearing of poultry in approximately 1999 - 2000. It is single storey building set into the shallow slope on which it stands at a slightly elevated position to the public highway. The land around the building is relatively unkempt and overgrown in areas and the building is in a dilapidated condition. A post and rail fence bounds the site on the southern, western and northern sides. A thick, mature hedge marks the western boundary of the site with the adjoining field which is under arable. Access is derived from a pair of wooden gates which are located at a confluence of access points in the centre of the hamlet serving the site and the adjoining farm buildings of Trebles Farm to the north, holiday accommodation to the south at Penbridge Court (3 holiday barns and the 10 bedroomed Court), Trebles Holford Farm to the south, Redlands, a dwelling, Redlands Barn, a holiday let and Cider Cottage. The Paddock, now a private bungalow and Bodrams, an agricultural holding is accessed to the east.



The West Dene Way follows the access drive to Penbridge Court to the south of the site. The site lies outside any recognised development limits and in planning policy terms is located in the countryside.

## Relevant Planning History

11/00/0003 – Demolition of chicken rearing unit and erection of dwelling and garage – Refused 14/09/2000 for the following 2 reasons:

1. The application site is outside a town, rural centre or village where development is strictly controlled. Development is restricted to that which benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel. The Local Planning Authority are of the opinion that a dwelling does not satisfy all of the above criteria and is therefore contrary to policy STR6 of the adopted Structure Plan.
2. The proposed development if permitted is likely to encourage similar proposals in respect of other land in the vicinity which might then be difficult to resist the cumulative effect of which if permitted would further detract from the character and amenities of the area.

A subsequent appeal to the Secretary of State was dismissed on 28 June 2001.

11/05/0006 – Change of use of poultry unit to two class B1 units, internal and external alterations – Refused 24/05/2005 for the following 2 reasons:

1. The approach road by its reason of restricted width, poor alignment, substandard visibility and geometry with the A358 Principle Road is considered unsuitable to accommodate the increase in traffic as generated by the proposed development, contrary to Taunton Dane Local Plan Policy S1 and Somerset & Exmoor National Park Joint Structure Plan Review Policy 49.
2. The proposed development would be located where it is remote from any urban area and adequate public transport provision and will therefore increase the need for journeys to be made by private vehicles which is non-sustainable and in conflict with advice given in PPG13 and contrary to Somerset & Exmoor National Park Joint Structure Review Policies STR1 and STR6.

11/10/0009 - Replacement of poultry house with a new stable block and storage building – Approved 18/10/2010. Not implemented.

Condition 3 of the planning permission restricted the use of the stables to private domestic use only with no trade or business being carried out.

11/16/0010 - Replacement of agricultural building with the erection of a single unit of self-catering accommodation for disabled visitors- Refused February 2017.

## Consultation Responses

## *COMBE FLOREY PARISH COUNCIL –*

The Parish Council support the application for the following reasons:

- The building is currently in a very poor state of repair and an eyesore and councilors considered its conversion into a small holiday let would greatly improve the site.
- The applicant's aim to provide a specially adapted holiday let will enable access to the village, and wider area, by visitors that may otherwise struggle to find the required accommodation.

Whilst the Parish Council acknowledge that their previous letter of support dated 10 January 2017 has been carried over with the resubmission, Councillors wanted to reiterate their support for this proposal and hoped that the resubmitted application will be looked upon favourably by Taunton Deane.

## *SCC - TRANSPORT DEVELOPMENT GROUP –*

Recommend Standing Advice but highlight a public right of way may fall within the site.

## *ECONOMIC DEVELOPMENT –*

Enterprise in rural areas, particularly in the tourism (holiday accommodation) sector, is vital to the growth of Taunton Deane's economy, supporting a high proportion of local jobs both directly and indirectly. I am therefore happy to support this application.

## *BIODIVERSITY –*

First Ecology carried out an Ecological Appraisal of the site in October 2016. Findings were as follows:

### **Bats**

The surveyor found no signs of bats in the poultry house. Potential crevice roost sites were located behind barge boards so the surveyor undertook one dusk emergence survey. This survey confirmed the likely absence of bats roosting within the poultry unit.

### **Birds**

No birds were observed on site during the survey. However vegetation on site is likely to provide potential nesting habitat for birds. The intention is to retain trees and scrub on site. However if the removal of these habitats is required to facilitate the development then removal of vegetation should take place outside the bird nesting season.

### **Reptiles**

Artificial refuge surveys were undertaken on site between 29th September and 13th October 2016. The search detected the presence of slow worms on site. Removal

of vegetation should be carried out in a sensitive manner.

It is recommended a condition is imposed to ensure the recommendations in the Ecological Appraisal are carried out and a note attached to remind the applicant of the UK and EU legislation afforded to protected species.

#### *LANDSCAPE –*

Although the proposed building will be higher than the existing, I do not consider it will have a detrimental landscape impact. Retained trees should be protected throughout the development and the site should be enhanced with further landscaping.

#### *SOMERSET WILDLIFE TRUST –*

In general support the findings of the Ecological Appraisal. In particular support the mitigating measures recommended in the Executive summary of the Appraisal and as supported by the Authority's Bio diversity officer.

## **Representations Received**

Six letters have been received from residents in support of the application stating that it will improve tourism, will remove an eyesore and thus improve the appearance of the area as the building will only fall into further state of disrepair, the existing building can no longer serve a useful purpose, vehicle movements are minimal and there is a lack of disabled accommodation in the area. One of the supporters runs a B & B in the Quantocks and gets asked for such facilities proving a need.

A letter from The West Somerset Railway (WSR) to the applicant shows support for the scheme. It states the proposal will provide much needed type of holiday accommodation in West Somerset. 'Not only beneficial for access as a while, but in particular for many of WSR disabled customers looking for somewhere to stay. The WSR is very proud of its purpose designed disabled carriages which will link nicely with this initiative'.

Conquest Farm Riding for Disabled Centre supports the application in principle in a letter sent to the applicant. 'As an organisation dedicated to meeting needs of disabled people it understands the difficulties they often face in accessing recreation and leisure opportunities which non-disabled people take for granted'. The Centre further states 'any new facilities helping to tackle this can only be a positive thing'.

A letter from a neuro-physiotherapist based in the Somerset Neuro-physiotherapist Practise, Taunton also supports the principle of the development in writing to the applicant. Stating 'as a neuro-physiotherapist with clients with a range of needs, I am aware of difficulties in finding suitable holiday accommodation that many experience and any further provision would be welcomed'.

As a result of a meeting between the applicant and Taunton Deane's Economic

Development Manager in 2016 prior to submitting the application, the letter the applicant received from the Economic Development Manager has been submitted in support of the scheme. In the letter, the Economic Development Manager confirms that the demand for such facilities had been demonstrated following the meeting and the proposal would have a positive economic impact as would support local businesses. The Manager confirms that the Council recognises the importance of tourism and is keen to encourage business growth. The Economic Development Manager states further that the shed is dilapidated and an eyesore and in redeveloping the shed it would remove the eyesore, improve the environment as well as uplifting the overall economy of the village and therefore he would be keen to support it at the point an application was submitted.

Two letters of objection have been received. One primarily objecting because a 2 storey house is not in keeping with the surrounding properties and given all the previous refusals, and an appeal how can this application be approved? The second objector also refers to all the previous refusals and the dismissed appeal and states there are already many holiday lets in the immediate area: Penbridge Court which also has 3 holiday let barns and can accommodate up to 50 people and hosts stag and hen parties, Redlands Barn and Cider Cottage. The objector also states that a holiday let next to Trebles Farm farmyard with working machinery and adjacent to worked arable fields would result in noise disturbance to any occupants. Further objections are on the grounds that the access road is overused already due to all the holiday lets and the existing residential and agricultural traffic and that the letters of support do not primarily come from residents of Trebles Holford. One being from a former resident of the applicant's holiday let at Redlands Barn who stayed there permanently for 5 years.

One of the objectors runs a thoroughbred business at Trebles Holford Farm to the south of the site and was unsuccessful in purchasing the site when it came on the market. The objector claims he would have built stables on the land thus maintaining it's previous permitted use.

## **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), the Taunton Site Allocations and Development Management Plan (2016), 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.

SD1 - Presumption in favour of sustainable development,  
SP1 - Sustainable development locations,  
SP4 - Realising the vision for rural areas,  
DM1 - General requirements,  
CP1 - Climate change,  
CP8 - Environment,

A1 - Parking requirements,  
I4 - Water infrastructure,  
D7 - Design quality,  
SB1 - Settlement boundaries,

## **Local finance considerations**

### **Community Infrastructure Levy**

Creation of holiday let is CIL Liable as dwelling.  
The new property measures 200sq.m

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 £22,500.00. With index linking this increases to approximately £27,250.00

### **New Homes Bonus**

The development of this site would not result in payment to the Council of the New Homes Bonus.

## **Determining issues and considerations**

The main considerations are the principle of the development and its location.

### **The Principle of Development**

The National Planning Policy Framework NPPF is a material consideration and advises that the purpose of the planning system is to promote sustainable development. Paragraph 11 of the NPPF also advises that 'applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.'

This site is located outside the development limits of any nearby settlement, with the nearest settlements bounded by such limits being Combe Florey and Lydeard St Lawrence. It is understood that the current lawful use of the site is as a Poultry Rearing Unit, although the building and site has not been used for such purposes for at least 15 years, and has since been neglected and is in a poor state of repair.

The principle of holiday accommodation development outside of defined settlement limits is accepted in the Taunton Deane Core Strategy Policy DM2 'Development in the Countryside' of – Section 3, and is expanded on in DM2 Section 7. However this is subject to the following of a sequential test with the overriding requirement that the buildings must be of substantial construction and a size suitable for conversion without major rebuilding, significant alteration or extension and where there is an identified need and is compatible and supports the economic

diversification of an existing farm or service enterprise. The Poultry House is now in a poor condition having been unused for 15+ years, and its structure and layout do not lend it readily to conversion and thus the proposal is to demolish the building and construct a purpose built holiday let and specifically for disabled users.

The location would lead to a need for dependency on the motor vehicle. New buildings are allowed under Policy DM2, but only for identified Class B Business uses, even then, the proposal would have to identify that there are no suitable sites and be adjacent to a Rural Centre. As such, the site is located in countryside where there is no policy to allow such development. Furthermore, information has not been submitted to show why the proposed development could not be accommodated within settlement limits such as in nearby villages or Bishops Lydeard which is a Major Rural Centre along the A358 to the south east of the site. This Rural Centre provides local services with good public transport links and also has access to the same tourism opportunities. This aim is supported by Policy SP4 'Realising the vision for the Rural Areas' which aims to encourage small scale local opportunities for employment growth including tourism and rural diversification but to focus growth in the first instance on Major Rural centres and secondly Minor Rural Centres. Para 4.55 of the Core Strategy states 'small scale employment opportunities are promoted within and adjoining settlements and through conversion of redundant rural buildings in order to assist diversification....'. The proposed development clearly is contrary to these aims.

It is accepted that the current building is dilapidated and impacts on the visual amenity of the area. It is also accepted that the site is well-located in respect of tourism pursuits and local services such as shops, pubs and tourist attractions would be the beneficiaries of such a use, and also that the holiday let would meet a specific need for disabled users. Clearly there is some merit in these arguments, however the principle of such a proposal is clearly not supported and the proposal is contrary to Policy DM2. The advice contained in the NPPF is geared towards re-use and adaptation of existing buildings rather than new build, so to support the principle of such a development would run counter to the Council's adopted planning policies and the NPPF and would set a precedent which may prove undesirable and difficult to defend elsewhere at similar sites and situations elsewhere within the Borough.

### **Character and Appearance of the Area**

The building would be significantly smaller in footprint than the existing poultry unit which is in a poor state of repair and impacts on the visual amenity of the area. Although the proposed building would be higher, due to its orientation, use of materials that would be sympathetic to the surrounding area and with additional landscape planting, the building could be accommodated comfortably on the site and integrated into the landscape, appearing in keeping with the character of adjoining residential developments.

### **Residential Amenity**

Core Strategy Policy DM1 (e) and (f) requires that new development has regard to neighbours residential amenities and that the amenity of users of other developments should not be unacceptably harmed by nuisance arising from an

existing use – i.e. the adjoining farm buildings. It is noted that the site is set apart from adjoining residential properties and it is unlikely that neighbour amenity issues would arise. The site is in close proximity to the adjoining farm buildings to the north, which whilst presently used for housing machinery and fodder crops, could be used in future to house livestock without any requirement for planning permission. This may have amenity implications for occupants of any holiday accommodation on the site. However, as livestock are not housed in these adjoining buildings, and being open-sided, it is not designed to house livestock, the impact on occupants of the site's amenities from the adjoining agricultural use is at present, likely to be minimal.

## **Highway Safety**

The site is to be served by an existing access which is at a confluence of various access points serving adjoining dwellings, other holiday lets and the next door farm buildings. The previous use of the poultry unit however would have generated a number of highway movements albeit it has not been in operation for some time. The use of the site as a 2 bedroomed holiday let would not generate a significant increase in traffic beyond that of the permitted use. The access to the site is considered satisfactory to accommodate this level of vehicle movements and therefore the proposal is considered acceptable on highway safety grounds.

In terms of parking, The County Council's Parking Strategy 2013, sets out an up to date parking strategy and parking standards for development. The County has been separated into various zones. Trebles Holford is located within Zone C (low population areas). The 2 bedroomed holiday let would provide for 2 disabled parking spaces and a third standard parking space which is considered sufficient. There is also sufficient turning space within the site.

## **Biodiversity**

Studies of the old poultry unit have been carried out and not evidence was found of the building being used for bats or birds however evidence of slow worms on the site was found. Subject to ensuring the mitigating measures proposed in the Ecological Appraisal are undertaken the development would not impact on the ecology of the site.

## **Pollution and contamination**

No evidence has been submitted in this regard. Given the former use of the site for the keeping of poultry, it is not unlikely that there could be some ground contamination. However as the proposal fails the tests of policy, this need not be an issue. There is insufficient information to suggest that this should form part of any reason for refusal and such matters are usually capable of resolution via suitable worded conditions anyway.

## **Conclusion**

The site lies outside the settlement limits within an unsustainable location. Although

the proposed accommodation is of a specialised nature, I do not consider that it is unique, such that it merits special treatment. No evidence has been submitted as to why the proposal could not be accommodated within nearby settlements where local services are available, is still accessible to tourism attractions and would still bring economic benefits to the area. Whilst the site is in a dilapidated condition, this does not of itself justify approval, as the argument could be repeated too often, thereby undermining local and national planning policies. The proposal is therefore not considered to be acceptable and 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: Mrs K Wray**



38/16/0227

## KIBBEAR FARM HOLIDAYS

**Change of use of land from siting of agricultural workers accommodation to siting of holiday accommodation on land to the north of Cutliffe Farm, Sherford.**

Location: CUTLIFFE FARM, SHERFORD ROAD, TAUNTON, TA1 3RQ

Grid Reference: 322948.123002

Full Planning Permission

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## Recommendation

**Recommended decision: Conditional Approval**

### Recommended Conditions (if applicable)

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

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

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

(A3) DrNo 41209/24 Site - Location Plan

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

3. The proposed use hereby approved shall not commence until the new access to Cutliffe Farm (as required by Condition 18 attached to planning permission 38/12/0203) has been provided in accordance with that planning permission. Should the access cease to be available, the use of the site hereby permitted shall cease and shall only resume once the access has been made available once more.

Reason: In the interests of highway safety.

4. The mobile homes/caravans shall be occupied for holiday purposes only and shall be limited to 13 in number, unless otherwise agreed in writing by the Local Planning Authority.

The mobile homes/caravans shall not be occupied as a person's sole or main residence.

The site operator or owner shall maintain an up to date register of the names

of all owners/occupiers of individual mobile homes/caravans on the site and of their main home addresses, and the duration of their stay and shall make this information available at all reasonable time to the Local Planning Authority.

Reason: To prevent permanent occupation that would be contrary to countryside policies as set out in with paragraph 55 of the National Planning Policy Framework.

#### Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.

## Proposal

Cutliffe Farm is situated in the open countryside, just outside of Taunton and accessed from Sherford Road and Mountfields Road. The site is a well-established farm consisting of a large number of buildings, mainly modern with some of traditional style. Part of the farm business operates as a fruit farm reliant on seasonal workers.

Planning permission is sought for a change of use of land from agricultural workers accommodation to holiday accommodation. It is proposed that the holiday accommodation would amount to the same floorspace as the existing units, with the existing units either refurbished or replaced. It will provide employment for 3 part-time staff.

A Highways Technical Note has subsequently been submitted by the applicant in response to the initial objection from the County Council Transport team.

## Site Description

The application site is a roughly rectangular field located to the north east of the main farm buildings. There are 13 mobile homes and a cabin on site and a car parking area in the north west corner. Access to the farm is gained via a private drive which is served off Sherford Road. The site is well screened to the west and north by trees and hedgerows.

A network of public footpaths pass in close proximity to the farm, but do not pass through the farmyard itself.

## Relevant Planning History

38/11/0687 – Erection of annexe to the accommodation block to accommodate seasonal farmworkers. Permission granted July 2012. This extension has been built and provides living accommodation for 8 seasonal workers on the fruit farm.

Various permissions have been granted in recent years for new farm buildings.

## Consultation Responses

*ECONOMIC DEVELOPMENT* - Enterprise in rural areas, particularly in the tourism (holiday accommodation) sector, is vital to the growth of Taunton Deane's economy, supporting a high proportion of local jobs both directly and indirectly. I am therefore happy to support this application.

*ENVIRONMENT AGENCY* - No comments received.

*SCC - TRANSPORT DEVELOPMENT GROUP* - (Original Comments) The applicant has not provided a clear indication on which route they plan for the proposed traffic to utilise to and from the application. However, it is apparent that both Sherford Road and Mountfield Road are narrow in their nature. It is the opinion of the Highway Authority that the proposal would likely result in an increase of traffic movements along both roads which would have a detrimental impact on the existing highway network. Taking this into account, I would recommend that this application be refused on highway grounds for the following reason:

1. The approach roads by reason of their restricted width and poor alignment are considered unsuitable to serve as a means of access for the type of traffic likely to be generated by the proposed development. The proposal is therefore contrary to Section 4 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Taunton Deane District Core Strategy (adopted 2011).

*SCC - TRANSPORT DEVELOPMENT GROUP* (Further Comments) - Having received and reviewed the Technical Note from Bellamy Transport Consultancy, I would refer you to my letter dated 26 September 2016 in connection with this planning application (a copy of which is attached for your information). I consider that these comments apply equally to the present application.

The main concern that the Highway Authority had with the application for Cutcliffe Farm was the approach roads being narrow in their nature, the increase of vehicle movements and the potential conflicting vehicle movements along the narrow approach roads with the existing vehicle movements would represent a highway safety concern.

*SCC - TRANSPORT DEVELOPMENT GROUP* (Final Comments) - The Highway Authority would not raise an objection to the suggested Grampian condition being attached to the planning consent for Cutcliffe Farm. However, the access would have to be constructed to an appropriate standard and there should not be any conflicting traffic movements between the vehicles that are going to use Cutcliffe Farm and the construction traffic that the 38/12/0203 application generates before the Cutcliffe Farm site is first brought into use.

## Representations Received

Councillor Herbert has written in to reiterate and support the concerns of the local residents.

Nine objections from local residents have been received and a letter from the Wilton & Sherford Community Association. The main issues raised are summarised below:

- The proposal will result in a significant number of car additional journeys on a narrow and bendy road;
- The lack of footways for pedestrians and blind bends will increase traffic hazards;
- The road is already plagued by heavy farm traffic;
- The area is prone to flooding;
- The proposed holiday lets will be in addition to the seasonal workers so there will be an increase in traffic;
- There is no information on how many months of the year that the holiday lets will be occupied;
- Visual impact on the Vivary green wedge;
- The economic benefit of 1.5 FTE jobs is insignificant compared to the impact on the environment;
- What happens to the existing seasonal workers?
- Could a new access via Mountfields/South Road be utilised?

Five further objections were submitted in response to the Highways Technical Note as summarised below;

- It is not agreed that the existing traffic is light as heavy farm machinery use Sherford Road.
- There are few opportunities to pass on the road;
- The access routes described in the note are footpaths and not primary dry walking routes;
- It would be better to build a new road to serve the farm;
- The new accommodation block approved in 2012 is not being occupied by seasonal workers;
- Whilst the new accommodation is now occupied, the caravans have not been removed from the land even though this was implied in the officer's report.

## **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), the Taunton Site Allocations and Development Management Plan (2016), 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.

SD1 - Presumption in favour of sustainable development,  
CP6 - Transport and accessibility,  
CP8 - Environment,  
SP4 - Realising the vision for rural areas,

SB1 - Settlement boundaries,

This takes into account the recent adoption of the SADMP.

## **Determining issues and considerations**

### **The Principle of the proposed use**

The application site has been used for the siting of caravans for seasonal agricultural workers for a number of years. It is accepted that this use is lawful. In planning terms, there is little difference between caravans occupied by seasonal workers and caravans for holiday accommodation. The application is seeking merely to establish the use of the land for holiday accommodation, with no increase in the number of caravans on site. Consequently there would be no difference in landscape impact of the proposal. Any operational development on the site, such as the replacing the caravans with more permanent structures, will require planning permission. It is considered appropriate to impose a condition that limits the number of caravans, in order to safeguard the visual amenity of the area.

### **Highway safety**

Access to the site is gained by a long private drive which connects to Sherford Road to the north west and Mountfield Road to the south west. Both of these roads are narrow with few passing places. These roads are heavily trafficked by both local traffic and heavy farm vehicles. A number of local residents have raised concerns about the suitability of the access and the likely intensification of use. County Highways also initially raised an objection to the proposal on the basis that the increase traffic and potential conflicting vehicle movements would represent a highway safety concern.

Members will be aware that a new housing development is being constructed on land at Killams Drive and Avenue. Planning permission was granted in December 2013 subject to a number of conditions including a requirement for a new access to Cutliffe Farm to be provided. Condition 18 states:

*“The new access to Cutliffe Farm shall be provided and capable of use prior to the occupation of the 50th dwelling within the first phase of development and shall thereafter be maintained as such.*

*Reason: The benefits to existing residents of Mountfields Road in terms of highway safety from the provision of the new agricultural access weigh in favour of the development and it should be provided at an early stage in accordance with Policy DM1 of the Taunton Deane Core Strategy.”*

In discussions with County Highways, it is considered that the highway objection could be overcome by imposing a Grampian condition on any planning permission. This would prevent the use of the application site as holiday accommodation until the new access to Cutliffe Farm has been carried out satisfactorily.

## **Conclusions**

The principle of the proposed holiday use is considered acceptable subject to conditions limiting the number of units and the satisfactory provision of a new access to the main farm complex.

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

**Contact Officer: Ms A Penn**

42/16/0040

TAUNTON VALE GOSPEL HALL TRUST

**Erection of gospel hall & associated external works at land at Killams Lane, Trull**

Location: LAND AT KILLAMS LANE, KILLAMS LANE, TAUNTON TA1 3YQ

Grid Reference: 323503.122257

Full Planning Permission

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## **Recommendation**

**Recommended decision: Conditional Approval**

**Recommended Conditions (if applicable)**

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

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

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

(A1) DrNo A-02 Rev E Site Plan  
(A2) DrNo 03 Rev A Plan, Section & Elevations  
(A3) DrNo A-04 A Block Plan  
(A3) DrNo A-05 Location Plan  
(A4) Dr No SK04B Site Plan with visibility  
(A4) Dr No SK03B Footway extension

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

3. The hall shall not be brought into use until the footway link to Killams Avenue has been provided.

Reason: In the interest of highway safety.

4. The development hereby permitted shall not be commenced until details of a strategy to protect wildlife has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of First Ecology's submitted report, dated November 2016 and include:

1. Details of protective measures to include method statements to avoid impacts on protected species during all stages of development;

2. Details of the timing of works to avoid periods of work when the species could be harmed by disturbance
  3. Details of any lighting
- 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.

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

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

6. The hall hereby permitted shall not be brought into use until the car parking area has been laid out within the site as agreed and details of the bicycle parking on the site has been submitted to and agreed in writing by the Local Planning Authority and thereafter carried out as agreed.

Reason: In the interests of highway safety.

7. The premises shall be used as a place of worship only and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To prevent changes to unacceptable uses that may result in an increase in use and traffic.

#### Notes to Applicant

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



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

2. 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 the bats and birds will be protected through the development process and to be provided with a mitigation proposal that will maintain favourable status for bats and birds that are affected by this development proposal.

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

## Proposal

The proposal is to erect a gospel hall for Plymouth Brethren with associated parking. The hall would be approximately 13m x 21m and finished in brick and timber cladding with a metal roof. 50 parking spaces are shown with the access amended so it utilises the existing access rather than forming a new one. A footway link to the existing footway along the lane to the north west is also proposed.

A Design & Access Statement, Transport Statement, Ecological Appraisal and Arboricultural report have all been submitted with the application.

## Site Description

The site consists of a grass paddock with a Wessex Water pumping station to the north west and the M5 motorway to the south. The nearest dwelling in Killams Green lies around 50m to the north west.

## Relevant Planning History

None

## Consultation Responses

*TRULL PARISH COUNCIL* - Object on the grounds that the proposal is contrary to policies DM1, DM2 and CP8 of the adopted Core Strategy. The application is outside of the settlement boundary and inside the Vivary Green Wedge. The Parish Council is opposed to further development on the Vivary Green Wedge.

*BIODIVERSITY* - The site consists of broadleaved scattered trees, dense scrub,

improved grassland and a post and rail fence.

First Ecology carried out an Ecological Appraisal of the site in November 2016. Findings were as follows:

### **Badgers**

The surveyor found no evidence of badgers using the site but the improved grassland on the site constitutes suitable foraging habitat for badgers.

### **Dormice**

There was no evidence of dormice activity on site in the form of nests or gnawed nuts. However dormice are known to be present within the area and vegetation on site is sufficiently species rich and structurally complex to provide suitable habitat for dormice. This habitat (with the exception of a stand and dense scrub and a stand of elm trees in the NW corner of the site) will however be retained.

There is a small risk that clearance of vegetation may disturb or injure dormice if not carefully controlled.

### **Bats**

There were no suitable roost features for bats identified within the site. However the site provides foraging and commuting opportunities for bats.

A transect survey was undertaken on three evenings. In addition an automated detector survey was undertaken for five consecutive nights on three occasions. These surveys identified the presence of 11 species of bats using the site.

The proposal includes the installation of five external lights within the car park. This lighting should be carefully designed to minimise any impacts on bats.

### **Reptiles**

A reptile survey was undertaken in September. This survey confirmed the likely absence of reptiles within the site.

### **Birds**

Several birds were observed on site and the vegetation on site is likely to provide potential nest sites. Therefore vegetation should only be removed outside of the bird nesting season.

### **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 of First Ecology's submitted report, dated November 2016 and include:

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

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

### **Informative Note**

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 the bats and birds will be protected through the development process and to be provided with a mitigation proposal that will maintain favourable status for bats and birds that are affected by this development proposal.

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

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

Non domestic supplies required for firefighting or commercial use will require assessment with networks modelling subject to design requirements. We will normally recommend the use of storage tanks where network capacity is not available or where off site reinforcement is necessary to provide the stated demand

*SCC - TRANSPORT DEVELOPMENT GROUP* - The proposal is for a Gospel meeting place, in a location that is remote and served by a narrow, poorly aligned carriageway from Killams Avenue. It is a matter for the Planning Authority to determine if the location is acceptable, however there are highway concerns with the proposal.

The current layout provides for an entrance to the south of the site and an exit to the north. This could lead to conflict in movements, especially for those unfamiliar with the layout. No signing schedule has been proposed to indicate how this arrangement will be controlled. The Highway Authority would usually prefer that a single point of access is considered to minimise the potential for conflict and provide safe access in terms of width, alignment, visibility splays, etc.

With regard to parking provision there is an over provision of spaces, with no reasonable justification for this. It is acknowledged that the applicant has a specific use in mind for this facility, but unless this is a personal consent and there are conditions restricting the times of operation, the Highway Authority is concerned that the anticipated levels of traffic could be significantly higher than anticipated, especially if more parking than necessary is available.

The proposed site exit indicates that visibility splays of 2.4m x 59m is achievable to the north; however this is across third party land (albeit within the red line). To the south, the plan shows 2.4m x 137m, however this has not been measured to the nearside carriageway edge which is required. If this were to be provided in accordance with highway requirements, the tree/hedge boundary would need to be removed (in part) to provide appropriate visibility splays. In this location, outside the

posted 30mph speed limit, there is a need for splays of 2.4m x 56m to the nearside carriageway edge, in both directions, at both points of access, based on the observed speed of passing traffic.

Having looked at the permission for the adjacent Wessex Water development (42/13/0041) the visibility associated with this is to the near side carriageway edge only, and does not run parallel to the highway. Therefore, there is limited mutual benefit from this provision. The visibility which is available within the application site (not using Wessex Water land) is therefore woefully inadequate and presents a severe highway safety concern.

This exit is also proposed on the narrowest part of the lane, where there is no record of an adopted highway verge. The adopted Road Record shows that there is a highway verge, for only a short distance, from the junction of Killams Green to the northern boundary of the Wessex Water site. This therefore calls into question, the ability of the developer to provide the footway, which is suggested in the Transport Statement. Without this footway, it is likely that all movements to the development will be by private car, causing additional conflicting movements on the narrow highway.

Given the above, the Highway Authority is concerned at the lack of visibility from the site exit, the conflict of an in/out arrangement for the site, the nature of the approach roads and the inability of the developer to provide the footway that is proposed. It is therefore necessary to recommend the refusal of this application for the following reasons:

- The approach roads by reason of their restricted width and poor alignment and lack of footway provision are considered unsuitable to serve as a means of access for the type and volume of traffic likely to be generated by the proposed development. The proposal is therefore contrary to Section 4 of the National Planning Policy Framework (NPPF) and Policy CP6 of the Taunton Deane District Local Plan/Core Strategy (adopted 2011-2028).
- The proposal is contrary to Section 4 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Taunton Deane District Local Plan/Core Strategy adopted 2011-2028) since the proposed exit point to the north of the site does not incorporate the necessary visibility splays which are essential in the interests of highway safety.

COMMENTS AWAITED ON AMENDED PLAN

*DIVERSIONS ORDER OFFICER - Mr Edwards* - The Public Footpath T21/9 is not affected by the proposal per se, but subject to planning / development consents being granted it will be necessary for the applicant to apply to Somerset County Council Rights of Way Section for consent to change the surface of part of the footpath.

*LANDSCAPE* - The site is located outside the development boundary and also located in the Green wedge. However having said the above, the single storey gospel hall will not be prominent within the locality. Does the car park need to be as extensive as shown? There is very little space left for landscaping.

## Representations Received

6 letters of **objection** on grounds of:

- lane is too narrow
- parking will overflow to residential estate
- will increase accident risk,
- loss of green space,
- should be built on development site
- traffic congestion
- increase traffic and no footway
- insufficient parking
- inappropriate site, it should be built in town,
- bus stop is 0.9km away
- loss of trees and bushes with new footway
- impact on green wedge
- noise and disturbance
- pollution
- impact on wildlife
- impact on dormice
- loss of view

**South Road & Area Residents Association** - object for the following reasons:

- Part of green wedge and would set precedent,
- should be built in town,
- not for local use and will increase traffic,
- poor visibility, no footpath and no street lighting,
- highway safety hazard,
- will cause rat running,
- no bus service,
- noise and disruption.

4 letters of support as site has safe access with adequate parking for use 2-4 times a week and been searching for 13 years

## 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,  
CP1 - Climate change,  
CP5 - Inclusive communities,  
CP6 - Transport and accessibility,  
CP8 - Environment,  
DM1 - General requirements,  
DM2 - Development in the countryside,  
A1 - Parking requirements,  
C5 - Provision of community facilities,  
ENV1 - Protection of trees, woodland, orchards, and hedgerow,  
ENV2 - Tree planting within residential areas,

## **Local finance considerations**

### **Community Infrastructure Levy**

N/A

### **New Homes Bonus**

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

## **Determining issues and considerations**

The main issues here are compliance with policy and impact on the area in terms of landscape, highway and amenity impacts.

### **Policy**

The site is just beyond the existing identified settlement limits and so policy DM2 applies to any development. This states outside defined settlement limits the following uses will be supported:

#### **1. Community uses**

a. within existing buildings or new build where there is an identified local need that cannot be met within the nearest defined centre.

The provision of a gospel hall is a community use and it is one that the current applicant has been seeking locally within Taunton for the last 13 years without success. This is due to their existing accommodation off Corkscrew Lane being inadequate in size with a lack of parking. An assessment has been made in terms of alternative sites and there is nowhere that will give the necessary accommodation space at the present time in the identified urban areas. The site here is available now, although it is located in the Green wedge where policy CP8 applies. The land concerned is a sliver of land between the M5 and Killams Lane and is currently screened by trees and hedging and does not form part of the open nature of the

green wedge. Its development would not in my view and that of the Landscape Officer harm the open character of the area and subject to landscape planting will be suitably screened.

## **Highways**

The access to the site is proposed through an existing field gate and the visibility in both directions onto the lane is considered satisfactory. The exit initially was via a new access point with similar visibility but this has since been deleted following the Highway Authority objection and access will now be via the existing field access which has suitable visibility in both directions. Parking is provided for over 50 spaces and this is considered more than adequate to serve the intended use, given the parking space requirements under policy A1 of the Local Plan of 1 space per 20sqm. The site can also accommodate cycle parking and the scheme also proposes a footway link from the site to the existing footway along the lane. The Transport Statement clarifies that this can be provided on land in the applicant's control and not on third party land. Subject to conditions to address these issues the main highway concerns are overcome and the highway impacts of the development are considered acceptable.

## **Drainage**

The site is located in an area of low flood risk and the intention is that foul drainage will link to existing Wessex Water systems while the surface water will drain to soakaways and the parking areas will be permeable. This drainage strategy is considered acceptable and will prevent the risk of flooding elsewhere.

## **Other Matters**

There are no immediate neighbours that would be disturbed by the use of the building and there is more than adequate on site parking. A wildlife appraisal has been submitted with the application and the development is not recognised as having any significant adverse impact over any protected species. Mitigation measures for the construction works will be required and a condition to control any external lighting on the site to protect bats and other wildlife is considered necessary.

## **Conclusion**

In summary the use here is considered to comply with policy DM2 and would not give rise to harm in terms of landscape impact, highway safety, wildlife or drainage and is therefore recommended for approval.

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

**Contact Officer: Mr G Clifford**

43/16/0130

WELLINGTON TENNIS CLUB

**Construction of additional tennis court and associated works, including erection of fencing and alterations to access arrangements at Wellington Tennis Club, Courtland Road, Wellington (resubmission of 43/16/0066) as amended.**

Location: WELLINGTON TENNIS CLUB, WELLINGTON PLAYING FIELD,  
COURTLAND ROAD, WELLINGTON, TA21 8NE  
Grid Reference: 313597.120423 Full Planning Permission

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## **Recommendation**

**Recommended decision: Conditional Approval**

### **Recommended Conditions (if applicable)**

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

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

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

(A1) DrNo 0031-AN 03 Rev 2, Proposed Detail Plan  
(A1) DrNo 0031-AN 04 Rev 2, Proposed Elevations  
(A3) DrNo 0031-AN 02 Rev 4 Proposed Site/Location Plan

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

3. Construction of the hereby approved tennis court shall not commence until the alterations to the access arrangements have been completed and the works associated with the relocation of the football pitch (i.e. relocation of the two goals and the protective netting plus drainage being provided in association with the goal area at the northern end of the pitch) have also been completed.

Reason: In order to retain appropriate sports pitch facilities in accordance with policy C3 of the Taunton Dean Adopted Site Allocations and Development Management Plan 2016.

4. No development shall take place until details/samples of the materials to be used in the construction of the external surfaces of the new tennis court and run-off area hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out and



thereafter retained as such, in accordance with the approved details as above, unless otherwise agreed in writing by the Local Planning Authority.

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

5. Within two months of the felling of the Birch tree (annotated TR2 on submitted drawing no. 0031-AN 02 Rev 4), a replacement tree must be planted as a 'feathered' or 'standard' tree, with a minimum trunk girth 8-10cm in accordance with BS 4428:1989. Details of this tree, its exact location and the method of planting, together with measures for its protection during the course of implementing this approval, shall have been previously submitted to and agreed by the Local Planning Authority.

Reason: To maintain the visual amenity of Wellington Sports Ground in accordance with policy CP8 of the adopted Taunton Deane Local Plan .

6. Before development commences (including site clearance and any other preparatory works) a scheme for the protection of trees to be retained shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location of the protective fencing, and shall specify the type of protective fencing, all in accordance with BS 5837:2012. Such fencing shall be erected prior to commencement of any other site operations and at least two working days notice shall be given to the Local Planning Authority that it has been erected. It shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities whatsoever shall take place within the protected areas without the prior written agreement of the Local Planning Authority.

Note: The protective fencing should be as specified at Chapter 9 and detailed in figures 2 and 3 of BS 5837:2012.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with Taunton Deane Local Plan Policies DM1 and CP8

7. No form of lighting or floodlighting shall be used or placed at the site in connection with this permission hereby granted unless full details have first been submitted to and approved by the Local Planning Authority.

REASON: In order to prevent potential light pollution and to protect the amenities of the surrounding area in accordance with policy DM2 of the adopted Taunton Deane Core Strategy.

## Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.

## Proposal

Construction of additional tennis court and associated works, including erection of fencing and alterations to access arrangements at Wellington Tennis Club, Courtland Road, Wellington (resubmission of 43/16/0066).

Alterations to the current access arrangements in the corner of this site comprise of moving the access point along the existing fence line as indicated on dwg. no. 0031-AN 03 Rev2 and is to the right of the proposed new tennis court. The entrance will also be formed to allow level wheelchair access for inclusive use for all members of the public.

No floodlights are proposed as the new court is will only be used during daylight hours. The new court will be green in colour to match the existing.

The new court has been sited at an angle rather than in a parallel run with the adjoining two courts. The size of the court measures 32.5m long and 17m wide and is a set size as defined by the recommendations of the Lawn Tennis Association. The mesh boundary fencing surrounding the court will be 3m and be placed on top of a low level retaining wall between the existing and proposed court.

Some existing trees not covered by a TPO are to be removed plus the Birch tree annotated as 'T2' on the submitted drawings will need to be removed. A replacement tree will be required elsewhere at the site.

## Site Description

The Wellington Recreation site is located between housing at Court Drive and a small public car park and Courtland Road to the north of the site. Both the Recreation Ground and the small car park are owned by Taunton Deane Borough Council. The site is within the Rockwell Green Ward.

Entrances to the site are located at Courtland Road and Court Drive.

Also existing at the site is a club house which is a brick built building. The grounds are also shared with the local football club who use two pitches and the local cricket club. The tennis club and the existing two tennis courts are located at the Court Drive area of the site and are adjacent to the south western boundary.

## Relevant Planning History

43/16/0066, Construction of additional tennis court & associated works including the

erection of fencing & alterations to access arrangements, Withdrawn by the applicant on 14/09/16.

## Consultation Responses

### *WELLINGTON TOWN COUNCIL -*

Wellington Town Council support this application subject to the objections from neighbouring sports clubs being overcome.

### *SCC - TRANSPORT DEVELOPMENT GROUP -*

Standing Advice.

No further observations on further information.

### *SCC - NOW HISTORIC ENV SERVICE -*

No comments received

### *LEISURE/ ENTERPRISE DEVELOPMENT -*

No comments received.

### *LANDSCAPE -*

The placing of a new tennis court in this corner of the open space is still tight. However, this application is an improvement on the previous application.

Comments following receipt of additional information;

No further observation(s) to make.

### *OPEN SPACES MANAGER -*

The proposed plans submitted by the Tennis Club moved the football pitch but brought the corner too high up the mound which would be unacceptable for play, we discussed several alternatives and the best was for the football pitch to move according to the drawings provided by the Tennis Club plus an additional 1m down towards the Retirement homes and be reduced in length by 1m.

This would provide the required 3m runoff for the pitch and move the corner nearest the mound down to a position that is no worse than currently. The Tennis Club understand that the cost of moving the goal mouth protective fence and any drainage at the new goal area to support this move would be expected to be funded by their project. It was also agreed that no diagonal supports would be possible on the new Court's fencing as it would encroach on the required runoff area.

As there was a game being played it was possible to estimate how much space the football spectators would need and that this would not encroach on the Cricket Square after the move.

Planning approval will still need to be successful and we have now received Sport England's response which requests a holding objection. I will speak to the representative from Sport England to bring them up to date on these recent negotiations which will hopefully alleviate their concerns.

If Sport England's objection can be resolved and no additional issues arise I will

recommend to Cllr Herbert that this proposal should be approved, she will of course make the final decision.

Thank you all for your time and help with reaching this compromise.

#### *TREE OFFICER -*

I prefer the second option, as I think that the oak is more valuable in the long-term than the birch, although I would rather not lose the birch either. A couple of new birch trees could be planted to replace the loss – they are fast-growing trees. This option would also allow you to have the full-size court.

Regarding the revised layout for this development and its effect on existing trees, I can confirm that I do not have any objection to it, subject to the retained trees (particularly the oak in the south west corner) being protected by fencing in accordance with BS5837 so that they are not damaged during the works. I have no problem with the birch tree being removed, but would suggest a condition that a new tree is planted in a suitable location, to be agreed with TD Parks Department.

#### *SPORT ENGLAND SOUTH WEST (original comments dated 16th December 2016) -*

The site is considered to constitute playing field, or land last used as playing field, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). As such Sport England is a statutory consultee.

Sport England has sought to consider the application in light of the National Planning Policy Framework (particularly Para. 74) and Sport England's Playing Fields Policy, 'A Sporting Future for the Playing Fields of England' Unfortunately there is insufficient information to enable Sport England to adequately assess the proposal or to make a substantive response. Please therefore could the following information be provided as soon as possible:

The tennis court proposal appears to affect an existing football pitch. We have sought the views of sports involved through their regional officers:

The Lawn Tennis Association (LTA) advise that Wellington Tennis Club has a thriving membership and coaching programme for a small club with two courts and the addition of a third court would allow the club to grow the membership further. It would also allow the club to enter more teams into league tennis with the addition of a third court. The LTA is aware of the ongoing discussions around the impact on the football/cricket pitch and shares the view of the other NGB's that the actual location of the court in relation to the other sports needs to be finalised and agreed to the satisfaction of all parties.

The Football Association (FA) advise that the pitch in question is absolutely essential to the local football club as there is a deficit of playing pitches locally that has been highlighted in the current Playing Pitch Strategy (PPS). There are concerns over the positioning of the proposed new tennis court and the impact that this will have on the football playing field and knock on effect to the cricket square.

The England & Wales Cricket Board (ECB) advise that the proposal would require the football pitch to be moved much closer to the cricket square. This proposal will

move high wear areas, i.e. the touchline, very close to the cricket square and the run ups for bowlers. The principle of a tennis court in the location proposed would have no material impact on the cricket ground however as the football pitch has to move this will have a detrimental impact on cricket. The ECB cannot support the planning application until we are satisfied that the movement of the football pitch will not be detrimental to the cricket ground and all parties are in agreement.

As with the previous application that was withdrawn, Sport England's interim position on this proposal is to submit a **holding objection**. However we will happily review our position following the receipt of all the further information requested above – including scaled plans showing existing and proposed football pitch adjacent to the tennis proposal also indicating its impact on the cricket pitch at the site.

Should the local planning authority be minded to grant planning permission for the proposal, contrary to Sport England's holding objection, then in accordance with The Town and Country Planning (Consultation) (England) Direction 2009, the application should be referred to the Secretary of State, via the National Planning Casework Unit.

### **Revised Comments**

Thank you for sending through additional information which led to a site visit with the FA and an independent pitch advisor from the Institute of Groundsmanship (IOG) last week. Sport England has re-considered the application in the light of its playing fields policy following additional information and consultation response from the LTA, RFU and FA.

The LTA have no further comments.

The ECB confirm 'no comments'.

The FA have comments from the IOG:

Having visited the site of Wellington FC on the 28<sup>th</sup> February, it is my opinion; having also viewed the plans; that the new proposed repositioning of the existing football pitch will not pose any issues in relation to levels or safety.

That being said there will need to be some foliage 'cut back' towards the North Eastern side of the attached image and there should be some consideration into the feasibility of improving the drainage within this particular area as the pitch is being moved 'closer' to a low lying spot where excess water has been known to settle in the past.

Along with this, an increase in maintenance is necessary to ensure the sustainability of the playing surface, particularly in relation to decompaction operations and suitable end of season renovations to repair damaged areas.

In summary, the tennis club will improve its facilities and its offer to community sport, the ECB raise no concerns and the FA and IOG raise no objection to the proposed plans on condition that pitch improvement works are identified and carried out on the area of playing field land to be used in the future as a football pitch.

Sport England does not wish to raise an objection to this application providing that the following issues for the playing pitch are subject to planning condition:

- Foliage 'cut back' towards the North Eastern side
- Improving the drainage within this particular area
- Increase maintenance to ensure the sustainability of the playing surface

The absence of an objection to this application in the context of the Town and Country Planning Acts, does not in any way commit Sport England's support for any related application to the National Lottery Sports Fund.

## Representations Received

**Wellington Cricket Club** - has objected to this application and make the following comments.

Whilst we support growth and development of any fellow sporting club in the town this is just not the way to surfeit the described growth. Wellington playing field is a multi-sport venue that house cricket, football and tennis and does so quite adequately within its current configuration without any need for change.

Growth of tennis within the town can be catered for by better use of existing facilities for the sport such as at Court Fields School or Wellington School; what the club needs is already available.

The effect on the future of football and cricket at Wellington Playing Field is jeopardised by this application. Movement of pitch two ref football would have to occur by some 6m due to the tennis court taking over the majority of the current area that football occupies and this would bring the football pitch perilously close to the cricket square, the potential for damage is ever present. Any reduction in the quality and nature of the facility for one sport caused by another cannot be tolerated, especially when there is a perfectly reasonable solution to achieve what is desired already available.

Wellington Playing Field is a jewel in the towns outdoor environment crown and should be maintained as it currently is for all who wish to use it and not be subject to unnecessary and unrequired change.

**Comments from Ward Member** - As Ward Councillor for the area in which this application lies I fully support the ambition of the Tennis Club to extend their services to more residents. Wellington is growing rapidly and should be able to support Sport in any way possible for all. I have taken on board the comments from the Cricket Club & Football Club. Unlike them I still support this application. Change will & has to happen. Having examined the plans I can see no reason for objecting other than the sports federation not being consulted by the applicant and I do wonder if they ever consult the tennis club regarding plans they may have.

5 letters of **objection** have been received raising the following;

- Development will alter our car park - where will the machinery go whilst it is being built.
- Much of the time the courts are empty and there are 9 other courts in Wellington.
- Damage will be caused to the cricket outfield situated near the tennis facility.
- How will heavy rolling stock gain entry in this busy area of private housing and two schools.
- The submitted drawings do not contain all relevant dimensions and submitting full plans and drawings without advising stakeholder's is not good form.

I support all sport in our town but not to the detriment of other sports, with a cloaked approach to facts and effects.

- Question members queuing up to use the tennis facilities, there are other tennis facilities in Wellington this sport is too seasonal.
- This development is too big and in the wrong place.
- WAFC are unsure of the exact positioning of the football pitch in relation to the old and the proposed court boundary.
- Doubt whether the football pitch will sit within the actual boundaries of the field without disruption to old peoples homes, trees on the mound and the flooded area next to the bottom end.
- Will the Council be prepared to move the metal mesh fence behind the goal to protect the old peoples home.
- The playing field used to be a secure place at night with locked accesses but the gate onto Court Drive appears to have disappeared.
- Following a meeting with the 3 clubs the tennis club agreed to put dimensions to plan this has not been done.

13 letters of **Support** have been received raising the following;

- The existing facility is currently inadequate at times of peak demand in part due to one court being available for public hire.
- For club membership to expand more court time is required.
- The number of tennis courts currently available for use by the general public in Wellington is significantly below smaller conurbations and should not be allowed to continue.
- Our town grows and we must meet the needs of ever increasing population.
- A third court would provide a 50% increase in capacity as tournaments are limited in capacity.
- Tournaments are limited in capacity with only 2 courts available, and junior coaching sessions at the weekend deny members use at popular times.
- We wish to encourage adults and children to get more active.
- Most other tennis clubs have at least 3 courts and is essential for tennis matches and for up-coming junior players.
- Membership in both senior and particularly junior are rising and a third court would make all the difference.
- I fully support this revised application crucial to the future success of the club.
- The additional court will allow the club to provide for wheelchair tennis.
- There are no planning reasons to refuse this application and will help to achieve Government and Local Authorities to increase opportunities for people to participate in sport.
- The tennis club have been pro active on advice given after the withdrawal of the first application.
- The current courts are full for coaching sessions meaning juniors have limited

space.

- We are trying to attract younger people to take up sport and look after their health.
- We have 3 young sons who are members of the tennis club and have frequently made use of the courts.
- Matches take longer in Wellington because of only having the two courts.
- The third court does not interfere with the rest of the recreational area and would be tucked away in close proximity to the other courts.
- The club operates a 'pay and play' system for all ages and abilities and a growing club should not be held back from increasing its membership.
- Tennis is played here all the year round and the third court will be much easier for wheelchair tennis as the entrance will be much closer solid ground as getting across the grass is difficult.
- The adjacent sports pitch is rarely used, and we need a third court on-site.
- Currently juniors attending coaching means we often have to have 6 children playing on each court and on occasions some sitting out while we rotate players.
- The third court would give opportunity to give players more experience playing full court tennis instead of playing matches on half a court which will benefit their tennis.
- Juniors often find it difficult to find time to practice and junior lessons are often having to be held with large groups on one court.

#### **Applicants response** to comments made;

- I wish to point out that we play tennis year round hence the lights to existing courts which are used daily and would point out that both cricket and football are seasonal.
- Wellington School courts are not for public use and nets are removed during the winter and courts become netball courts and they do not have lights.
- We have an active club with a family feel so having a clubhouse is essential and we need space to store equipment.
- Any building work will incur some disruption but building a court only takes 4-6 weeks according to court builders.
- An increase in membership and having 2 courts results in people sitting out on club nights and other members and public are not able to play while league fixture and tournaments are being played.
- We are the only club in the neighbouring area with 2 courts and with an extra court can offer more public and wheelchair availability.
- Wheelchair players will be able to access a court as our current gates are too narrow and the field is too muddy in winter for access.
- In order to attract new members and continue to thrive this expansion is required.
- In response to the Cricket Club's objection, representatives from football, cricket and tennis met in October and measured out the football pitch which was 10m longer than they stated (100m rather than 90m) with the pitch moving down 4-5m, skimming the mound with the tree.

## **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.

DM1 - General requirements,  
CP8 - Environment,  
C3 - Protection of recreational open space,  
A1 - Parking requirements,  
ENV1 - Protection of trees, woodland, orchards, and hedgerow,  
ENV2 - Tree planting within residential areas,

## **Local finance considerations**

Not applicable in this case.

## **Determining issues and considerations**

The main issues and considerations in this case are;

- Principle of development
- Impacts on the character and appearance of the area
- Impacts on residential amenity
- Highway safety/Access
- Drainage

### **Principle of development**

The recreation ground is within the development limits of Wellington and therefore the proposal is acceptable in terms of policy SP1 (sustainable development) and DM1 (general requirements) of the Taunton Deane Core Strategy 2011 and 2028 and policy C3 of the Taunton Deane Site Allocations and Development Management Plan 2016.

### **Impacts on the character and appearance of the area**

The Recreation Ground is owned by Taunton Deane Borough Council and is not within but is directly adjoining the designated Wellington Conservation Area. The closest listed building is The Court on Courtland Road adjacent to the western boundary which is Grade II Listed and is well away from the location of the new tennis court.

There are also a series of trees adjoining the new court's position to the west which are covered by a Tree Preservation Order (TD765) and it is considered that the realigned court means that these trees will be retained. However tree T2 (a Birch) will need to be removed and therefore a replacement tree will be sought to be planted elsewhere at the site. The tree officer's comments can be seen above. He has no objection providing the other trees are protected during the course of construction works.

Comments from the council's Landscape Officer are also above and raise no objections.

The north east corner of the existing football pitch is currently located on a part of an existing mound in the recreation ground under which it is understood that there is an old Ice House and the subject of a protected monument and for this reason no works to this mound are proposed or supported.

The proposed siting of the new tennis court has been tweaked slightly in its orientation and this development will also mean that the current second football pitch at the ground will need to be relocated further to the north and east. Additional information in the form of the Site location drawing 0031-AN 02 Rev 4 show the layout of the tennis courts, football pitch and the proximity to the existing cricket square as requested by Sport England during the course of the application. This revised drawing shows the new location of the second football pitch, the corners of which have marked out on site and where a recent meeting was held with the Open Spaces Manager, Planning Officer, a member of the FA and an independent pitch advisor from the Institute of Groundsmanship, in order to assess the proposal and where the corners of the new pitch had been marked out. Following this meeting Sport England withdrew their holding objection and their comments can be seen above.

The relocated football pitch will be larger than the existing current second pitch (100m x 60m) as it will be longer and wider, and by moving this pitch the NE corner will be on flatter ground rather than on the slope of the existing mound. The goal posts and protective fencing to Court Lodge behind the goal will need to be relocated and some foliage on this boundary will also need to be trimmed back plus some drainage will be required to drain one of the goals. This has been previously discussed with the tennis club and a suitably worded condition is appended to this decision requiring these works to be undertaken prior to the construction of the tennis court. The relocated football pitch will not have a detrimental impact on the cricket square.

Given all of the above considerations, it is considered that the proposal accords with local planning policies DM1, CP8 of the Taunton Deane Borough Councils adopted Core Strategy 2011 and 2028 and policy C3 of the Taunton Deane adopted Site Allocations and Development Management Plan 2016.

### **Impacts on residential amenity**

In terms of impacts on residential amenity, it is confirmed that no floodlights are proposed to serve the new court, which is to be used in daylight hours by junior members of the club.

The new access to be provided is to be located further along the current fence line and the revised access to the site will allow level access by wheelchair users.

New fencing and landscaping is to be provided in the form of a 3m high boundary fence along the line of the tennis court as viewed from the residences in Court Drive (as shown on submitted drawing 0031-AN 04 Rev 2 and a variety of new shrubs are also to be planted to screen this corner of the site.

With regards to the comments about a gate at the south of the site having been removed that is not covered by this application and cannot be considered under the planning remit.

To address the concerns from residents on the access to the site during the construction works, the agent has confirmed by email (dated 30/01/17) the tennis clubs preferred contractor would access from the existing main entrance off Courtland Road during a period when the ground is not too wet. They do not foresee the need to occupy Courtland Drive. However, when some of the existing trees are removed they will need to ensure this small car parking area is clear in order to avoid possible damage to cars etc. It is understood that the duration of works to provide the new court is approximately 5-7 weeks. Therefore some residential impact will result from this development over a short period of time, however, this is not considered significant enough to warrant refusal of this scheme.

It is considered that this development accords with local policies DM1 and CP8 of the Taunton Deane Borough Councils adopted Core Strategy 2011-2028.

### **Highway safety/Access**

Comments of Standing Advice have been returned from The Highway Authority.

Some revision of the access to the corner of the recreation ground will be undertaken and has been mentioned previously. Disabled access will be improved by providing a level access to the tennis courts.

No revisions or alterations are proposed to existing car parking provision in Courtland Road or in the adjoining residential parking (also Council owned) at Court Drive. The parking standards related to local policy A1, do not state a requirement for additional parking relating to this leisure use and the additional new court being provided in this case.

Therefore the proposal accords with local planning policy A1 (Parking) in the Taunton Deane adopted Site Allocations and Development Management Plan 2016.

### **Drainage**

As highlighted at the recent visit arranged by Sport England which was attended by sports federations and the Councils Open Spaces Manager, some drainage will be required at 'The Court' area of the relocated football pitch and this is currently being investigated by the Open Spaces Manager. A condition regarding these works is appended to this decision.

## **Conclusion**

Given all of the above issues and considerations, it is considered that the proposal to provide an additional sports pitch in the locality is acceptable in terms of local policy, in terms of the character and appearance of the area and of accessibility by members of the local public.

The new tennis court will not have significant impacts on the other sporting facilities (football pitches and the cricket square) at the site. The proposed relocation of the second football pitch will be in an approved location away from the current mound at the site and the pitch itself will actually be larger than the existing provision. The goal nearest The Court nursing home would be affected by surface water as it the case currently, and the FA have suggested that drainage behind this goal is provided. Relocating the football pitch will mean relocating the goals and the protective netting and the tennis club are aware that they will be responsible for funding this, therefore a suitably worded condition is appended to this decision.

With regards to the tree works required at the site again a condition has been attached in this regard. The loss of one Birch tree has been accepted in order to accommodate the new tennis court and realigned access and a condition attached requires the planting of a new replacement tree on the site.

Given the above issues and considerations, this proposal is recommended for conditional approval. It is considered to comply with the terms of policies DM1, CP8 of the Taunton Deane Core Strategy 2011 to 2028 and policy C3 (Protection of recreational open space), ENV1 (Protection of trees, woodlands orchards and hedgerows) ENV2 (Tree planting with new developments) and A1 (parking) of the Taunton Deane Site Allocations and Development Management Plan 2016.

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

**Contact Officer: Sue Keal**

GLADMAN DEVELOPMENTS LTD

**Outline Application with all matters reserved, except for means of access, for the erection of up to 205 dwellings and up to 60 apartments with care (Class C2), with public open space, landscaping, sustainable drainage system and vehicular access points from Exeter Road on land to the west of Bagley Road, Rockwell Green**

Location: LAND WEST OF BAGLEY ROAD, ROCKWELL GREEN,  
WELLINGTON

Grid Reference: 312264.119438

Outline Planning Permission

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## **Recommendation**

### **Recommended decision: Refusal**

- 1 The proposed development is outside the defined settlement limit of Wellington and Rockwell Green. It would result in an unplanned extension of the town, preventing a full assessment of the most sustainable options for future growth. It is, therefore contrary to Policies CP8 and DM2 of the Taunton Deane Core Strategy.

The site is too far distanced from Rockwell Green Primary School and parts of the development are too far distanced from local shopping facilities for residents of the proposed development not to be reliant on private cars to access these facilities, contrary to Policy A5 of the Taunton Deane Site Allocations and Development Management Plan. In any case, there is insufficient capacity at Rockwell Green Primary School to accommodate the likely increase in pupils that would result from the proposed development and future occupiers would need to travel even greater distances to primary school or displace existing residents of the area. Accordingly, the proposal is in serious conflict with Policy A5 as the access to primary education cannot be mitigated. The development is, therefore, not sustainable within the meaning of the National Planning Policy Framework.

- 2 Insufficient information has been provided to demonstrate that the proposed development is not contrary to Section 4 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Taunton Deane District Core Strategy (adopted 2011-2028) since the proposed development is likely to result in a severe transport impact, which could be prejudicial to the safety, amenity and convenience of highway users.
- 3 Insufficient information has been submitted to demonstrate that the proposed development will not result in harm to European Protected Species. The development is, therefore, contrary to Policy CP8 of the Taunton Deane Core Strategy.
- 4 There is no mechanism in place to secure appropriate affordable housing provision, children's play facilities or an acceptable travel plan as part of the

development. The proposal is, therefore, contrary to Policy CP4 of the Taunton Deane Core Strategy and Policies A2 and C2 of the Taunton Deane Site Allocations and Development Management Plan.

## **Recommended Conditions (if applicable)**

Notes to Applicant

## **Proposal**

This application seeks outline planning permission for a residential development of up to 205 dwellings with up to 60 bed apartments with Care (C2 use class). Approval is sought for access at this stage, with two vehicular access points proposed from Exeter Road and further pedestrian access routes at the northern end of the site to Exeter Road and Bagley Road.

A development framework plan indicates that the C2 apartments would be provided centrally on the Exeter Road frontage, additional tree planting is proposed along the A38 to the south of the site to form a 15m landscape buffer; a 10m wide landscaped strip would be provided along Exeter Road. The plans show likely locations for surface water attenuation facilities in the northern part of the site and centrally positioned public open space and play facilities. The plans also indicate that the garden areas of two adjoining properties on Bagley Road would be extended into the site.

## **Site Description**

The site is a relatively flat, broadly triangular area of land on the western extremity of Rockwell Green. It is bordered to the northwest by Exeter Road – the main route into Wellington from the west and to the south by the A38 Wellington relief road. The southern boundary is fairly heavily planted with existing trees obscuring views into the site from the A38; the north western boundary is more open with lower hedge planting and some views into the site. There is a wide highway verge along much of the boundary, which includes some tree planting.

To the east the site is bordered by Bagley Road; there are a number of dwellings whose curtilages extend from the road towards the site. There are a couple of additional dwellings adjoining the northern part of the site adjoining Exeter Road, one of which is accessed from Exeter Road, the other from Bagley Road.

## **Relevant Planning History**

There is no relevant planning history for this site.

## **Consultation Responses**

*WELLINGTON TOWN COUNCIL* - Recommended that permission be refused for

the following reasons:

- The application does not fall within the Core Strategy.
- There is already an adequate supply of allocated land in Wellington.
- There is insufficient infrastructure in Wellington, Rockwell Green and the surrounding area to support this development.

*SCC - TRANSPORT DEVELOPMENT GROUP* – The applicant wishes to erect up to 205 dwellings and up to 60 apartments ‘with care’ and associated Infrastructure and Public Open Space. The dwellings and apartments are to be accessed by a series of new residential roads that feed onto two junctions with Exeter Road.

The proposal in question lies east off the classified Exeter road and west off the classified Bagley Road situated south west of Rockwell Green and west of Wellington. The speed limit is derestricted past the proposed accesses & therefore appropriate visibility splays of 2.4m x 215m would be required unless as proposed there is a change in speed limit, which would result in a reduction of visibility requirement. The proposal would generate a substantial increase in vehicular movement onto the local highway.

### **Transport Assessment**

The submitted application included a Transport Assessment (TA) which has been analysed.

TRICS outputs for the 60 care apartments from the proposal have not been included.

On reviewing the submitted documentation, whilst it is the opinion of the Highway Authority that the immediate highway can accommodate the likely traffic from the proposal there is no information on the impact the additional vehicle movements from the proposal would have on the surrounding road network & key A38 junctions, namely Pyles Thorne Road and Chelston Roundabout.

Furthermore, the TA has not taken into consideration committed development. Jurston Farm would need to be included in consideration of those junctions. Development at Cades Farm and Longforth Farm (not yet built out) and Comeytrove would need to be considered for an assessment of the Chelston Roundabout.

Without the required information mentioned above the Highway Authority cannot comment further on the transport assessment, except to recommend refusal.

### **Road Safety**

The A38 Exeter Road/Nowers Lane roundabout layout is not to current highway standards, and has poor deflection on some approaches which might encourage higher traffic speeds than would be desirable. Consideration should be given to any improvements that could be made at this location. Whilst not a capacity concern, there is a history of accidents & the additional traffic from this proposal could add to

the safety concern.

Exeter Road is currently a relatively wide straight section of road under the national speed limit that used to be the A38. Residents from Wellington and Rockwell Green use this as an easy and convenient access to and from the towns and any additional junctions are likely to cause conflict if not properly designed and executed.

The proposal indicates the current derestricted limit along Exeter Road and the proposed access points to be reduced to 30mph. If it were to be reduced subject to TRO, any change to the speed limit may require a range of engineering treatments to change the environment due to the current width of the carriageway.

The application highlights that potential pedestrian connections to the east have been identified. There appears to be no further information regarding pedestrian linkage and a provision of consistent footway currently lacking, to the east of Bagley Road.

### **Accident History**

On reviewing the recorded PIA's (Personal Injury Accidents) for the last five years 4 were recorded on the nearby roundabout south-west of the site and two accidents, were recorded north east of the site where Bagley Road meets Exeter Road. Additional vehicular movement generated from the proposed development could increase the PIA occurrence.

### **Travel Plan**

The Framework travel Plan (FTP) as it currently stands has not been approved as many elements are missing. Although this is outline, with reserved matters, it is important to include the principles within the FTP. However, there are also significant amendments to be made to the TA which will have a detrimental impact on the FTP. Therefore we will not comment until further investigation and justification of the TA has been addressed.

### **Estate Road**

As an Outline application with all matters reserved (except for means of access) the internal layout is not being considered at this time given our other concerns & findings.

### **Flood Risk Assessment**

Please find the comments below relating to both the existing and prospective public highway networks.

*Comment 1*



Clause 2.5 relates to the existing surface water drainage arrangements within and adjacent to the site and specifically identifies a culvert running diagonally south east to north west across the site. Our limited highway drainage records indicate the presence of highway drains/culverted ditches at both the southern and northern ends of Bagley Road but unfortunately do not confirm any connectivity with the culvert crossing the development site. This notwithstanding, given the location of the culvert it more than probably serves to transfer surface water run-off from Bagley Road to the watercourse on the north western side of Exeter Road. This being the case, the highway authority enjoys the prescriptive rights to discharge into this culvert and these rights must be represented in the surface water management strategy for the development.

#### *Comment 2*

In clause 2.5.4 it is speculated that the ditch on the north western side of Exeter Road, in close proximity to the junction of Exeter Road with Bagley Road, accepts surface water flows from the new Redrow development and/or highway drainage from Bagley. Wessex Water's sewer maps would indicate that the surface water from the development discharges to ditches to the east of the development and not towards Exeter Road. However, our limited highway drainage information for the northern end of Bagley road indicates that a highway drainage system could outfall towards the above mentioned ditch.

#### *Comment 3*

The surface water management strategy proposed dissects the development into 2 catchment areas, Area A to the south of the presumed route of the existing culvert running diagonally across the site and Area B to the north of this same culvert. The performance of this culvert is of interest to the highway authority as summarised previously and should it be over-burdened then this may have a detrimental effect upon the collection and discharge of highway run-off.

Unless this culvert is perforated or laid with open joints then the contours of the land would indicate that the natural run-off from only a small proportion of Area A currently finds its way into this existing culvert. It would be appropriate therefore to assess the capacity of this culvert to ensure that its capacity is not compromised and upgrade as necessary.

#### *Comment 4*

In terms of the second catchment, Area B, the question is as to whether this drain/culvert currently serves to accept natural run-off from the development land and therefore whether the drain/culvert has the capacity to accept the increased flow. As this drain/culvert currently serves to discharge run-off from Bagley Road then any reduction in its performance could lead to flooding on the road. As this drain/culvert was affected by the installation of the new footway serving the Redrow development then records of its size, location and condition may have been ascertained during the development works. It is possible that this drain/culvert was installed solely for the purpose of draining the highway but this will need to be ascertained through further investigation. We will interrogate our files to establish whether any such records have been secured and advise the Local Planning Authority further.

## *Comment 5*

The indicative internal road layout on the Surface Water Drainage Strategy plan shows the existing culvert passing under one of the estate roads. Allowance should be made to replace that section of the culvert passing under the road to ensure that it satisfies current adoptable standards. Access manholes should be provided at the upstream and downstream ends of the road crossing to facilitate maintenance access.

## **Conclusion**

On balance of the above the application lacks the required information for the scale of the proposal. The Highway Authority is concerned that the proposal could have a negative impact on the local surrounding network. The applicant would have to provide further detailed evidence as mentioned above to justify the application in accordance with the NPPF. Therefore The Highway Authority would recommend refusal.

*SCC - CHIEF EDUCATION OFFICER* – Thank you for your notification regarding application 43/17/0002 an outline application for 205 dwellings and up to 60 apartments west of Bagley Road Rockwell Green. We are also aware that there is a further application submitted for 29 dwellings (43/16/0135) within the Rockwell Green C of E Primary School catchment area. The authority wish to bring to your attention that whilst this school is currently being expanded by 30 places, this is to accommodate the existing need within this catchment area. Due to site constraints, once this work is completed, the school cannot be expanded further. It follows that SCC would not be able to provide sufficient places at this school for children coming forward from these or any further developments in Rockwell Green.

*SW HERITAGE TRUST (ARCHAEOLOGY)* – The applicant has submitted an archaeological desk-based assessment (d-ba) in support of the application. In general I agree with the conclusions of the d-ba that any archaeology on this site is likely to be of local significance and can be dealt with through the imposition of a condition on permission.

For this reason I recommend that the applicant be required to provide archaeological investigation of the development and a report on any discoveries made as indicated in the National Planning Policy Framework (Paragraph 141). This should be secured by the use of model condition 55 attached to any permission granted:

"No development hereby approved shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority."

*SCC - RIGHTS OF WAY* – No comments received.

*WESSEX WATER* – The LLFA have responded on the proposals for surface water and we have no further comments.

We have previously confirmed a point of foul water connection is available in Bagley Road and that there is sufficient treatment capacity at the Sewage Treatment Works to treat additional flows from the development. The on-site network of foul sewers will be adopted under S104 agreement subject to technical approval.

As the applicant identifies there are existing Public Foul Lateral Drains within the site which may require relocation if they cannot be accommodated in the current location.

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

The applicant has indicated an intention to drain the site in two sections. For Area A, 6.24ha, it is proposed to construct an attenuation pond onsite and discharge at greenfield rates to the existing culverted watercourse that runs through the northern area of the site; for Area B, 0.65ha, it is proposed to construct an attenuation pond onsite and discharge at greenfield rates to the existing culverted watercourse on the opposite side of the existing carriageway to the Eastern boundary, however catchment details or calculations have been included to prove that either of these culverts can accommodate any additional surface water runoff.

The applicant will need to provide substantive details within any further application to prove the validity of their proposals.

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

*LEISURE DEVELOPMENT* – In accordance with TDBC Adopted Site Allocations and Development Management Plan Policy C2 and Appendix D, provision for children's play should be made for the residents of these dwellings.

The Design and Access Statement proposes "Local Equipped Area of Play Space. An equipped children's play area to offer toddler, child and teenage provision. The play space will be set within an area of public open space to the south of the site."

Children aged 8 years and under should not have to walk more than 400 metres to their nearest equipped play area. The development outline proposals does not appear to have dwellings more than 400 metres from the further dwelling. Locating all children's play within the one site within the development is therefore to be welcomed as it provides a better play experience.

However the proposal for 1 x Local Equipped Area of Play Space (LEAP) is unacceptable on a development of this size. 205 dwellings if all 2 bed+ should provide 20 sq metres of equipped and non-equipped play space giving a total of 4,100 sq metres. The development should therefore provide 1 x LEAP and 1 x

NEAP (Neighbourhood Equipped Area for Play), as a minimum of the equipped play space.

The LEAP of at minimum of 400 sq metres should contain at least 5 pieces of play equipment for children aged 4 – 8 years to cover all the play disciplines of swinging, sliding, rotating, climbing, rocking and balancing. The NEAP of at least 1,000 sq metres should contain at least 8 pieces of equipment to cover the disciplines and be suitable for ages 8 years to adult. Both areas should contain a seating, bin and signage.

The play areas should as proposed be centrally located and overlooked by front facing properties to promote natural surveillance. The LEAP should be fenced with at least 2 x outward opening self-closing gates and a gate for maintenance access.

Provision for the under 4's could be made within the LEAP, which would then need to be larger than 400 sq metres to accommodate the extra equipment.

The design of the play areas should be submitted for approval by TDBC Open Spaces.

Open Spaces should also be asked to comment on the green infrastructure and its layout proposals

*HERITAGE* – No comments received.

*LANDSCAPE* – A Landscape and Visual Appraisal (LVA) of the proposed development carried out by FPCR Environmental and Design Ltd is in accordance with the Guidelines for Landscape and Visual Impact Assessment, third edition (GLVIA3), published by the Landscape Institute.

The site is broadly triangular and is situated at the south western edge of the village of Rockwell Green. It comprises two pastoral fields and one arable field divided by field boundary vegetation and trees, surrounded on three sides by roads. The southern boundary follows the relatively busy A38, the northern boundary follows Exeter Road, and the eastern boundary follows Bagley Road.

The site has a high point of approximately 97m AOD in the middle of the southern boundary of the site where it adjoins the A38. From this highpoint it slopes down to the northern, eastern and western boundaries, reaching a low point of 88m AOD at the junction of the A38 and Exeter Road.

### **Landscape character**

At a national scale, the site lies within NCA 146: Vale of Taunton and Quantock Fringes. At a local scale, the site is located within Landscape Character Type 3: Farmed and Settled High Vale and within the sub Character Area 3b: Blackdown Fringes.

The Blackdown hills AONB lie to the south of the site.

The site (lying within the close context of the existing settlement edge of Rockwell Green) and immediate surroundings are urban edge in character, being surrounded on all three sides by roads, and on the east side by residential development and an industrial estate.

The site landscape itself is of medium overall sensitivity and landscape value. It is not designated and contains relatively few significant or particularly distinctive landscape features, the majority of which are to be retained.

## **Visual**

The site's southernmost field is quite open, and there are views out of the site towards both the Quantock Hills to the north, and to the Blackdown Hills to the south, with the Wellington Monument visible on the skyline. However, views are effected by the existing houses, roads and industrial units. Whilst the view is pleasant, it does not convey a strong sense of scenic quality due to the surrounding road network and adjacent settlement.

The appraisal viewed the site from seventeen viewpoints.

The visual envelope is relatively restricted to the immediate south, due to a combination of overlapping hedgerows and contours. There are medium distance views towards the site from the north due to the topography of the site, from a number of minor roads and footpaths, however these are generally distant views as close-range views are screened by the planting alongside Exeter Road.

Views from the east are restricted by the existing adjacent settlement.

Vehicular users of the A38 will experience a change to the view both on approach from the east and west. I consider the most prominent view is from the west, where the site is visible along the channelled approach to Rockwell Green on the A38. The closest residential receptors are seven existing properties that back onto the site off Exeter Road and Bagley Road. These properties have been considered within the master plan and a number of different treatments are proposed including extension of gardens and buffer planting.

Visitors to the Wellington Monument approximately 2km to the south of the site have views north towards the Quantock Hills. There will be potential glimpses of the proposed dwellings on the site in winter, but these will be seen from a distance and in the context of the adjacent settlement.

## **Summary and Conclusion**

The site is not subject to any national, local or other landscape designations. It is characterised by intensively farmed agricultural land, both pastoral to the north and arable in the south. All trees are located along the boundaries of the field parcels and overall the landscape of the site is judged to be of moderate condition. The landscape within the site is influenced both by the existing settlement edge and the roads that surround the site.

Views from the site are effected by the existing houses, roads and industrial units. To the west, the site is visible along the channelled approach to Rockwell Green.

The proposed landscape buffer adjacent to the existing roundabout (which I consider should be increased in depth on this corner to 20 m) will help to mitigate

this view by creating a green, wooded approach to the settlement.

From the east, the vehicular user's view will be improved by new buffer planting.

To conclude, I agree that, subject to extensive landscaping, a residential scheme can be accommodated on the site without any unacceptable landscape or visual effects.

*ECONOMIC DEVELOPMENT* – No comments received.

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

In line with the TDBC Affordable Housing Supplementary Planning Document, 10% of the total affordable housing provision should be in the form of fully adapted disabled units. These homes should comply with a recognised and approved wheelchair design guide as approved by the Housing Enabling Lead.

The required mix would be:

- 20% 1b2p flats in a maisonette style property with own garden and private front door.
- 40% 2b4p houses
- 40% 3b5/6p houses

The intermediate housing should be in the form of 2b4p and 3b5/6p houses.

The affordable units should be an integral part of the development and should not be visually distinguishable from the market housing on site. The affordable housing should be evenly distributed across the site and in clusters of no more than 15 units. The practicalities of managing and maintaining units will be taken into account when agreeing the appropriate spatial distribution of affordable housing on site.

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

The developer should seek to provide the Housing Association tied units from Taunton Deane's preferred affordable housing development partners list. Additional guidance is available within the adopted Affordable Housing Supplementary Planning Guidance.

*POLICE ARCHITECTURAL LIAISON OFFICER* – Comments as follows:

**Crime Statistics** – reported crime for the area of this proposed development during the period 01/01/2016-31/12/2016 (within 500 metre radius of the grid reference) is as follows:-

*Burglary* - 2 Offences (both dwelling burglaries)

*Criminal Damage* - 2 Offences (both criminal damage to motor vehicles)

*Drug Offences* - 1

*Theft & Handling Stolen Goods - 3 Offences*

*Violence Against the Person - 5 Offences (incl. 3 assault ABH & 1 harassment)*

*Total - 13 Offences*

This is just over 1 offence per month, which is classed as a very low level of crime.

**Design & Access Statement** - the DAS accompanying the application contains a section, entitled '**Safer Places and Crime Prevention**', which is self-explanatory, and indicates to me that the applicant has considered the potential crime and disorder implications of this application. I support the various comments made in this

section, which refers to the '**Secured by Design**' police initiative and explains how the application addresses these criteria. I would add the further comments:-

**Layout of Roads & Footpaths** – generally speaking, vehicular and pedestrian routes appear to be visually open and direct and are likely to be well used enabling good resident surveillance of the street. The use of physical or psychological features such as road surface changes by colour or texture, rumble strips or similar within the development would help reinforce defensible space giving the impression that the area is private and deterring unauthorised access. The limited number of vehicular and pedestrian routes into the development also has advantages from a crime prevention viewpoint in that it can help frustrate the search and escape patterns of the potential offender. I have some concerns about the route of the proposed footpath around the edge of the development which, although overlooked by dwellings in some areas, appears to go through areas of planting and landscaping in some places which could be a personal safety concern.

**Orientation of Dwellings** – all the dwellings appear to overlook the street and public areas which allows neighbours to easily view their surroundings and also makes the potential criminal feel more vulnerable to detection. A majority of the dwellings are also 'back to back', which improves their rear security by restricting unlawful access to the rear, which is where the majority of burglaries occur.

**Play Area** - communal areas have the potential to generate crime, the fear of crime and ASB and should be designed to allow supervision from nearby dwellings with safe routes for users to come and go. The proposed Play Areas are located in the centre of the development with good all round surveillance from nearby dwellings.

**Dwelling Boundaries** – it is important that all boundaries between public and private space are clearly defined and it is desirable that dwelling frontages are kept open to view to assist resident surveillance of the street and public areas, so walls, fences, hedges at the front of dwellings should be kept low, maximum height 1 metre, to assist this. From the Illustrative Masterplan, this appears to be the case in this development and, although the fine detail of dwelling boundaries cannot really be assessed, this is confirmed in the above-mentioned section in the DAS.

Vulnerable areas such as exposed side and rear gardens need more robust defensive measures such as walls, fences or hedges to a minimum height of 1.8 metres. Gates providing access to rear gardens should be the same height as the adjacent fencing and lockable.

**Car Parking** – police advice is that cars should either be parked in a locked garage or hard standing within the dwelling curtilage. Where communal parking areas are essential they should be in small groups, close and adjacent to homes and within

view of active rooms within these homes. The proposed parking arrangements appear to comply with these recommendations.

**Landscaping/Planting** – should not impede opportunities for natural surveillance and must avoid the creation of potential hiding places. As a general rule, where good visibility is needed, shrubs should be selected which have a mature growth height of no more than 1 metre and trees should be devoid of foliage below 2 metres, so allowing a 1 metre clear field of vision. From a personal safety and safeguarding children perspective, this is particularly important in respect of the proposed planting between the Play Areas and overlooking dwelling frontages. Low level shrubs or open columnar trees should be planted in this area to avoid restricting surveillance of the Play Areas.

**Street Lighting** – all street lighting for both adopted highways and footpaths, private estate roads and footpaths and car parking areas should comply with BS 5489:2013.

**Physical Security of Dwellings** – in order to comply with **Approved Document Q: Security - Dwellings**, all external doorsets and easily accessible windows and rooflights must comply with PAS 24:2016 security standard or equivalent.

**Secured by Design** - if planning permission is granted, the applicant is encouraged to refer to the 'SBD Homes 2016' design guide available on the police approved Secured by Design website – [www.securedbydesign.com](http://www.securedbydesign.com) – which provides further comprehensive guidance regarding designing out crime and the physical security of dwellings.

**BIODIVERSITY** - This application is outline for the erection of up to 205 dwellings and 60 apartments on land to the west of Bagley Road, Wellington.

The site comprises of three fields bounded on all sides by roads. The fields were generally of low ecological value. The hedgerows on site were classed as having moderately high ecological value. The proposal includes the retention of hedgerows but with four breaks amounting to the removal of 46m of hedgerow. Each break will not exceed 10-12 m. To compensate for this loss the applicant proposes to plant 141 m of new hedgerow.

A group of mature trees was located at the entrance of field F3.

FPCR Environment and Design Ltd carried out an Ecological Appraisal of the site in December 2016.

## **Dormice**

A dormice survey was carried out by the applicant but this did not commence until August so it was not possible to achieve the recommended effort score as stated in The Dormouse Conservation handbook.

**I therefore consider that prior to any development additional survey should**



**take place over the next survey season to obtain a clearer use of the site by dormice.**

No individual dormice were identified during the survey but a small number of mammal nests were identified. The surveyor therefore does not know if the presence of dormice needs to be considered or not. He does however consider that an EPS licence is not considered appropriate.

As the presence of dormice cannot be ruled out he has suggested displacement of any individuals by persuasion.

He has also suggested planting overhanging trees over the highway but the County Ecologist is not confident that this form of mitigation will be acceptable to Somerset Highways as it would block street lighting and could become a future maintenance problem. Dormice are known to cross roads but this activity is in unlit conditions.

To conclude, as the mitigation could be doubtful it would be useful to have full surveys to determine presence/absence so that an informed comment could be made. If dormice are not present on site, which may be the case, then there is no concern.

## **Reptiles**

Boundary vegetation and areas of grassland and bare ground offer the best potential reptile habitat. A total of 60 artificial refugia were located around the site. Seven repeat visits were undertaken but no reptiles were recorded throughout the survey period.

The surveyor has suggested as a precautionary measure that the potential habitat for reptiles should be maintained by regular mowing or grazing.

## **Bats**

It was not possible within the time scale to complete a full survey over the complete active season for bats.

At least ten species of bat were recorded on site, with common pipistrelle being the dominant species. Generally levels of activity were low with higher levels recorded along the hedge across the centre of the site.

Barbastelle, lesser horseshoe and greater horseshoe were recorded on site, albeit in low numbers. The surveys showed that species were using the linear features on site for casual foraging and commuting purposes

Trees on site were assessed for potential for bat roosting. Three trees were assessed as having potential to support roosting bats. On closer inspection the three trees were then assessed as having low to negligible potential. The tree with low potential is to be retained within the green infrastructure

To minimise the potential impacts of the development where hedge lines are

interrupted the applicant suggests appropriate management to create hop overs to facilitate unhindered movement of bats. This will help pipistrelle bats. The use of lights on sections of road bisecting hedges should be avoided.

## **Birds**

A scoping bird survey was conducted on 16<sup>th</sup> August .The site supports unremarkable numbers of common and widespread bird species.

The improved grassland and boundary hedging are typical of edge of settlement farmland and so are considered to only likely to support low numbers of birds.

Removal of vegetation should take place outside of the bird nesting season.

## **Badger**

The surveyor found no evidence of occupation by badgers on site but noted evidence of use of the site by badgers for casual foraging.

I agree that further survey would be advisable if a period of time lapses before the commencement of any construction. I agree that precautionary measures are required during any construction stage

I support the recommendation to leave a 5m buffer against existing hedgerows and to carry out biodiversity enhancements through the landscape plan

*ENVIRONMENT AGENCY* – No comments received.

*WALES AND WEST UTILITIES* – Gas pipes in the vicinity may be affected by the proposal. The developer should contact W&W directly should permission be granted. Guidance and further information provided.

## **Representations Received**

**Ward Councillor (Cllr J Reed):** "The Green Fields have been one of the things that has made this Country special helping to contain the ugly urban sprawl that blights much of Europe and America. This application is outside the village settlement area and a threat to yet more concrete covering our countryside.

Brexit should ease the population pressure that has caused building on our countryside so it is unnecessary to continue using Green Field Sites for Housing.

Many residents living in Bagley Road and Rockwell Green will be aware of flooding issues in this area in the past and building on this land will make this problem far worse".

38 letters of **objection** have been received raising the following issues:

- It is questionable whether additional housing is required.
- There are insufficient employment opportunities for future residents.
- The proposal is contrary to the development plan.
- Development here would undoubtedly lead to the allocation of land to the north of Exeter Road in the future.
- The site is not as well related to the urban form of Wellington and Rockwell Green as compared to other sites presented through the SHLAA and has been discounted for this purpose.
- The Council is able to demonstrate a 5 year land supply, with the relevant buffers.
- There is already substantial development in Wellington.
- The developer's assertion that there are good local facilities is laughable. The only limited facilities are accessed via the narrow Popes Lane that can only carry single file traffic. The site is not well related to existing facilities.
- There will be extra traffic in Exeter Road and Bagley Road which have already seen significant increases in traffic.
- The loss or interruption of the footpath along Exeter Road would be detrimental to local residents' enjoyment of the area.
- New pedestrian crossing facilities of Exeter Road will be required and should be funded by the developer.
- Public transport connections in the vicinity are insufficient, especially for travel to Taunton.
- There is already too much pressure on schools, doctor's surgeries and sports facilities.
- Musgrove Park Hospital is overstretched and there are likely to be cuts.
- No provision is made for local shops – it is a long walk for elderly residents to facilities from the site.
- Homes could be allocated to 'problem families' causing anti-social behaviour.
- Massive loss of farmland will cause problems in the future.
- Wellington's relationship with the Monument and Blackdown Hills would be further eroded.
- Development of the site would be an unsightly intrusion into the rural scene.
- Mobile homes in the park home site opposite would be particularly vulnerable to increased noise.
- The development will lead to increased flooding in the area.
- The plans currently look attractive, but the builder who buys the land may have different ideas about how to lay out the site.
- Dormice are present in the existing hedgerows.
- Solid boundaries should be provided to existing residential boundaries.
- If permission is granted, the promised garden extensions to existing properties on Bagley Road must be secured.
- The development will overlook existing dwellings; insufficient boundary screening is shown.
- Local activities such as the carnival and fair would be put at risk.

## 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), the Taunton Site Allocations and Development Management Plan (2016), 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.

CP1 - Climate change,  
CP4 - Housing,  
CP5 - Inclusive communities,  
CP6 - Transport and accessibility,  
CP8 - Environment,  
DM1 - General requirements,  
DM2 - Development in the countryside,  
A1 - Parking requirements,  
A2 - Travel Planning,  
A5 - Accessibility of development,  
D2 - Approach routes to Taunton and Wellington,  
C2 - Provision of recreational open space,

This takes into account the recent adoption of the SADMP.

## **Local finance considerations**

### **Community Infrastructure Levy**

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 £2,345,750.00. With index linking this increases to approximately £2,845,500.00.

### **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	£235,489
Somerset County Council	£58,872

#### *6 Year Payment*

Taunton Deane Borough	£1,412,934
Somerset County Council	£353,233

## **Determining issues and considerations**

The main issues in the consideration of this application are the principle of the development, the impact on the highway network, infrastructure and accessibility, the landscape and visual impact, the impact on nearby residents, flood risk and biodiversity.

### **Principle of development**

The site is outside the identified settlement limit for Wellington. The proposal is, therefore, contrary to Policies CP8 and DM2 of the Taunton Deane Core Strategy and unacceptable in principle. The applicant submits that the Council is unable to demonstrate that it has a 5 year deliverable supply of housing land and, therefore, in accordance with the NPPF that the policies relating to the supply of housing in the development plan should be considered out of date. It would then follow that the 'presumption in favour of sustainable development' set out at Paragraph 14 of the NPPF would be engaged and permission should be granted unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits. The applicant goes on to suggest that there are no significant or demonstrable harms that would result – an assessment of which will follow through the subsequent sections of this report.

Your planning policy officers are currently considering updates to the Strategic Housing Land Availability Assessment (SHLAA), which should be published prior to the committee meeting (members will be updated accordingly). However, your officers are confident that the SHLAA will show that there is a 5 year supply of housing land, including the necessary buffers. Therefore, the policies relating to the supply of housing should be considered up to date and attributed full weight in the decision making process.

The Core Strategy allocated strategic sites at Cades/Jurston and Longforth to accommodate Wellington's required growth over the plan period. Alongside housing, the allocations provided for the necessary local centres, playing pitch and education provision to accommodate the planned growth for the town. In adopting the Site Allocations and Development Management Plan (SADMP) in December last year, the Council has confirmed that in order to ensure an appropriate distribution of development across the Borough, and to ensure that development occurs alongside the necessary infrastructure provision, there is no need for further incursions into open countryside in Wellington to meet housing requirements. Furthermore, it should be noted that this site was not promoted through the plan-making process, given the importance the Government attaches to the Plan-Led system this is an important consideration. The current proposal, therefore, is firmly contrary to policy and should be resisted.

The NPPF states that Local Planning Authorities should consider the economic and other benefits of the best and most versatile agricultural land and that, where significant development of agricultural land is required, lower quality land should be used in preference to that of a higher quality. The application site is thought to be grade 2 or 3a – and, therefore, considered as 'best and most versatile'. Across the Borough, significant development of agricultural land is required and has been

allocated through the development plan. Whilst there are no development management policies specifically protecting higher grade land, the development planning process would have taken this into account when allocating sites, as required by the NPPF. The piecemeal release of land to housing in an unplanned way does not allow any assessment to be made and, therefore, development of the Borough cannot occur in a sustainable manner overall, protecting the benefits of best and most versatile land. This adds weight to the case for refusal of the application.

## **Highways**

There is considerable local concern about the capacity of the local highway network in and around Wellington. In this case, the Local Highway Authority have not raised concerns about the capacity of the network within the town centre, but do consider that the analysis of the junctions at Pyles Thorne and the Chelston Roundabout on the A38 is insufficient to demonstrate that impacts will not arise at these points on the network. They are further concerned about the potential for increased accidents at the poorly aligned roundabout where Exeter Road meets the A38 to the immediate west of the application site, where there is already a record of injuries. The submitted transport assessment is not considered to be sufficient to confirm that there would not be an adverse impact upon the highway network and refusal is recommended on this ground.

## **Infrastructure and accessibility**

Concerns have been raised in the representations about the capacity of local primary and secondary schools, doctors' surgeries and sports pitches. Education and sports provision can, theoretically, be enhanced from CIL contributions, however, there are concerns about the inability to increase the capacity of Rockwell Green Primary School. The Local Education Authority have further confirmed that there is currently insufficient primary school capacity in Wellington overall; the building of new schools on the allocated sites at Longforth and/or Jurston will cater for the demands of the new development in that part of the town. Further, Rockwell Green Primary School does not (and will not, once extended) have the capacity to cater for the children that already live within the catchment of the school.

It follows from this that there is insufficient capacity at Rockwell Green Primary School for residents within the existing catchment or residents of the proposed development to attend the local school. The next closest schools at Wellesley Park and Beech Grove are 1.8 and 1.1 miles respectively from the site; well in excess of the 600m acceptable walking distance stipulated in the SADMP. In any case, the site is 960m from Rockwell Green Primary School when taken from the closest part of the site and fails to comply with Policy A5 of the SADMP in any case.

In respect of other local shopping facilities, approximately half of the dwellings would be within the 800m required by Policy A5.

In considering the Infrastructure Delivery Plan, the NHS did not seek any funding from CIL for Primary Health Care or expansion of Musgrove Park Hospital. It is

understood that funding for GP spaces is derived from other means and there is no evidence that the developer should be expected to contribute to this provision.

## **Landscape and visual impact**

Any greenfield development will have an urbanising impact. The development seeks to strengthen the boundary along the A38, which is considered to make the development acceptable in terms of short range views from the south. From Bagley Road, the development would already sit within an urban context. The greatest impact would be felt from the approaches to Wellington from the west, along the A38 and Exeter Road, where the site is seen within a 'channelled' view.

The approach route to Wellington from the west currently gives a relatively 'gentle' introduction to the built form and this is also true of the approach routes from the north and east, even with the extensive development at Cades and Longforth. Development of the site would almost certainly result in fairly dense built development butting right up to the right edge of the rural area, although the wide highway verge and proposals for further landscaping are likely to reduce this to the point that it does not cause substantial harm to the visual amenities of the area or offend Policy D2 of the SADMP, which seeks to protect the visual qualities of approach routes to the town.

## **Impact on neighbouring residents**

There are a small number of residential properties that directly adjoin the site, all within the eastern part of the site and, with the exception of 5 Exeter Road on the north western site boundary, accessed from Bagley Road. It is proposed to place some landscaped areas along these boundaries with these properties. Whilst any tree planting could not be safeguarded to prevent long-term overlooking, the development framework plan does give sufficient assurance that the proposed new dwellings would be sufficiently distanced from existing properties to avoid any unacceptable relationships.

In an unusual proposal, the development framework plan indicates that Westlands and Maderleigh on Balgley Road would be given extended gardens. These dwellings are particularly tight on the site boundary so the proposal would ensure that an adequate level of amenity was maintained for these properties. However, there is no information regarding the mechanism for delivering this proposal and it is not clear how it could be a legitimate S106 obligation, when satisfactory relationships could be insisted upon at reserved matters stage. Therefore, little weight should be attributed to aspect of this proposal.

It is considered that there is sufficient information within the Development Framework plan to indicate that the site can be developed without an unacceptable adverse impact upon existing residential properties.

## **Flood Risk**

The submitted FRA/drainage strategy indicates that surface water would be attenuated on site to greenfield rates and on this basis the Lead Local Flood Authority raise no objection to the proposal. Further details would be required by condition of any planning permission to secure a detailed drainage design for the site, supported by calculations to prove the proposed attenuation features would be sufficient.

The Local Highway Authority have also raised comments regarding the highway drainage infrastructure in the area, given that there is uncertainty over how the existing highway is drained and the capacity of some of the culverts. It appears that there may be private legal matters that need to be resolved between any developer and the highway authority if connection is required to County Council controlled ditches/culverts. In any case, it is considered that a thorough assessment of capacity and the need for any upgrade could be picked up in site-wide surface water drainage conditions.

## **Biodiversity**

There is anecdotal evidence of the presence of dormice. The submitted ecological survey suspects that protected species are absent, but is of insufficient standard to confirm this. Acknowledging the shortcomings of the survey effort, the report recommends mitigation anyway to preserve the favourable conservation status of dormice. However, this approach is flawed and case-law confirms that a planning permission would be unsound if the determining authority is not furnished with sufficient information to reach a considered decision. Fundamentally, as a competent authority under the Habitats Regulations, the Council must determine whether European Protected Species would be affected by the proposals and, therefore, whether the derogation tests required to allow deliberate disturbance should be engaged. In jumping straight to the third test (demonstrating that the Favourable Conservation Status could be maintained) the applicant is missing consideration of the first two tests – that there should be overriding reasons of public benefit and no satisfactory alternative to the development is available.

The poor survey effort means that the Council cannot reach rational reasoned conclusions on biodiversity issues and the application should be refused on this basis.

## **Other matters**

The settings nearby listed church and water towers are not considered be affected by the proposed development. Children's play, public open space and affordable housing requirements could be adequately dealt with by conditions and/or section 106 agreements should planning permission be granted.

## **The planning balance and conclusions**

The proposed development is contrary to the development plan. To be acceptable, there must be very weighty material considerations that would warrant setting aside the policies of the plan. In this regard the applicant has sought to rely upon their



opinion that the Council is unable to demonstrate that it has a 5 year deliverable supply of housing land; a position strongly refuted by your officers. In any case, to be acceptable, the development of the site would have to be shown to be sustainable within the meaning of the NPPF.

It is clear that there are considerable pressures on infrastructure within Wellington – particularly those relating to primary education and primary healthcare. The lack of ability to accommodate additional pupils at Rockwell Green Primary School means that pupils would, at best, have to travel to schools elsewhere in the town. Such is not sustainable. Piecemeal development such as this cannot adequately mitigate the impact on education facilities, nor can it sufficiently provide for the future residents of the development in an area such as this where those existing facilities cannot be adequately expanded. This is the reason for the plan-led approach favoured by the NPPF: the development plan is the best way to properly consider how development in any given settlement can occur in such a way as to ensure that there is adequate infrastructure provision alongside development. It is the fundamental reason why the ad-hoc release of development sites to the west of Wellington cannot be considered sustainable.

It is accepted that the development can be made acceptable in terms of impacts on neighbouring property, visual amenity and drainage through the imposition of suitable planning conditions and Section 106 agreements. However, at the present time, there is insufficient evidence for the Local Planning Authority to properly consider the impacts on the local highway network or biodiversity interests.

Taken in the round, the development plan sets a presumption against the development of the site. There are clear infrastructure deficiencies in Wellington generally, with no ability to improve this with regard to the western part of the town and Rockwell Green. A plan-led approach is required to ensure that adequate infrastructure is provided in a co-ordinated and joined up way to mitigate the impact of further development; such cannot be provided through this, or indeed a series of stand-alone proposals. This significant and demonstrable harm clearly indicates that the proposed development is not sustainable within the meaning of the NPPF. Considering this together with the other shortcomings of the application that have been identified, there is no compelling material consideration to outweigh the fundamental conflict with the development plan.

The proposal is, therefore, unacceptable and 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 M Bale**

48/16/0046

QUICK & SONS

**Erection of agricultural building for the housing of livestock at Quantock Farm, West Monkton, Taunton**

Location: QUANTOCK FARM, QUANTOCK LANE, WEST MONKTON,  
TAUNTON, TA2 8LR

Grid Reference: 325759.129928

Full Planning Permission

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## **Recommendation**

**Recommended decision: Conditional Approval**

### **Recommended Conditions (if applicable)**

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

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

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

Proposed New Steel Framed Cubicle Building for Dairy Cows dated 7th July 2016

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

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

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policy ENV3.

4. Prior to the commencement of the development hereby permitted, full details of the means of disposal of surface water shall be submitted to an approved in writing by the Local Planning Authority. The agreed details shall be implemented prior to the building being brought into use and shall thereafter be maintained as such.

Reason: To ensure that there is no increase in off-site flood risk.

#### Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.

## Proposal

The application is for the erection of cubicle housing for dairy cows in a large agricultural building. The materials will be concrete panel and Yorkshire boarding sides, profile fibre cement sheets for the roof. This new building, measuring 35 metres by 30 metres, will be sited to the east of a new agricultural building. A new bund to the north and east will be landscaped.

The agent states that at present there are 300 milking cows within the new building which was constructed in 2012/13. There are a further 200 currently kept within older buildings. The existing and proposed new building will house about 550 cows in total. There will be a further 70 "fresh calvers" and "dry" cows who will be housed in other buildings, meaning a total of 620 cows on the farm. The milk collection will remain the same (daily) as the tanker has a 50% reserve capacity. Purchased feed will be delivered every 4 to 5 days. All slurry will be scraped into a recently constructed purpose built slurry store. A new roof above this slurry store will be built this spring and this will increase its holding capacity. Furthermore, an adjoining farmer has agreed to the spreading of slurry on 250 acres without the need for tractors and tankers to drive towards West Monkton.

## Site Description

The site, Quantock Farm, is to the north west of the village of West Monkton, and is accessed via rural lanes. The application site is in a field on the eastern side of an existing complex of agricultural buildings, and it would be partial sunken into the ground, as the ground rises to the north of the field. There is a significant treed boundary to the north and north east of the field. The land is open to the south, and it is some distance (around 600m) to nearest dwellings in this direction. A public footpath passes through part of the farm and the main vehicular access to the farm.

The site is in open countryside, within the Quantocks Landscape Character Area, outside the West Monkton Conservation Area (1.1km to the nearest point) and outside the Quantock Hills Area of Outstanding Natural Beauty (1.4km to nearest point). There is a County Archaeological site to the east of the application site.

## Relevant Planning History

There have been a series of applications and permissions for agricultural buildings, covered stock yards, works to the Listed Building, and change of use and conversion

of barns to holiday units and an extension to the time limit of the previous permission and Listed Building Consent.

The erection of an agricultural cubicle building was granted planning permission by Committee in December 2011 (48/11/0039). A second phase was subsequently granted planning permission by Committee in 2012 (48/12/0007). Both of these buildings have been constructed.

Permission was granted in September 2013 for the installation of an underground slurry pit (48/13/0047).

The erection of an umbrella roof over the below ground slurry stores was permitted in June 2016 (48/16/0027).

## **Consultation Responses**

*WEST MONKTON PARISH COUNCIL* - West Monkton Parish Council has no comment to make about the building as it is the same or very similar to existing structures at the same location.

However, the Parish Council has grave concerns about the environmental impact of this proposal, which were not addressed by the Design and Access statement provided.

### **Impact of traffic**

The Parish Council knows about the strong feeling amongst the neighbouring community about existing traffic flows and the driving habits of those driving the very large vehicles along the narrow country lanes in this location. It is perfectly reasonable to make the assumption that an increase in milk production would result in an increase in traffic flows as there would be increased need for deliveries, slurry management, cattle food supplies, veterinary visits etc. So although, as stated, the traffic volume might not be affected, the frequency of traffic movements is likely to increase. It is recommended that information about current traffic movements and projected traffic movements is provided i.e. a proper traffic assessment should be submitted before further consideration is given to this application. In view of the narrow lanes running through the local settlement of houses by which the farm is accessed, and the size of vehicles used in this industry - lorries, tractors, trailers, harvesting equipment etc it is considered that Highway safety is a material planning consideration.

### **Impact of slurry**

Increased cow numbers will increase the need for proper management of slurry and effluent, which was not explained in the application.

### **Surface water**

The run off from a building of the size proposed would be a significant addition to the volume of surface water and the Parish Council suggests that evidence is needed to support the statement in the application that the surface water could be disposed of by sloping land to the existing watercourse. It is a material planning

consideration to ensure the watercourse and other physical infrastructures such as road side ditches have sufficient spare capacity to carry water away without causing temporary flooding over roads or sluicing over fields causing contamination to the watercourse.

Neighbours are affected by smells from the farm, and fear the nuisance will increase if cow numbers increase. The impact of this farm on the local community is significant and there is strong feeling that further expansion of this successful business will further impact on the neighbours.

*ENVIRONMENTAL HEALTH - NOISE & POLLUTION* - No comment.

*SCC - TRANSPORT DEVELOPMENT GROUP* - No observations.

*LANDSCAPE* - This is a large structure but will be located within the existing collection of farm buildings. It will be screened so there will be minimal landscape impact.

*SOUTH WEST HERITAGE, LAURA BOYT* - No comment.

*ENVIRONMENT AGENCY* - We are happy with your onsite arrangements for slurry capacity. This is helped by the good practice of recently roofing the silage clamp, and the intended roofing of the larger slurry store early next year.

We looked in the 3 streams below Quantock Farm and were happy that no pollution was present.

There were 2 areas of bank side cattle poaching which can, result in a deduction of RPA payments. Please can you let me know that this is no longer the case. (*Officer note: the applicant has confirmed that the cattle have been moved from these areas*)

We are happy with the available land bank and spreading risk maps.

Fuel oil stored on site is bunded, and pesticides are not stored on site.

Overall there were many examples of good agricultural practice and improved practice for protecting the water course. Some of these are; improved buffer strips, wild flower establishment on buffer strips which also increase the effectiveness of water penetration, rough ploughing along a slope gradient with a deep furrow before the buffer strip, the establishment of winter cover crops preventing bare soil being exposed to rainfall, and ponds along the water course before leaving the farm which can help to further improve water quality.

## **Representations Received**

Thirty objection letters have been received from a total of 16 households. Most of the objectors raise significant concerns about the traffic impact of the development, with heavy farm traffic speeding on narrow roads, spilling muck and destroying verges. Another concern is over whether there is adequate slurry storage with the potential pollution of waterways. A number of objectors are insisting that the applicant should provide farm accounts and livestock movement records in order to justify the proposal. Finally, one objector queries whether screening opinions under the Environmental Impact Assessment Regulations should have been carried out when the previous applications were determined.

## **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), the Taunton Site Allocations and Development Management Plan (2016), 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.

CP8 - Environment,  
DM2 - Development in the countryside,  
ENV3 - Special Landscape Features,  
SB1 - Settlement boundaries,

## **Determining issues and considerations**

The proposal is for the erection of an agricultural building. The objections from local residents strongly reiterate issues that were raised in 2011 and 2012 when the earlier applications were considered by Committee. In the main, they relate to the use of the building and its impact on traffic generation.

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

The numbers of cows or other animals on a farm is not a planning issue. Local residents are concerned that an increase in the proposed numbers of milking cows will have an impact on traffic generation to the site. Vehicular access to the farm is

via the local roads, and the route through West Monkton village appears to be that most used by the farmer and for his deliveries (both to and from the farm). It is not considered appropriate or enforceable that the Local Planning Authority could insist or condition that a particular or an alternative route should be used. With regard to mud and debris on the roads, the state of the roads is the responsibility of County Highway Authority. In any event, large agricultural vehicles are a common feature within rural areas and it is to be expected.

Many objectors have comments upon the manner in which such vehicles are driven. This cannot be controlled by the Local Planning Authority. Whilst such driving appears to be causing an issue with residents in West Monkton, driving to any destination may result in similar behaviour. Large agricultural vehicles may cause noise and nuisance to local residents, but again this is to be expected in rural areas. The County Highway Authority Officer has considered the application and concluded that the proposal is acceptable.

With regard to noise from farm vehicles and smells emanating from the farm, such consequences are usual within rural areas.

Turning to objections over the storage of slurry, a new purpose built below ground slurry tank has been built recently. In addition, an umbrella canopy will be installed over the tank to prevent it becoming filled with rain water. This has significantly increased the capacity for slurry storage on the site. In addition, there are separate environmental regulations governing the storage of slurry and the safeguarding of watercourses from pollution.

One resident has once again questioned whether the the Local Planning Authority has a policy on intensive farming. The Council does not have such a policy. This proposal should be assessed against national and local planning policy, which encourages farmers and farm diversification as part of the rural economy. It is not considered appropriate or necessary to request detailed financial information from the applicant. Finally, a screening opinion has been carried out which concludes that the development does not require an environmental impact assessment.

In conclusion, the proposal is for an agricultural building in a location which is considered in visual terms to be appropriate. The numbers of animals housed cannot be controlled by the planning system as it would be considered unreasonable and would not be enforceable. The proposal is agriculturally related and is considered to be acceptable.

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

**Contact Officer: Ms A Penn**

MR H FARBAHI

**Outline planning application with all matters reserved, except for access, for a residential development of up to 30 No. dwellings, 3 No. live/work units, public open space, landscaping and associated highways, engineering and infrastructure works on land east of North and West Villas, Dene Road, Cotford St Luke as amended.**

Location: LAND EAST OF NORTH & WEST VILLAS, DENE ROAD COTFORD  
ST LUKE, TAUNTON

Grid Reference: 317220.127502

Outline Planning Permission

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## **Recommendation**

**Recommended decision: Conditional Approval subject to** the applicant entering into a Section 106 agreement to secure:

- 25% (8no.) of the dwellings as affordable housing (of which 60% social rented, 40% intermediate).
- The ongoing maintenance of the public open space.
- The approval and construction of the access, in general accordance with drawing number SK02a
- Changes to the highway at North Villas to change priority, accommodate the site access and deliver pedestrian provision generally in accordance with drawing number SK02a
- Traffic calming on North Villas generally in accordance with SK02a
- The implementation of an agreed travel plan.

### **Recommended Conditions (if applicable)**

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

*Note to planning officer - (Appropriate in its entirety only where the outline application contained details of none of the items described as “reserved matters” in Article 1(2) of the Town and Country Planning (General Development Procedure) Order 1995).*

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

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



Purchase Act 2004).

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

(A3) DrNo LOC01 Rev A Location Plan

(A1) DrNo CL01 Rev C Concept Layout

(A4) DrNo SK02 rev D Proposed Highway General Arrangement

(A4) DrNo SK02a rev D Proposed Access Layout General Arrangement

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

3. The details submitted in accordance with condition 1 of this planning permission shall include full details of the proposed children's play area, including the layout of the area and the equipment to be installed. The approved details shall be implemented and made available for use by the public prior to the occupation of the 20th dwelling hereby permitted and shall thereafter be maintained as such.

Reason: To ensure that adequate children's play facilities are provided as part of the development.

4. Details of a strategy to protect wildlife shall be submitted and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of Greena Ecological consultancy's submitted report, dated May 2015 and up to date survey and include:

1. Details of protective measures to include method statements to avoid impacts on protected species during all stages of development;
2. Details of the timing of works to avoid periods of work when the species could be harmed by disturbance
3. Measures for the retention and replacement and enhancement of places of rest for the species
4. Up to date eDNA testing for Great Crested Newts

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

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

5. 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 in writing by the Local Planning Authority. The drainage strategy shall ensure that surface water runoff post development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works shall be carried out in accordance with the approved details. These details shall include: -

- Details of phasing (where appropriate) and information of maintenance of drainage systems during construction of this and any other subsequent phases.
- Information about the design storm period and intensity, discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance (6 metres minimum), the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters.
- Any works required off site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant).
- Flood water exceedance routes both on and off site, note, no part of the site must be allowed to flood during any storm up to and including the 1 in 30 event, flooding during storm events in excess of this including the 1 in 100yr (plus 40% allowance for climate change) must be controlled within the designed exceedance routes demonstrated to prevent flooding or damage to properties.
- A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management company or maintenance by a Residents' Management Company and / or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development

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

7. A pedestrian/cycle link to the adjoining land shall be provided up to the southern site boundary in accordance with details that shall be submitted to and approved by the Local Planning Authority pursuant to condition 1. The route shall be made available for use by the public such that the public can pass and re-pass right up to the site boundary and onto adjoining land prior to the occupation of the 20<sup>th</sup> dwelling and shall thereafter be maintained as such.

Reason: To ensure the comprehensive development of the allocated site and promote good connectivity within future development at Cotford St. Luke.

8. In respect of each live-work unit hereby permitted:

The details submitted and approved pursuant to condition 1 (submission of reserved matters) shall clearly identify the 'business floor space' and 'residential floor space' for each unit.

The residential floor space shall not be occupied until the associated business floor space is fully fitted and capable of use.

The occupation of the residential floor space shall be limited to a person solely or mainly working within the business floor space, their spouse (or partner) and to any resident dependants or relatives living together as a single family unit.

The occupation of the business floor space shall be limited to a person who resides in the residential floor space connected with that unit.

The business floor space shall be used only for purposes falling within Classes B1 or D1 and for no other purpose of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: To ensure that the live-work units are provided in a manner that ensures that the building operates as a live-work unit without detriment to other nearby property.

9. No more than 30 dwellings and 3 live-work units shall be erected on the site.

Reason: This quantum of development is considered to be sustainable with regard to the Site Allocations and Development Management Plan and the infrastructure provision within the existing settlement.

10. The proposed estate roads, footways, footpaths, tactile paving, cycleways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, and street furniture shall be constructed and laid out in accordance with details that shall have been submitted to and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

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 road surface and footways shall be completely finished and dressed within 6 months of the occupation of 85% of the dwellings (excluding live-work units) hereby permitted.

Reason: in the interests of highway safety, to ensure that adequate facilities exist for the traffic likely to be attracted to the site.

11. The applicant shall ensure that all construction 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 commence of development, and thereafter maintained the completion of construction.

Reason: To in the interests of highway safety in accordance with Policy DM1 of the Taunton Deane Core Strategy.

12. (i) The planting details submitted pursuant to condition 1 of this permission shall include a phasing programme for the implementation of the landscaping.
- (ii) The scheme shall be completely carried out in accordance with the approved phasing programme.
- (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

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

Notes to Applicant

## **Proposal**

This application seeks outline planning permission for the erection of 30 dwellings plus 3 live-work units. Approval is sought for access at this stage and is proposed from North Villas in the northwest corner of the site: The existing highway would be re-aligned so that the priority continued into the new development and the existing road would form a new junction from this route.

An indicative 'concept layout' plan has been submitted which indicates that dwellings would be provided fronting Dene Road. A new spine road would be built into the site

with further dwellings on either side of this. New landscape planting would be provided along the northern and eastern edge of the development providing a buffer to the remaining agricultural field.

A play area is proposed to the south of the development, adjoining that on the previously permitted development to the south. Surface water attenuation would be provided beyond this.

## Site Description

This site comprises part of an agricultural field on the northwest of Cotford St. Luke. The application site is the south western part of this, broadly rectangular, field; the eastern and northern parts of the field are excluded from the application site. The land falls gently from north to south. The field is bordered by hedges. To the east is open countryside, to the north is Dene Road, the main access route into Cotford St. Luke from the Bishops Lydeard direction.

To the west is North Villas, a row of mainly semi-detached dwellings that pre-date the development of Cotford St. Luke. They currently face towards the application site and many have paved over front gardens to provide parking. To the south is land that has been granted outline planning permission for residential development – this site slopes away steeply from the current application site.

## Relevant Planning History

The site has been allocated for development in the Site Allocations and Development Management Plan along with the site to the south under Policy MIN1 for around 60 dwellings and small scale Class B employment units.

The site to the south already has outline planning permission for 30 dwellings plus 3 live-work units.

There have been no previous planning applications on this site.

## Consultation Responses

*COTFORD ST LUKE* – Comments as follows:

The Parish Council has no objection to this Planning Application. However it would be grateful if you would resolve the following issues with the Applicant and his Planning Consultant before the Reserved Matters Application is submitted:

### Roads and Pavements

- The pavement indicated on the Proposed Concept Layout Plan stops well short of the children's play area within the development. Barton Willmore was initially of the view that it was perfectly acceptable for young children to walk in the road to access/egress this play area. The Parish Council has made it

very clear to Barton Willmore that the children's safety is top priority and that it was completely unacceptable for children to be walking in a road. The pavement within the proposed development is to be along the entire length of both sides of the road and up to the Play Area.

- It would appear from discussions that took place with Barton Willmore that no traffic assessment has been undertaken, to ascertain the impact of the additional traffic using North Villas, the Distributor Road, along Old Dene Road and either accessing/egressing the village via Tithill Bridge or Halse Water Bridge.
- The Concept Layout Plan indicates the combined cycle path and footpath adjacent to the proposed development. This path is heavily used by pedestrians and in particular primary school aged children who use the path on their way to/from the local Primary School, very often using their scooters and bicycles and by senior school aged children whose school bus picks them up from the bus stop on Dene Road which is at the end of this footpath. In order to protect the safety of all pedestrians and motorists accessing/egressing the proposed development, the Parish Council requires a double staggered pedestrian barrier installed by the proposed development's junction.
- There is a house with a double garage opposite the new junction into the site. There is concern regarding the road/junction layout in this area of the highway and the potential for an accident to happen.
- A dropped pavement will be required in the vicinity of this junction for those with prams/pushchairs and those with disability transport to safely cross North Villas highway.

### **Road and Footpath Adoption**

- Under the Highway Act 1980; the Advanced Payment Code requires anyone proposing to build houses served by a private street must deposit enough money with the Highway Authority to cover the eventual making up of that street to adoption standard. A Planning Condition is required to ensure that SCC Highways/the developer signs a Section 38 Agreement and for the appropriate bond to be in place within the required timeframe; as stipulated by Highways Act 1980.

### **Play Area**

- Barton Willmore has explained that the Play Area indicated on the Concept Layout Plan would link to the Notaro Homes Play Area. However, the Notaro Homes Play Area is in a completely different location within that development. Consideration needs to be given to the location of these two Play Area and to the age groups that will be using these Play Areas.

### **Sewerage and Sewage Treatment**

- The present Pumping Station was designed to accommodate the effluent produced by 1750 houses, the School and the Chapel; there are regular sewage overflow incidents at the rear of the Community Centre during periods of heavy rainfall. Will the capacity of Pumping Station be upgraded before any more houses are built in CSL?
- Where will the sewers for the proposed 33 new dwellings connect into the

existing sewerage system?

### **Electricity**

- 118 new dwellings will be built in the village over the next few years. All of these will connect into the sub-station that is located near the old Tone Vale Hospital, on Graham Way. Presently there is a high rate of power cuts and brown-outs, and this substation has never been upgraded given the number of dwellings already connected into it. Have arrangements been made with Western Power to upgrade the capacity of this substation, in order to prevent issues arising in the future?

### **House Types**

- The Parish Council has explained to Mr Farbahi and Barton Willmore that within the village, there are several instances of three generations of the same family living here. However, the feedback the Parish Council has received is that many older villagers wish to remain living in the village to be close to their younger family members but are prevented from doing so as there are insufficient apartments and bungalows in CSL, to accommodate their needs. The Parish Council has asked Mr Farbahi and Barton Willmore, to ensure that two storey apartments and bungalows are built within the proposed development.

### **Live/Work Units**

- Barton Willmore could provide no information as to the type of businesses that would be run from the 3 live/work units. The Parish Council requires assurances that these businesses will complement the village, will not be disruptive to the surrounding area and that any legal agreement imposed on them will be binding?

### **Open Space Maintenance and Adoption**

- With the present financial cutbacks in SCC and TDBC; how will proposed development's open space be maintained? Barton Willmore has been advised that the Notaro Homes Section 106 Agreement does provide for the Parish Council to adopt the public open space. The Parish Council would consider this option for other proposed developments within the village.

*BIODIVERSITY* – Comments as follows:

Greena Ecological Consultancy carried out an Ecological survey Report of the site dated May 2015.

This was an update of survey work carried out by Tyler Grange LLP in 2010.

The survey confirmed previous findings, confirming that the field itself was of limited ecological value.

Findings of the survey were as follows.

## **Birds**

Birds are likely to utilise hedgerows. Therefore any removal of vegetation should take place outside of the bird nesting season

## **Bats**

There are no structures and no mature trees on site that could serve as roosting places.

The surveyor undertook bat activity surveys. Bats forage in small numbers in the vicinity of the pond located close to the SE corner of the site. This pond is to be retained.

## **Great crested Newts**

There are five small ponds located within 500 m of the site. These were assessed for potential for great crested newts. Tests on three of the ponds confirmed negative for GCN. Results are only valid for one breeding season so as development has not yet taken place, a new set of e-DNA is required in order to confirm newt absence.

## **Badgers**

There were signs of badger foraging in the field.

I would like to see some biodiversity gain from this development so suggest a condition.

*LANDSCAPE* – As the proposal appears to be in accordance with Policy MIN1 in the draft Site Allocations and Development Management Plan, I have no landscape objection to the proposed housing.

However, although this field is flat it is exposed to views from the east.

Therefore, extensive buffer planting, (more than the amount proposed in this application), is necessary.

In addition full landscape details are required.

*WESSEX WATER* – Comments as follows:

## **Sewerage infrastructure**

The applicant proposes to connect foul flows from the development into the existing sewer network. Waste water connections will be required from Wessex Water to serve this proposed development. Application forms and guidance information is available from the Developer Services web-pages on our website

<http://www.wessexwater.co.uk/Developers/>



We can confirm that the proposed point of foul connection appears acceptable subject to technical approval and confirmation of flow rates.

### **Surface Water Drainage**

The Drainage Strategy for the development outlines that the use of an attenuation pond with outfall to a drainage ditch. The LLFA will comment on these arrangements. No surface water connection is proposed to our network and we have no further comments.

### **Water Infrastructure**

Developments over two storeys should be provided with internally boosted supply and storage. I trust that you find the above of use, however please do not hesitate to contact me if you require further information or clarification.

*SCC - TRANSPORT DEVELOPMENT GROUP* – Comments as follows:

Initially raised objection to the application on concerns over the suitability of the proposed access. Subsequently additional information has been submitted and traffic calming introduced. The Highway Authority now comments as follows:

“I refer to the amended plans received direct from LvW Highways on 21<sup>st</sup> March. Assuming that these are a formal part of the planning submission, I can provide the following updated response to the above application:

The developer has now addressed the majority of concerns raised in my previous response to this application and as such I am content that the objection from the Highway Authority can now be withdrawn.

There will still be some technical issues to resolve through the technical approval process for the delivery of works, should consent be granted, however this will form part of the legal agreement process.

Therefore the Highways Authority raises no objection to the proposed development, subject to the following elements being secured by s106 agreement:

- Access to the development generally in accordance with drawing number SK02a
- Changes to the highway at North Villas to change priority, accommodate the site access and deliver pedestrian provision, generally in accordance with drawing number SK02a
- Traffic calming on North Villas generally in accordance with SK02a
- Travel Plan”.

Conditions are recommended regarding the approval and delivery of the estate road layout.

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

The required mix would be:

10% 1b2p flat in a maisonette style property with own garden and private front door.  
40% 2b4p houses  
40% 3b5p houses  
10% 4b6p houses

The intermediate housing should be in the form of 2b4p and 3b5p houses.

The affordable units should be an integral part of the development and should not be visually distinguishable from the market housing on site.

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

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

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

*COMMUNITY LEISURE* – Comments as follows:

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

On an outline application proposal of 30 dwellings, assuming they will all be family size 2 bed + dwellings on-site children's play facilities of 20 sqm per dwelling should be provided. This should consist of at least 1 x equipped LEAP together with additional free play space. The LEAP should be centrally located, overlooked by the front of properties to provide natural surveillance and away from the main access road. Open Spaces should be asked to comment on the design and equipment proposed.

*ENVIRONMENT AGENCY* – No comments received.

*SCC – LEAD LOCAL FLOOD AUTHORITY* – comments as follows

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

The applicant has provided, within the submitted flood risk assessment, outline proposals for surface water drainage post development that include the use of swales to transfer water and improve water quality, pipes and gutters to traditional gravity systems and attenuation within a pond within the site boundary. The current greenfield runoff rates for the site are 3.67 l/s, the applicant is proposing to control

the runoff rates to 2 l/s, thus offering betterment over existing.

The LLFA supports the proposals in principle but would require a more detailed drainage design and supporting calculations to be submitted and therefore requests the following condition be applied to the application should it be granted approval.

*ECONOMIC DEVELOPMENT OFFICER* – Supports application in respect of the inclusion of live/work units within the development.

*POLICE ARCHITECTURAL LIAISON OFFICER* – Comments as follows:

### **Crime Statistics**

Reported crime for the area of this proposed development during the period 01/11/2015-31/10/2016 (within 500 metre radius of the grid reference) is as follows:-

*Burglary* - 2 Offences (comprising 1 dwelling burglary and 1 non-dwelling burglary)

*Criminal Damage* - 7 Offences (incl. 2 criminal damage to dwellings & 4 criminal damage to motor vehicles)

*Drug Offences* - 2

*Other Offences* - 2

*Robbery* - 1

*Sexual Offences* - 4

*Theft & Handling Stolen Goods* - 2 Offences

*Violence Against the Person* - 37 Offences (incl. 1 wounding, 8 assault ABH, 6 common assault & battery & 13 causing harassment/alarm/distress)

*ASB* - 1

*Total* - 58 Offences

This averages less than 6 offences per month, which are classed as low crime and ASB levels in the surrounding area.

**Design & Access Statement** - the DAS accompanying the application contains Section 6, entitled 'Community Safety', which is self-explanatory, and indicates to me that the applicant has considered the potential crime and disorder implications of

this application. I support the various comments made in this section, which refers to

the police approved 'Secured by Design' criteria, and explains how the application addresses these criteria. I will comment further on this section below :-

**Layout of Roads & Footpaths** - vehicular and pedestrian routes appear to be visually open and direct and are likely to be well used enabling good resident surveillance of the street. The use of physical or psychological features such as road surface changes by colour or texture, rumble strips or similar within the development would help reinforce defensible space giving the impression that the area is private and deterring unauthorised access. The short cul-de-sac nature of the development, with one vehicular entrance in and out, also has advantages from a crime prevention viewpoint in that it can help frustrate the search and escape

patterns of the potential offender.

**Orientation of Dwellings** – although specific detail is lacking in the Concept Plan, the indication is that all house frontages overlook the street which allows neighbours to easily view their surroundings and also makes the potential criminal feel more vulnerable to detection. If the dwellings in the centre of the development are also oriented 'back to back', this will improve their rear security by restricting unlawful access to the rear, which is where the majority of burglaries occur.

**Play Area** - communal areas have the potential to generate crime, the fear of crime and ASB and should be designed to allow supervision from nearby dwellings with safe routes for users to come and go. The proposed Play Area is linked with a similar Play Area in the approved development to the south and appears to comply with this recommendation, being overlooked by dwelling frontages.

**Dwelling Boundaries** – it is important that all boundaries between public and private space are clearly defined and it is desirable that dwelling frontages are kept open to view to assist resident surveillance of the street and public areas, so walls, fences, hedges at the front of dwellings should be kept low, maximum height 1 metre, to assist this. Vulnerable areas such as exposed side and rear gardens need more robust defensive measures such as walls, fences or hedges to a minimum height of 1.8 metres. The dwellings to the north and east of the development back onto boundary planting, an informal footpath and swale, and are potentially vulnerable at the rear, so the rear boundary treatment may need to be upgraded by increasing the height of the fencing to 2 metres, possibly by the addition of trellis topping. Gates providing access to rear gardens should be the same height as the adjacent fencing and lockable. From the Concept Plan, it is difficult to assess this, however, Section 6 of the DAS states that such fencing will be provided.

**Car Parking** – the DAS states that car parking will be in close proximity to dwellings but, apart from 4 new parking spaces near the entrance to the development shown on the Concept Plan, further details of proposed car parking arrangements are not provided. Police advice is that cars should either be parked in locked garages or on a hard standing within the dwelling curtilage. Where communal parking areas are essential they should be in small groups, close and adjacent to homes and within view of active rooms within these homes. Rear car parking courtyards are discouraged, as they enable access to the vulnerable rear elevations of dwellings where the majority of burglaries occur.

**Landscaping/Planting** – should not impede opportunities for natural surveillance and must avoid the creation of potential hiding places. As a general rule, where good visibility is needed, shrubs should be selected which have a mature growth height of no more than 1 metre and trees should be devoid of foliage below 2 metres, so allowing a 1 metre clear field of vision. From a personal safety and safeguarding children perspective, this is particularly important in respect of the proposed planting between the Play Area and overlooking dwelling frontages and the informal footpath to the east of the development. Low level shrubs or open columnar trees should be planted in these areas to avoid restricting surveillance of the Play Area and footpath.

**Street Lighting** – all street lighting for both adopted highways and footpaths, private

estate roads and footpaths and car parking areas should comply with BS 5489:2013.

**Physical Security of Dwellings** – in order to comply with *Approved Document Q: Security - Dwellings*, all external doorsets and easily accessible windows and rooflights must comply with PAS 24:2012 security standard or equivalent.

**Secured by Design** - if planning permission is granted, the applicant is encouraged to refer to the '**SBD Homes 2016**' design guide available on the police approved Secured by Design website – [www.securedbydesign.com](http://www.securedbydesign.com) – which provides further comprehensive guidance regarding designing out crime and the physical security of dwellings.

## Representations Received

12 letters of **objection** raising the following points:

- Cotford St. Luke is already overpopulated.
- There is insufficient capacity in the school.
- There is already too much traffic trying to access Taunton from this direction.
- North Villas were part of the old development and should not be masked by new housing.
- North Villas is not capable of accommodating the additional traffic.
- Parking around North Villas is horrendous.
- Emergency services already struggle to access Cotford St. Luke due to overparking.
- The local shop is not big enough.
- There is no doctors' surgery, and only one small shop and a pub.
- The transport statement is inaccurate in terms of parking in the area.
- There is a lot of antisocial behaviour because there is nothing for teenagers to do.
- People don't want to look out at new housing.
- The environment around North Villas has not been considered.
- Surface water running off North Villas down to West Villas is bad already.
- There is insufficient detail about the proposed new housing.
- Wildlife may be damaged by the development and more surveys should be carried out.
- More Council Housing should not be provided.
- Live-work units are not appropriate for a rural village. Employment should be provided in Taunton and is not wanted within the rural area.
- More development in Cotford St. Luke can only detract from the existing community and the environment.
- The development will impact upon those living in North Villas who currently look out over the site.
- The development must provide at least two off-street parking spaces per dwelling.

1 letter of **support** stating that this is the perfect place for new housing and that flood water will be directed down the hill and away from the village.

## 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,  
SD1 - Presumption in favour of sustainable development,  
CP4 - Housing,  
CP5 - Inclusive communities,  
CP6 - Transport and accessibility,  
CP7 - Infrastructure,  
CP8 - Environment,  
DM1 - General requirements,  
SP1 - Sustainable development locations,  
SP4 - Realising the vision for rural areas,  
C2 - Provision of recreational open space,  
MIN1 - East of Dene Barton, Cotford St Luke,

## Local finance considerations

### Community Infrastructure Levy

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 £412,500.00. With index linking this increases to approximately £486,750.00

### 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	£34,612
Somerset County Council	£8,653

#### *6 Year Payment*

## **Determining issues and considerations**

The main issues in the consideration of this application are the principle of the development, impact on the highway network, the visual impact and impact on the character of the area, the impact on infrastructure, nearby residential properties ecology and flood risk.

### **Principle of development**

The site is part of the MIN1 allocation for 60 dwellings and small-scale B1 employment units on approximately 0.25ha of the site. 30 have already been permitted on the southern part of the allocation so this proposal completes the allocation. In addition to housing, Policy SP4 of the Taunton Deane Core Strategy sets out that development should provide small-scale opportunities for employment development and seek to encourage the provision of additional services. Policy SP1 sets out that new development in the Minor Rural Centres (which include Cotford St. Luke) will include an appropriate balance of market and affordable housing together with some live-work units. The development, therefore, fully complies with the high level principles set out in the development.

### **Impact on the highway network**

The application is accompanied by a transport assessment and the high level conclusions in terms of traffic generation have been accepted by the local highway authority. Following initial objection from the Highway Authority around the detailed configuration and alignment of the access, amended plans have now been received. These retain the principle of changing the priority of the existing highway such that it continues into the new site, with the existing dwellings of North Villas being served off a T junction from this road and now meet the requirements of the Highway Authority. Some speed cushions have been introduced into North Villas as it is not possible to achieve sufficient visibility for a 30mph speed limit.

Concern has been raised by local residents around existing parking provision at North Villas. The precise layout of the site is a matter for the reserved matters application. It is possible that new dwellings facing the existing North Villas may have individual access points from this road, reducing the availability of on-street parking, but given that most properties in North Villas already have off-street parking, this is not considered to have such a significant impact as to warrant refusal of the application. In any case, this matter cannot be properly assessed until reserved matters have been submitted and, therefore, this matter could not lead to refusal of this outline application – the actual access arrangements will only affect a very small part of the existing road at North Villas. Furthermore, the majority of traffic into the development would not have to use the narrowest stretch of Old Dene Road along the western site boundary so the access arrangements are considered to be acceptable.

The Parish Council has raised concern about the impact on pedestrian safety for pedestrians using the footpath link to the north of the proposed access up to Dene Road. The County Council will consider this matter as part of their detailed assessment of the new access.

With regard to the above, the impact on the highway network is considered to be acceptable.

### **Visual impact and character of the area**

The site is fairly elevated in the landscape and the development will be visible from various locations. That said, from the south it will be seen in the context of the existing settlement and previous approval for the remainder of the allocation on the rising land to the south. From the east, it will mean that the eastern edge of the settlement is extended, however, with the additional buffer planting proposed, this edge of the settlement can be softer than it is presently.

The landscape officer initially made comments about the eastern boundary and the need for a greater amount of landscaping than proposed. Landscaping is a reserved matter and this will be considered further at that stage, however the indicative layout plan has been amended and the removal of a footpath from within the buffer zone means that there would be wider and more dense planting opportunities along this buffer strip. It is, therefore, considered that the landscape impact of the development is acceptable.

### **Nearby residential properties**

Residents of North Villas will clearly be significantly affected as they currently enjoy an open outlook over agricultural fields and this will be lost. Whether the existing hedge is retained with dwellings behind, or the hedge is removed and a new 'two-sided' street formed, the impact will be similar. However, if the site is to be developed in accordance with the allocation then this impact will arise. No individual property is entitled to a view over surrounding countryside and the dwellings can be positioned at sufficient distance to avoid them being overbearing upon the existing properties or overlooking them to an unacceptable degree. The impact on nearby dwellings is, therefore, considered to be acceptable.

### **Infrastructure**

The development will provide children's play facilities to an appropriate standard in accordance with policy C2 of the SADMP. The delivery of this should be secured via planning condition, with the ongoing maintenance regime agreed as part of a S106 agreement.

There are known to have been problems with sewerage and electricity capacity in Cotford St. Luke in the past. The provision of such is the responsibility of the statutory undertakers. Wessex water have not indicated that there is a particular problem that needs to be addressed before development can be allowed to proceed. If there is a need for an expansion of facilities at the school, then this could be



funded via CIL.

## **Ecology**

The ecological surveys undertaken indicate that the development should not have a significant impact on biodiversity. There are limited species using the site itself, with the exception of the area around the pond in the south eastern corner of the site that is used for foraging by bats. As this pond will be retained, it is considered that the impact upon protected species is likely to be limited. Given the time-lag between surveys and the likely commencement of development the Biodiversity Officer has indicated that a re-survey of the pond and surrounding areas for Great Crested Newts will be required prior to the commencement of development. A condition is, therefore, recommended to ensure that this is undertaken and that other wildlife interests on the site are protected.

## **Flood risk and drainage**

The site is within flood zone 1, at low risk of flooding. However, surface water drainage must be controlled to prevent any increase in flood risk downstream. The submitted strategy indicates that an attenuation pond would be constructed on the site to restrict surface water flows to 2l/s/ha into the watercourse. This would be a betterment over the existing situation and is supported by the Lead Local Flood Authority. A condition is recommended to seek the prior approval of a detailed drainage scheme.

## **Conclusions**

The development is considered to be acceptable in principle, in accordance with Policy MIN2 of the SADMP. Furthermore, having considered the above material considerations, it is not considered that the proposal would give rise to significant harm to the local area. The proposal accords with the development plan and, in accordance with paragraph 14 of the NPPF, permission should, therefore, be granted without delay.

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

**Contact Officer: Mr M Bale**

## **Appeal Decisions – 4 April 2017**

**Site: 8 BLAGDON CRESCENT, TAUNTON, TA1 4TQ**

**Proposal: Erection of ground floor extension to the rear and first floor extension over garage at 8 Blagdon Crescent, Comeytrowe.**

**Application number: 52/16/0016**

### **Reasons for refusal**

1. The proposed first floor extension, by virtue of its design, and lack of subservience, appears as an incongruous addition to the street scene, detracting from the character and visual amenity of the area. The proposed extension in this position does not relate well to the dwelling and fails to respect the character of the area and therefore the proposals conflict with Policies DM1 and H17 of the Taunton Deane Core Strategy.

**Appeal decision: DISMISSED**

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**Site: LAND TO THE REAR OF 60 SPRINGFIELD ROAD, WELLINGTON, TA21 8LG**

**Proposal: Erection of dwelling to the rear of 60 Springfield Road, Wellington**

**Application number: 43/16/0061**

### **Reasons for refusal**

The proposed development, by virtue of its siting outside the defined settlement limits and within an area designated as 'green wedge', fails to meet the policy requirements for which the designation of the area was established. In particular, the proposal fails to retain the green wedge and is unable to clearly demonstrate how the development would protect and conserve the landscape character of the area or enhance its setting within the green wedge. The development also fails to meet the policy criteria for 'development in the countryside' and there are no material considerations that indicate otherwise. The proposal is therefore contrary to Policies CP8, SP1 & DM2 of the Taunton Deane Core Strategy (September 2012) and Policy SB1 of the Submission draft of the Site Allocations and Development Management Policies.

The proposal constitutes overdevelopment of a site which is very restricted in terms of its width and its backland position, and as such would not provide a proper residential environment for future occupiers of the dwelling. It would lead to overlooking of neighbouring residential gardens, where people have a right to expect a certain amount of privacy, and would lead to a loss of amenity, particularly through overshadowing and loss of direct sunlight to the residential curtilages immediately adjacent to the north. This amounts to town cramming, with no thought given to an appropriate pattern of development and makes the proposal contrary to policy DM1 of the adopted Taunton Deane Core Strategy and policy D7 (design quality) of the publication draft of the Taunton Deane Site Allocations and Development Management Plan.

The site access has poor width and inadequate visibility onto the public highway that would rely on visibility over third party land. Also, it has not been demonstrated that any vehicle using the site would be capable of turning within the curtilage marked by the red line and therefore re-entering the public highway in forward gear and so would be likely to lead to manoeuvring on the public highway. As such, the proposal is not suitable to cater for the additional traffic which would be generated by the proposed dwelling and would

result in conditions of danger for all other users of the road, making the proposal contrary to policy DM1.b of the adopted Taunton Deane Core Strategy.

**Appeal decision: DISMISSED**

**Site: MILLGROVE HOUSE, STAPLEGROVE MILLS, MILL LANE, STAPLEGROVE, TAUNTON, TA2 6PX**

**Proposal: Outline application with all matters reserved for the erection of 2 No. two storey detached dwellings with double garages at Millgrove House, Staplegrove**

**Application number: 34/16/0010**

**Reasons for refusal:** The proposed development represents residential development outside the defined settlement limits for Taunton. It is, therefore, contrary to policy CP8 of the Taunton Deane Core Strategy. The proposal would result in sporadic development in the open countryside, detrimental to the visual amenity of the area, contrary to Policy DM1 of the Taunton Deane Core Strategy.

**Appeal decision: DISMISSED**

**Site: KEDGET BARTON FARM, HOME MEAD LANE, CHURCHSTANTON, TAUNTON, TA3 7RN**

**Proposal: APPLICATION FOR THE RETENTION OF THE LAWFUL USE OF A DWELLING (USE CLASS C3) (NOT TIED TO EITHER AN AGRICULTURAL AND/OR EQUINE RELATED OCCUPANCY OR SIMILAR) AT KEDGET BARTON FARM, CHURCHSTANTON**

**Application number: 10/14/0034LE**

- (1) Reasons for refusal: As Conditions 3 and 4 of planning permission 10/2004/028 appear to have been breached and these were both conditions precedent, the Whitley principle is effectively engaged in this matter. However, the Local Planning Authority considers that there are exceptions to the Whitley principle which apply in this case, which mean that the dwelling as constructed on site can be regarded as having been built pursuant to and in accordance with the planning permission 10/2004/028.
- (2) Although the constructed dwelling differs in location and physical differences from the approved plans the significance of the differences is not material and the substantial usability of the property is as permitted by planning permission 10/2004/028. Although differences exist between what was permitted and what was built these differences are not sufficient to render the dwelling as built so different from that which was permitted by permission 10/2004/028 so as to categorise it as not having been constructed pursuant to this planning permission.

**Appeal decision: ALLOWED**

## **Enforcement Appeal**

**Site:** SOUTH SIDE OF PAYTON ROAD, WESTFORD, WELLINGTON

**Alleged Breach of planning control:** Removal of hedgerow on south side of Payton Road, Westford

**Reference Number:** E/0072/43/16

**Appeal decision: DISMISSED**



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## **Appeal Decision**

Site visit made on 31 January 2017

**by Rory Cridland LLB (Hons), Solicitor**

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

**Decision date: 23 February 2017**

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### **Appeal Ref:**

**APP/D3315/D/16/3163907 8**

**Blagdon Crescent, Taunton TA1**

**4TQ**

- 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 & Mrs James Russell against the decision of Taunton Deane Borough Council.
  - The application Ref 52/16/0016, dated 20 June 2016, was refused by notice dated 3 October 2016.
  - The development proposed is single storey extension to the rear and first floor extension over the existing garage.
- 

### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue is the effect of the proposed development on the character and appearance of the existing dwelling and that of the surrounding area.

### **Reasons**

3. The appeal site is located in a residential street consisting of detached dwellings with integral garages which sit forward of the main elevation. Although some of the properties on this side of the street benefit from minor alterations to the front, there is a general sense of uniformity and variations in appearance are mostly minimal.

4. Policy DM1 of the Taunton Deane Core Strategy<sup>1</sup> (CS) requires proposals for new development to, amongst other things, ensure that the appearance and character of any street scene would not be unacceptably harmed. In addition, Policy H17 of the Taunton Deane Local Plan 2004 (LP) permits extensions provided they do not harm the form and character of the original dwelling and are subservient to it in scale and design.
5. The proposal would involve the erection of a ground floor extension to the rear and a first floor extension with dormer structure above the existing garage. Although the Council have not raised any concerns regarding the rear extension, they consider the first floor side extension would detract from the character of the existing dwelling and would be harmful to the character and appearance of the surrounding area.

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<sup>1</sup> Taunton Dean Borough Council Core Strategy 2011-2028

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6. I agree with those concerns. At present, the garage is set forward of the main dwelling, a design feature which is replicated in the neighbouring properties and which makes a positive contribution to the general sense of uniformity in the street. However, the proposed first floor extension would result in a 2 storey projecting structure alongside the main elevation. It would appear as a significant addition to the property and would increase both its bulk and scale. In doing so, it would emphasise the differences in setback between the main elevation and that of the extension, resulting in an awkward appearance that would materially harm the form and character of the original building.
7. In addition, the proposed extension would appear in stark contrast to the neighbouring dwellings, extending the existing elevation and introducing a design which would appear out of keeping with its surroundings. It would significantly erode the existing sense of uniformity within the street and result in an unacceptable level of harm to the wider street scene. Likewise, while I acknowledge that the proposed lean-to roof would mirror that of the section of existing roof formed by the previous porch, as a design feature it would nevertheless appear out of keeping with the neighbouring dwellings. This would further erode both the character of the existing building and that of the wider street scene.
8. Although I note the appellant considers the porch extension to the front would be more incongruous than the proposed extension, I do not agree that this would be the case. The porch to the front is a modest structure which, in view of its size, has only a limited impact on the character and appearance of the existing property and the wider surroundings. As such, any harm remains within acceptable levels and I do not consider that it provides a justifiable precedent for the development proposed.
9. Consequently I find the proposal would be harmful to the character of the dwelling and have an unacceptably harmful impact on the street scene. As such, it would be contrary to LP Policy H17 and CS Policy DM1.

## Conclusion

10. For the reasons set out above, I conclude that the appeal should be dismissed.

*Rory Cridland*

INSPECTOR



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## Appeal Decision

Site visit made on 31 January 2017

**by H Porter BA(Hons) PGDip IHBC**

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

## **Appeal Ref: APP/D3315/W/16/3160923**

### **Land to rear of 60 Springfield Road, Wellington, Somerset TA21 8LG**

- 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 Mrs E Marrs against the decision of Taunton Deane Borough Council.
  - The application Ref 43/16/0061, dated 24 May 2016, was refused by notice dated 23 August 2016.
  - The development proposed is described as 'erection of dwelling'.
- 

## **Decision**

1. The appeal is dismissed.

## **Application for costs**

2. An application for costs was made by Mrs E Marrs against Taunton Deane Borough Council. This application is the subject of a separate Decision.

## **Main Issues**

3. The main issues are the effect of the proposed development on the character and appearance of the area; the effect of the proposed dwelling on the living conditions of neighbouring occupiers and whether the new dwelling provides satisfactory accommodation for its occupants; and the effect on highway safety.

## **Reasons**

4. The appeal site is located towards the north west of Wellington, where the settlement boundary bisects the long, narrow garden plots that extend towards a mill stream and the open countryside beyond. The portion of domestic gardens excluded from the settlement helps provide a clear distinction between the edge of the settlement and the semi-rural landscape that defines the wider context. Concerning the lower portion of the rear garden associated with 60 Springfield Road, the appeal site is accessed via a narrow track with an intimate back-lane character. There is a strong local townscape and cohesion in built form established by a strong building line, plot rhythm, consistent 2- storey scale and material palette of red brick and natural slate. Where two storey structures exist, they are clearly ancillary to the primary terrace frontages.
  5. The appeal scheme would introduce a two-bedroom bungalow on the narrow strip of garden that slopes gently towards the mill stream. In contrast to the
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local plot rhythm, the development would have an elongated footprint occupying a significant portion of the existing garden area. The proposed off- street parking area would push the end gable into the plot, which would be clearly at odds with the established building line that characterises the terraces fronting Riverside.

6. Irrespective of the final material treatment, it is clear that the proposed fenestration, roof form and overall proportions would sit uncomfortably within the local street scene, undermining its cohesion and strong sense of place. Furthermore, at single-storey height, the proposed dwelling would be at odds with the established development hierarchy, where primary dwellings are all two-storey, and ancillary structures are single-storey. Even if public views to the proposed dwelling were to be limited, in my judgement the proposal would introduce an awkward and unattractive form of development on a constrained plot that would fail to complement its surroundings.
7. The effect of the proposal would also be to consolidate built development into the long, linear garden plots that extend from Springfield Road towards the open landscape within the 'green wedge' beyond. While the appeal site itself falls just outside the 'green wedge' boundary, the red brick and slate roofs of the Riverside terraced houses are visible from it. Moreover, the existing gardens play an important role in defining the urban edge of the settlement. Regardless of whether, under some policy circumstances, development may be priorities in residential gardens, development in this location would harmfully extend the line of dwellings into the countryside, contributing to a harmful erosion of the settlement edge.
8. I conclude therefore that the proposal would cause significant harm to the character and appearance of the area. The scheme would consequently fail to accord with Policy D7, CP8, SB1 of the Site Allocations and Development Management Policies, adopted December 2016 (SADMP) and Policy DM1 of the Adopted Core Strategy 2011 – 28 (the Core Strategy), insofar as they seek to ensure development does not harm the setting of towns, is appropriate in terms of scale, siting and design, protects townscape character, reflects the site and its context, and that the appearance and character of the settlement, or street scene would not be unacceptably harmed, as well as provide a compact form to settlements, and preventing sprawl and sporadic development.

#### *Living conditions*

9. It has been suggested that the setting of the proposed dwelling, situated south of No 58 Springfield Road, would result in a loss of light, thus having an adverse impact on the living conditions of its occupiers. It would step down in increments and be partially screened by the hedge boundary and mature trees that currently populate part of the neighbouring garden. Given the scale of the proposed dwelling, I do not consider it would result in any harmful loss of light or overshadowing within neighbouring gardens.
10. The Council's reason for refusal also raises concern regarding overlooking and privacy, although the Officer's Report goes on to state that this would not be an issue. I concur with the view that the high, dense hedgerow boundaries and sloping topography would provide a substantial level of screening between the proposed development and neighbouring gardens. The proposed fenestration



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and internal layout suggest to me that a future occupant would utilise proposed

exterior spaces to the east, facing towards the mill stream, or in the recessed courtyard, facing towards the garden of No 58. Both of these areas would provide sufficient distance from neighbouring properties and the majority of their gardens to ensure there would be no harmful overlooking or loss of privacy.

11. There is little appraisal in the body of the report to support their claim that the development would not provide an adequate residential environment for future occupiers. The proposed bungalow would be long and narrow, with high level windows and close boundary screening providing very little outlook on the main north and south elevations. However, the recessed courtyard space would offset this to some degree, and the main living space would look out onto the garden and wider open landscape to the east. While small, the overall space proposed would be sufficiently well lit and laid out, with enough outdoor space to provide some meaningful function. The development would therefore provide an acceptable standard of accommodation overall.
12. I conclude therefore, that the proposed development would not result in harm to the living conditions of neighbouring occupiers and would provide satisfactory accommodation for its occupants. The development would therefore comply with Policy DM1 and SP1 of the Core Strategy insofar as they seek to ensure amenity of any users, and that individual dwellings or residential areas will not be unacceptably harmed.

#### *Highway safety*

13. Springfield Road is narrow, with parking restricted along one side by double- yellow lines. At the time of my visit (13:30), it was heavily parked along its other length. The access track to the appeal site is also extremely narrow and turns tightly as it rounds the corner along Riverside. While on private land, I saw on my site visit that the boundary walls of both 60 and 62 Springfield Road are relatively low. From my observations during my site visit, it was apparent that the nature of the roads in the vicinity of the appeal induces cautious driving behaviour.
14. I accept that visibility out onto Springfield Road is limited, and could be further restricted if the front gardens were planted or the height of the walls increased. However, no substantive evidence, such as accident or traffic flow data, have been provided to suggest that the current situation has any adverse impact upon highway safety or efficiency in the area, or the extent to which one or two more vehicles using the access would compromise it. It has been suggested that the parking area to the proposed development is such that a vehicle would be unable to turn and exit the site in a forward gear. However, no substantive evidence has been provided to support this assertion. While I appreciate that the access track is extremely narrow, it seems reasonable that the proposed parking area would provide enough space for a vehicle to manoeuvre so as to enable egress onto Springfield Road in a forward gear.
15. Taking the above matters into consideration, I conclude that the proposal would not have an adverse impact on the safety of users or the efficient operation of the highway network in the vicinity of the appeal site. It would not conflict, therefore, with Policy DM1 of the Core Strategy insofar as it seeks to ensure additional road traffic would not lead to overloading of access roads or road safety problems.

### *Planning balance*

16. The provision of one additional dwelling, even where the Council can demonstrate a 5-year supply of housing land, would represent a clear benefit. There would also be economic benefits arising from employment during construction, and the supply of materials, and in future residents feeding into the local economy. The proposal would also have a social benefit associated with use of nearby services and facilities within the settlement, which could be accessed easily by means other than by private car. Given the size of the proposed dwelling, I attach moderate weight to these benefits. A lack of harm in terms of the historic environment, flood risk or biodiversity are all neutral factors; while not counting against the proposed development, nor do they weigh in its favour.
17. In seeking to bring forward housing development in a sustainable location, the proposal accords with the general thrust of Policy SP1. However, in terms of its more detailed effects, the proposal would be in conflict with the development plan policies that relate to character and appearance and the benefits of the scheme would not be sufficient to outweigh the adverse effects. The scheme fails to conform to the core principles of the Framework, which seek to secure high quality design that takes account of the character of different areas. The environmental dimension of sustainable development would therefore not be achieved and the proposal would not be sustainable development. On balance, I conclude that the proposal would fail to accord with the development plan and the Framework taken as a whole.

### **Other matters**

18. I do not know the circumstances that led to planning permission being granted at no. 1a Riverside, as cited by the appellant. In any event, I have determined the appeal on the basis of the evidence before me, and the specific circumstances of the site.

### **Conclusion**

19. I have found that the proposal would be harmful to the character and appearance of the area. Although there are other factors that count in favour of the proposal, these have not been sufficient to outweigh the harm identified. A lack of harm in relation to the second and third main issues does not alter the harm concluded for the first. For the reasons given above, and in consideration of all other matters raised, I conclude that the appeal should be dismissed.

*H Porter*

INSPECTOR

# Costs Decision

Site visit made on 31 January 2017

**by H Porter BA(Hons) PGDip IHBC**

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

**Decision date: 27 February 2017**

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## **Costs application in relation to Appeal Ref: APP/D3315/W/16/3160923 Land to rear of 60 Springfield Road, Wellington, Somerset TA21 8LG**

- 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 Mrs E Marrs for a partial award of costs against Taunton Deane Borough Council.
  - The appeal was against the refusal of planning permission for the erection of a dwelling.
- 

## **Decision**

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

## **Reasons**

2. Paragraph 030 of the Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Paragraph 049 of the PPG states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact that are unsupported by any objective analysis.
3. The applicant contends that the Council behaved unreasonably in that it failed to substantiate the objection to the proposed development on the grounds of harm to living conditions and highway safety.
4. The Council's reason for refusing planning permission, as set out in its Refusal Notice, consists of three distinct elements: development outside defined settlement limits; overdevelopment or a restricted backland site and impacts on living conditions; site access and impacts on the public highway. Reading the Council Officer's report, however, it is clear that reason for refusal 2, is in fact dealing with two separate issues: impact on the character and appearance of the area and on living conditions. In my judgement, reason for refusal 2 lacks clarity and fails to separate distinct issues; it is therefore imprecise and unspecific.
5. The Council Officer's report clearly substantiates their objections in relation to the impact of the proposed development on the character and appearance of the area. Policy D7, which they refer to in their costs rebuttal as supporting their reason for refusal 2 is, in my mind, relevant to the issue of character and

appearance and not to living conditions. The Council's rebuttal goes no further in providing any substance to the issue, which underpins the second part of the reason for refusal 2. In fact, the Council Officer's report states that 'overlooking would not be an issue', going on to conclude there could be an impact on light, even though 'the proposed dwelling is only single-storey'. No further assessment is given to substantiate the assertion that the proposal would not provide a 'proper residential environment for future occupiers'. Taking all of this into account, I can see no reasonable justification for the Council's objection in regards to the potential impact of the proposed development on living conditions. I therefore consider that the Council has behaved unreasonably in this respect.

6. The third reason for refusal relates to highway safety. While I note the appellant's point that the Council Officer's report wrongly refers to the impact on 'public highways', this does not negate in itself concern about highway safety. The Council Officer's observations on site, as well as third party representations, are reasonable and relate to Policy DM1 of the Core Strategy. Although I concluded there would be no harm to highway safety from the proposal, I did have to consider the matter carefully, and therefore the issue was one where a balanced judgement had to be made. The Council's reason for refusal 3 was therefore not without any substance and they have not behaved unreasonably through pursuing an objection on the grounds of highway safety.

## Conclusion

7. I consider therefore that the Council have failed to provide evidence to substantiate fully their reasons for refusal 2 insofar as it relates to living conditions. I have found, however, that the Council has not behaved unreasonably in relation to highway safety, or on the grounds of harm to the character and appearance of the area. I therefore conclude that a partial award of costs, to cover the expense incurred by the applicant in contesting the second part of the Council's reason for refusal 2, is justified.

## Costs Order

8. In exercise of the powers under Section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 (as amended), and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Taunton Deane Borough Council shall pay Mrs E Marrs the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the second part of the Council's reason for refusal 2.
9. The applicant is now invited to submit to the Taunton Dean Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*H Porter*

INSPECTOR

## The Planning Inspectorate

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3 H Hawk Wing  
Temple Quay  
House 2 The  
Square  
Bristol  
BS1  
6PN

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Direct Line: 0303 444  
Customer Services: 0303 444 5000  
e-mail: environment.appeals@pins.gsi.gov.uk

Christopher Horan  
Taunton Deane Borough  
Council The Deane House  
Belvedere  
Road Taunton  
Somerset TA1 1HE

Your Ref: NC/T/2016/960  
Our Ref: APP/HGW/16/416  
Date: 23 February 2017

Dear Sir/Madam

**.ENVIRONMENT ACT 1995 - SECTION 97  
THE HEDGEROW REGULATIONS 1997**

Please find enclosed a copy of the Inspector's decision letter, dated, 23 February 2017. Should you have any queries in respect of the decision, please send them to:

Customer Quality Unit  
The Planning  
Inspectorate Room 4 D  
Hawk Wing Temple Quay  
House  
2 The  
Square  
Temple  
Quay Bristol  
BS1 6PN

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Tel: 0303 444 5781

Or visit:

<https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>

Yours sincerely

*elf*

Environment Appeals Team

Enc.

<http://www.planningportal.gov.uk>

1 VISITOR PAI PEOPLE









## Appeal Decision

Site visit made on 30 January 2017

**by Heidi Cruickshank BSc(Hons), MSc, MIPROW**

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 23 February 2017

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### **Appeal Ref: APP/HGW/16/416**

### **Orchard Farm, Hillcommon, Taunton, Somerset, TA4 IOW**

- The appeal is made under Regulation 9 of the Hedgerows Regulations 1997, enacted under section 97 of the Environment Act 1995, against a Hedgerow Replacement Notice.
  - The appeal is made by Mr D Mitchell against Taunton Deane Borough Council.
  - The Hedgerow Replacement Notice, E/0042/48/15, is dated 12 August 2016 and indicates that it appears to the Council that a hedgerow has been removed in contravention of Regulation 5(1) of the Hedgerow Regulations 1997.
  - The Hedgerow Replacement Notice requires the planting of a new hedgerow of approximately 92 metres in length in the location indicated by the green line on the plans attached to the Notice, in accordance with the planting specification set out within the Notice.
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### **Decision**

1. I direct that the Hedgerow Replacement Notice ("HRN") be modified as follows:
  - in relation to the '*Time for compliance*' replace "*The period during which the works must be carried out is 1st November 2016 to 30th November 2016.*" with "*The period during which the works must be carried out is 1st March 2017 to 31st March 2017.*"
2. Subject to this modification I dismiss the appeal and uphold the HRN.

### **Preliminary matters**

3. An appeal against a Council decision under this legislation should be made to The Planning Inspectorate within 28 days of the receipt of the decision. The HRN issued by Taunton Deane Borough Council ("the Council") was authorised and signed on 12 August 2016 but was not served on the appellant until 5 September. The appeal received by The Planning Inspectorate on 26 September was, therefore within the required time period.

### **Background**

4. In March 2016 the Council received a complaint that the hedge in question was being removed from the land. Having looked into the matter the Council's Planning Committee meeting of 13 July 2016 decided to issue the HRN.
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**Grounds of Appeal**

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5. The HRN requires the replacement of a hedge of 92 metres in length, with a mix of seven different plant species. The appellant indicated that the hedge removed in 2016 was only 63 metres in length as 29 metres had been removed during the development of a housing estate lying to the east of the hedge line. He also said that the removed hedge was only a single line of hawthorn,
-

planted by the family in the 1950s, not a hedge with a bank or ditches. He therefore requested that the HRN be modified to require only a single line of hawthorn of 63 metres length.

6. The appellant queried reliance on the Wellington Tithe Map 1842 as showing a hedge, rather than simply a boundary. He argued, by reference to Part II of Schedule 1 to The Hedgerows Regulations 1997 ("the Regulations") that this was not an important hedge.

### **Main Issue**

7. The main issue is whether the HRN is appropriate.

### **Reasons**

8. There has been some argument as to whether or not this hedge was "important" by reference to paragraph 4(b) of the Regulations, with the Council confusing matters by reference to '*criterion (S)(a)*' of Part II of Schedule 1 to the Regulations. However, the HRN clearly states that it was served under Regulation 8(1) of the Regulations because it appeared that the hedgerow was removed in contravention of Regulation 5(1).
9. Regulation 5(1) sets out that the removal of a hedge to which the Regulations apply is prohibited except where an application to remove it has been received and approved by the Council. As the hedgerow was growing on land used for agriculture, Regulation 3(1) sets out that the Regulations apply to this hedge. There is no argument that an application to remove it was made. The power to require replanting applies whether the hedgerow that has been removed was important or not.
10. The appellant indicated that part of the hedge was removed at an earlier date but I do not consider that there to be a time limit on the requirement for replacement of a hedge. Regulation 8(1) indicates that notice is to be served on the owner unless the hedgerow has been removed by or on behalf of a relevant utility operator, in which case notice should be served on the operator. Although the appellant has referred to removal by contractors, there is no information to show that this was by or on behalf of a utility operator. It appears that the HRN has been served on the correct party.
11. The HRN allows for a five metre gap at the south-western end of the hedge, adjacent to the old buildings in this area<sup>2</sup>, providing access between the fields. I am satisfied that this is reasonable and that the approximately 92 metre length of hedge should be replanted on the line indicated in by the plans attached to the HRN.
12. In relation to the desire to plant a single line of hawthorn, rather than the double staggered mix of species set out in the HRN, the Regulations do not specify that there should be a 'like for like' replacement. In cases such as this, where the hedgerow has been removed, it is difficult to ascertain the original composition of the hedge.
13. I take account that by virtue of Regulation 8(4) the replacement hedge will be an "important" hedgerow for a period of 30 years beginning with the

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<sup>1</sup> SI 1997 No. 1160

<sup>2</sup> See Plan 2 attached to the HRN

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terms; and, the view of the Council that the required species mix reflects what will be found in other local hedges. The view of the Council that the cost of the proposed replacement would be less than planting the same length solely with hawthorn has not been evidenced. Taking all the relevant matters into account, I am satisfied that the HRN is appropriate in terms of the mixture of species set out in the notice.

### **Other matters**

14. As set out by *A Guide to the Law and Good Practice*<sup>3</sup> in deciding whether to issue a HRN the Council should consider whether this is reasonable, taking account of the particular circumstances of the case and any representations received. The appellant feels that his communications were not taken into account by the Council. However, I do not consider that matters relating to the procedures followed prior to the issuing of the HRN are relevant to my decision.

### **Conclusion**

15. Having regard to these and all other matters raised in the written representations, I conclude that the appeal should be dismissed. However, the HRN requires the works to be carried out in the period 1 - 30 November 2016, which cannot be met due to the appeal period. I have modified the planting period accordingly, as set out in the decision, above.

*Jfeicfi Cruick. §lianft*

**Inspector**



## Appeal Decision

Site visit made on 21 February 2017

**by R J Jackson BA MPhil DMS MRTPI MCI**

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

**Decision date: 02 March 2017**

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### **Appeal Ref: APP/D3315/W/16/3160279**

**Steel framed former lambing/shelter barn, Yard Farm, Combe Florey, Taunton, Somerset TA4 3JB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Gerald Barons against the decision of Taunton Deane Borough Council.
  - The application Ref 11/16/0006/CQ, dated 14 June 2016, was refused by notice dated 31 August 2016.
  - The development proposed is prior approval for proposed change of use from agricultural building to dwelling house (Class C3) and associated operational development of former lambing barn.
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### **Decision**

1. The appeal is dismissed.

### **Procedural Matters**

2. This appeal relates to an application made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
3. The application form did not explicitly set out what was applied for; rather this was implicit from the nature of the application form and drawings submitted with the application. The Council set out the procedure and a description and I have used this as it clearly sets out that applied for.
4. During the processing of the application the appellant submitted a drawing setting out the proposed floor plan. I have used this to inform my decision.

### **Main Issue**

5. The main issue is whether the change of use would be undesirable in that it would not give rise to satisfactory living conditions for the proposed occupiers in terms of noise and disturbance.

### **Reasons**

6. The appeal site consists of the area of a metal framed barn and the southeastern

~~part of a larger timber framed pole barn, and a small open area to the southwest.~~  
Outside the appeal site the remaining part of the larger



building provides part of the access to a building and associated hardstanding a short way to the west which is described on the drawings as a "vehicle store/garage". This building was constructed pursuant to a prior approval as an agricultural building.

7. Schedule 2, Part 3, Paragraph Q.2 of the GPDO makes it a condition that applicants must apply to the local planning authority for a determination as to whether prior approval is required of a number of matters. Included within these is "whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use" as a dwelling.
8. The national Planning Practice Guidance indicates<sup>1</sup> "undesirable" reflects that the location or siting would be "harmful or objectionable". This is expanded upon where it states that the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals. I do not consider this to be an exhaustive list but rather it makes clear that agricultural activity can be undesirable by reason of, amongst other things, noise. Conditions can be imposed which are reasonably related to the subject matter of the prior approval<sup>2</sup> to provide mitigation.
9. Paragraph W.(10)(b) of Schedule 2, Part 3 of the GPDO requires that regard must be had to the National Planning Policy Framework (the Framework) as far as relevant to the subject matter of the prior approval. One of the core planning principles in paragraph 17 of the Framework is that that decision makers should always seek a good standard of amenity for future occupiers of buildings. Paragraphs 109 and 123 of the Framework both refer to the impact that noise can have on residential amenity.
10. There is a dispute between the parties as to the degree of use of the access way to the vehicle store/garage, and clearly this will depend on the agricultural activities taking place on the holding and is likely to vary over time and season. Although evidence submitted by the appellant indicates that vehicle movements are limited this may change; what should be considered is a realistic expectation of activity to/from that area. It is also the case that the dwelling should be considered as a dwelling independent of the agricultural holding, even though it is indicated that the occupier would be employed on the holding, as there is nothing which could so restrict it and a condition to this effect would not be reasonable within the terms of a prior approval.
11. The building to the west and its hardstanding would allow a significant number of large agricultural vehicles to be parked, and they would travel immediately adjacent to the proposed buildings. The nature of agricultural operations is that seasonally they often take place in the early morning and can continue late into the evening at anti-social hours. Vehicles in such close proximity have the potential to create significant noise and disturbance, particularly at anti- social hours and could disturb sleep.
12. The proposed dwelling layout has bedrooms located away from the access way, which would minimise the effect of noise and disturbance. However, this would result in the rooms being very close to the bank and no windows are shown.

<sup>1</sup> Paragraph 13-109-20150305

<sup>2</sup> Schedule 2, Part 3, Paragraph W(13) of the GPDO.

Because of the close proximity of the access way to the dwelling it is not possible to be sure that it would be possible to achieve a satisfactory degree of sound insulation to the internal spaces by way of a condition within the structure so that the conversion would still fall within the relevant criteria set out in the GPDO.

13. That being the case, the proposed location would be undesirable for use as a dwelling as vehicles travelling past the appeal property would have the potential to create significant noise resulting in unacceptable living conditions for the occupiers of the proposed dwelling. It would therefore be contrary to paragraph 17, 109 and 123 of the Framework as set out above.

## Conclusion

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

*RJ Jackson*



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## Appeal Decision

Site visit made on 24 January 2017

**by JP Roberts BSc(Hons), LLB(Hons), MRTPI**

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

**Decision date: 7 March 2017**

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### Appeal Ref: APP/D3315/W/16/3161791

**Millgrove House, Mill Lane, Staplegrove, Taunton TA2 6PX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mrs Melanie Alford against the decision of Taunton Deane Borough Council.
  - The application Ref 34/16/0010, dated 1 April 2016, was refused by notice dated 26 May 2016.
  - The development proposed is the erection of 2 no. two storey detached dwellings with double garages.
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## Decision

1. The appeal is dismissed.

## Procedural matter

2. The application was made in outline with all matters reserved for subsequent approval.

## Main Issues

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3. The main issues are:

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- i) the effect of the proposal on the character and appearance of the area, and
- ii) the effect on the setting of Staplegrove Lodge, a grade II listed building.

## Reasons

- 4. The appeal site forms a field to the rear of Millgrove House, which is one of a small cluster of dwellings loosely strung along Mill Lane, which ends in a private road leading to a large complex of farm buildings. The site lies outside of the defined settlement limits for Taunton. The small group of dwellings along Mill Lane is of a mainly linear pattern; there are no dwellings set back from the road as far as those proposed here. The position of these dwellings and their juxtaposition to open fields gives the group a strong rural character.
  - 5. Policy CP8 of the Taunton Deane Adopted Core Strategy 2011-2028 (CS) deals with the environment and provides that, amongst other things, unallocated greenfield land outside of settlement boundaries will be protected and where possible enhanced. It also says that development within such areas will be strictly controlled in order to preserve the environmental assets and open character of the area, but provides that where development outside such
-

boundaries takes place, it must comply with other criteria, the most relevant of which is that it is in compliance with other national and local policies, and that it protects, conserves or enhances landscape and townscape character. CS Policy DM2 sets out uses which may be permitted in the open countryside, none of which include open market residential dwellings.

6. Since the refusal of the application, the Taunton Sites Allocation and Development Management Plan (SADMP) has been adopted. Policy SB1 deals with settlement boundaries and says that proposals outside of identified boundaries will be treated as being within open countryside and assessed against Core Strategy policies CP1, CP8 and DM2 other than in circumstances which do not apply here. Accordingly the proposal would conflict with the above-mentioned policies.
7. SADMP Policy TAU2: Staplegrove identifies a site for a new sustainable neighbourhood. The boundary of that site as shown in the concept plan supporting the policy wraps around this part of Mill Lane, incorporating land on three sides of the site. The appellant argues that this designation, and the change around the site that will be likely to occur, are material considerations of sufficient substance to outweigh the conflict with the development plan. In recommending the appeal proposal for approval, Council officers took the same view.
8. In its appeal submissions the Council has submitted a copy of a masterplan for the urban extension which shows the land on either side of Mill Lane being left undeveloped, with planting, open space and a large pond being indicated on the land immediately to the south of the appeal site stretching to the A358 Staplegrove Road. The appellant says that this masterplan has no status, and the Council has not explained clearly what planning purpose it serves or what weight might be attached to it. However, a neighbour has indicated that the masterplan was adopted by the Council in December 2015, and this has not been contradicted by the appellant. Policy TAU2 requires a masterplan and phasing strategy with associated infrastructure to be prepared by the developers in conjunction with the Borough Council and other stakeholders. Accordingly, although the masterplan may not have the force of a development plan document, it nevertheless carries some weight.
9. Moreover, the neighbour informs me that the masterplan has been included in two outline planning applications for the Staplegrove urban extension<sup>1</sup> and an extract has been provided to show that it is part of a design and access statement. Although these applications have not yet been determined, the fact that developers have carried forward the masterplan in their proposals adds to the weight that the masterplan carries. Accordingly, despite the inclusion of adjoining land as part of the designated urban extension, the evidence suggests that there is a realistic likelihood that the area surrounding the appeal site will remain undeveloped and that the rural character of the adjoining fields will be maintained.
10. The proposal is in outline, but the illustrative plan shows two large dwellings and garages sited between the walled garden of Staplegrove Lodge and the rear garden of Millgrove House. The appellant points out that layout is a reserved matter and it would be possible to site two houses closer to the parking area if necessary. However, as two storey houses with garages, they

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<sup>1</sup> Refs: 34/16/0007 & 34/16/0014

would constitute a noticeable consolidation of the sparse residential development in this cluster, and would be visible from Mill Lane and over the garden wall of Staplegrove Lodge when viewed from the A358. The *Landscape Character Assessment of Taunton's Rural-Urban Fringe Sensitivity and Capacity study 2005* found that the Back Stream flood plain, of which the appeal site forms part, has a high landscape sensitivity overall. The site forms part of the open agricultural land, rising from the stream, fringed by woodland to the west and by a backdrop of trees and hills in the distance.

11. Although the site itself is some distance from the A358, it complements the field to the foreground in views from that road. To my mind, additional houses, even if partly screened by the garden wall, would nevertheless intrude into views from the A358 and erode the semi-rural character of the area.
12. I therefore conclude on this issue that the proposal would result in material harm to the character and appearance of the area and would conflict with the policies to which I have referred.

*The setting of Staplegrove Lodge*

13. Staplegrove Lodge is a Grade II listed building and comprises a large detached house set in spacious grounds, which include a walled garden on the western side. The curved brick wall which surrounds the westernmost part of the garden varies in height, but reaches 3m or so in parts, and, like the house itself, it can be seen across an open field from the A358 Staplegrove Road.
14. Lodge Cottage and Lodge Farm lie between the listed building and Millgrove House, and thus the proposal would lie within a similar context. However, the appeal site projects well to the west of the walled garden, and houses would need to be sensitively sited and designed so as not to detract from the appearance of the garden wall, which I regard as being important to the setting of the listed building. However, looking from the A358 to the south, Millgrove House can already be seen over the top of the garden wall, and so houses sited more or less in line between Millgrove House and the wall would make little material difference to this existing position or to the setting of the listed building.
15. I therefore conclude on the second main issue that the proposal would preserve the setting of the listed building, and would not conflict with CS Policy CP8, which includes the protection of heritage assets as one of its criteria.

## **Other matters**

16. The appellant argues that the proposal amounts to sustainable development, and that notwithstanding the conflict with the development plan, that the presumption in favour of sustainable development should prevail in this case. However, that presumption does not apply where there is a conflict with an up to date development plan, as in this case.
17. The Environment Agency has advised in connection with one of the outline applications for the urban extension that the Back Stream, which runs adjacent the rear boundary of the site, has been known to be used by otters. There is no suggestion that the appeal site is a habitat for otters; the boundary with the stream is well-delineated by a post and rail fence to which both barbed wire and a wire mesh have been added.

18. Although neighbours refer to the existence of evidence of other protected species on the appeal site, I have not been provided with it. Given these circumstances, and the existing use as a paddock, where horses and people will be present in varying degrees, there is insufficient evidence to show that there is a likelihood of a protected species being present or affected by the proposal.
19. A neighbour has raised concerns about the exacerbation of flood risk. A small part of the lower, western edge of the site lies within Flood Zone 2, but the remainder of the site, where the houses are likely to be sited is in Flood Zone 1.
20. There was no objection to the proposal from the Council's technical consultees, and in view of the large size of the site, I consider that there is ample scope to ensure that runoff could be attenuated to greenfield rates, and thus not add materially to any existing flood risk.
21. I note that there have been problems in the past with noise associated with the abattoir to the north of the site, but there is insufficient evidence for me to conclude that living conditions for occupiers of the proposed dwellings would be materially harmed. Similarly, the use of Millgrove House as a holiday let is not an inherently noisy use, and problems of loud parties can be addressed, if necessary, under other legislation and should not preclude residential development. The reduced area available for parking may limit the attractiveness of Millgrove House as a holiday let for large groups, but is not a reason to prevent the proposal.
22. I have had regard to the other concerns expressed by neighbours, including highway safety, but these are insufficient to add to my reason for dismissing the appeal.

## **Conclusion**

23. For the reasons given above, I find that the proposal conflicts with the development plan as a whole, and that there are insufficient material considerations to outweigh that conflict. Accordingly the proposal must be dismissed.

*JP Roberts*

INSPECTOR



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## Appeal Decision

Site visit made on 14 December 2016

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

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

**Decision date: 20 March 2017**

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*Appeal Ref: APP/D3315/X/16/3150659*

### **Kedget Barton Farm, Churchstanton, Taunton, Somerset TA3 7RN**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr Tony Reynolds against the decision of Taunton Deane Borough Council.
  - The application Ref 10/14/0034/LE, dated 24 October 2014, was refused by notice dated 18 February 2015.
  - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The development for which a certificate of lawful use or development is sought is the construction of a dwelling with unrestricted occupancy.
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#### *Decision*

1. The appeal is allowed and a certificate of lawful use or development is issued, in the terms set out below in the Formal Decision.

#### *Application for costs*

2. An application for costs has been made by the appellant against Taunton Deane Borough Council. This application is the subject of a separate Decision.

#### *Procedural Matters*

3. Although the description of the development for which an LDC is sought refers to the 'construction of a dwelling with unrestricted occupancy', the submissions relate to whether the dwelling was constructed and substantially completed in breach of Planning Permission Ref 10/2004/028 and for a period of time so as to be immune from enforcement action; it is thus not just a question of whether the occupancy condition imposed therein has any effect. It is on this basis that the LDC was considered by the Council and upon which I determine the appeal.

#### *Preliminary Matters*

4. Planning permission was granted for the construction of a dwelling on 25 January 2005 under Planning Permission Ref 10/2004/028 ("the 2005 permission"). Condition 2 of that permission states that:
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*The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture, as defined in Section 336(1) of the Town and Country Planning Act 1990, or in forestry or a*

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*dependent of such a person residing with him or her or a widow or widower of such a person.'*

5. A subsequent application was made under Section 73 of the Act ("s73 application") for the variation of Condition 2 of Planning Permission Ref 10/04/028 to allow the applicant to occupy the dwelling in association with the proposed use of the land and associated buildings for agricultural and equine business<sup>1</sup>. Permission was granted in September 2012 subject to Condition 1 which reads:  
  
*'The occupation of the dwelling shall be limited to a person running the equine business on the site or to someone solely or mainly working, or last working in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependent'*.
6. The appellant states that the construction of the dwelling commenced in 2005/06 with completion in 2007/08, without complying with the pre- commencement conditions attached to the 2005 permission. He therefore considers that, as the conditions were not complied with, the development was not lawfully implemented.
7. Furthermore, I am told that the dwelling and associated driveway are not in the same location as that approved and that there are differences in the design and detail of the dwelling as constructed. No subsequent amendments have been approved by the Council. Consequently, it is the appellant's view that significant differences exist between the approved and the 'as built' scheme, such that the development was unlawful at the time it was substantially completed.
8. The appellant draws the conclusion that, as the dwelling was completed prior to January 2008, more than four years before the submission of the LDC, it is beyond the time limit for the Council to take enforcement action and it is not subject to any restrictive occupancy condition.
9. The Council maintains that although the as-built dwelling differs in its location and detailing to that shown on the approved plans, the differences are not material and the 'substantial usability' of the property is, and has been, in the manner permitted by the 2005 permission.

#### *Main Issue*

10. The main issue is whether the appeal dwelling was constructed and substantially completed in breach of the planning permission granted under Planning Permission Ref 10/2004/028, for such a period as to be immune from enforcement action.

#### *Reasons*

11. In granting planning permission for the erection of an agricultural dwelling under the 2005 permission, the Council imposed two pre-commencement conditions. Condition 3 reads:

*'Before the commencement of any works hereby permitted, details or samples of the materials to be used for all the external surfaces of the building(s) shall be submitted to and be approved in writing by the local planning authority, and*

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<sup>1</sup> Permission Ref 10/12/0023 refers.

*no other materials shall be used without the written consent of the local planning authority.'*

12. Condition 4 reads:

*'(i) Notwithstanding the proposed new hedges, before any part of the permitted development is commenced, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the local planning authority.....'*

13. The appellant states that the construction of the dwelling commenced at some time between January 2005 and June 2006 with completion between September 2007 and January 2008. I have had sight of handwritten notes on a letter from the Council to the appellant dated 4 March 2005; the first note dated 7 March 2005 confirms that the appellant contacted the Council and advised that no works had started whilst the second note dated 21 September 2005 states that work had commenced on the footings. I have also been provided with a subsequent letter of 19 June 2006 from the Council to the appellant stating its understanding that work has commenced. The appellant's Google Earth image from June 2006 shows the development underway whilst a second image from September 2007 shows the dwelling in situ with the roof and ridge tiles complete. An extract from the Valuation Office's Online records show that Council Tax was applied to the dwelling with effect from 1 January 2008. In the absence of any substantive evidence to the contrary, it is reasonable to conclude that works commenced in or around September 2005 and were substantially completed by January 2008 at the latest.
14. The only submissions in relation to external finishes were included in a letter from the appellant to the Council dated 14 March 2006<sup>2</sup>. In its response dated 15 March 2006, the Council approved the external finish in relation to the walls and 'discharged' part of Condition 3, but did not accept the roof material, instead insisting on the use of natural slate.
15. In the same letter, the appellant was also advised that the Council was awaiting details of landscaping (pursuant to Condition 4). As I understand it, no further submissions were made by the appellant in respect of this pre-commencement condition.
16. The Council wrote to the appellant again in June 2006, advising that it was aware that work had commenced but that it held no record of Conditions 3 (External Finishes) and Condition 4 (Landscaping) having been complied with, despite its agreement, in part, of the external finishes in March 2006. The Council also stated that these conditions should have been agreed before work commenced on site.
17. In a subsequent letter dated 28 July 2006, the Council approved the use of 'Redland 50 Concrete double roman roofing tiles', despite its earlier insistence that slate should be used. I do not know what brought about this change.
18. Notwithstanding the agreed details, at the time of my visit, I observed that the majority of the external walls are rendered and the roof is covered in slate, which was not agreed by the Council in its letter of 15 March 2006 or its subsequent letter of 28 July 2006.

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<sup>2</sup> The letter proposes the use of double Roman tile, colour Farmhouse Red by Redland and brick, colour Cassandra

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by Terka, albeit does not specify the application and extent of their use.

19. I am also not certain why the Council did not invite the submission of a s73 application to vary the conditions since it was aware that development had commenced but that the pre-commencement conditions had not been fully agreed. Neither did the materials being used in the construction of the dwelling match that which had been approved in part. To my knowledge, the Council took no enforcement action to rectify the breach of planning control that had occurred.
20. It is common ground between the parties that both conditions are true conditions precedent. Having regard to the principles established by the judgement in *F. G Whitley & Sons v Secretary of State for Wales [1992]* and subsequent legal authorities, I agree that Condition 3 (External Finishes) goes to the heart of the permission insofar as the dwelling is located in an open countryside location and an Area of Outstanding Natural Beauty (AONB) and its external appearance would inevitably affect the character and appearance of the area. It is thus not a minor aspect associated with the development that could reasonably be agreed after development has commenced.
21. Turning to Condition 4 (Landscaping), however, I consider that the requirements of this condition could conceivably be addressed post- commencement of development. Be that as it may, for the reasons I have given, Condition 3 is true conditions precedent. Given the failure to comply with conditions precedent, I am of the view that the whole development is unlawful.
22. I note the Council's reference to the case of *Hammerton v London Underground Ltd [2002]* in which it was established that even if the commencement of development is potentially unlawful due to a failure to comply with conditions precedent, the development in question will not be unlawful if enforcement action against the development as a whole cannot be taken either because to do so would be unreasonable or because the development has become lawful under the 4-year rule.
23. However, I do not consider that the Council would have acted unreasonably if it had taken enforcement action in respect of matters associated with the appearance of the dwelling and the resultant effect on the character and appearance of the AONB. In any event, there are other distinct differences between the *Hammerton* case and the appeal before me, not least as the latter also involves the question of whether the dwelling was completed in accordance with the approved plans.
24. That brings me to the question of the significance of the differences between the as-built dwelling and that shown on the approved plans for the 2005 permission. As I understand it, the dwelling and driveway as constructed are not in the position shown on the approved drawings; in my opinion, the difference is considerable and not immaterial. There are also differences in terms of the design and detailing of the dwelling; this includes the length of the dwelling, the size and detailing of the fenestration, finishes of the dormer, a larger chimney and the omission of another and alternative positioning of roof lights.
25. *Sage v Secretary of State for the Environment, Transport and the Regions and Others [2003]* established that if a building operation is not carried out in accordance with the permission, the whole operation is unlawful. The

judgement in *Barnett v Secretary of State for Communities and Local Government [2008]* subsequently established that a planning permission is inherently linked to the approved drawings. Taking these factors into account, and notwithstanding that there was no specific condition on the 2005 permission requiring the development to be carried out in accordance with the approved plans, cumulatively the changes have resulted in a building that is materially different to that shown on the approved plans which form part of the planning permission. I do not share the Council's view that the changes are immaterial in the sense of *Lever (Finance) Ltd v Westminster City Council [1971]*.

26. Put another way, in applying the principles established in *Commercial Land Ltd / Imperial Resources SA v Secretary of State for Transport Local Government and the Regions [2003]* the differences between the approved plans and the development that was carried out is fatal to the capability of the operations to be effective in commencing the development.
27. Having regard to *Copeland Borough Council v Secretary of State for the Environment and Ross [1976]*, as the development was not carried out in accordance with the permission as a whole, the whole operation was carried out without the benefit of planning permission. It therefore constituted a breach of planning control.
28. Given this position, it follows that as the 2005 planning permission was not implemented, the appellant cannot be bound by the conditions on the permission. Of particular relevance here is Condition 2 which restricts occupancy to a person employed or last employed in agriculture or forestry.
29. Whilst I acknowledge that the Council determined a subsequent s73 application to extend the occupation restriction to include '...a person running the equine business on the site', it has no effect since the 2005 permission was not implemented.
30. Under s171B(2) of the 1990 Act (as amended), no enforcement action may be taken at the end of the period of four years beginning with the date of a breach of planning control.
31. There is no evidence before me to contradict the appellant's claim that the construction of the dwelling was completed, at the latest, in January 2008. During this period, the Council did not pursue enforcement action. Consequently, the dwelling has been substantially complete for a continuous period in excess of 4 years prior to the date of the LDC application, so as to be immune from enforcement action.
32. The Council has cited the case of *Aerlink Leisure Limited v First Secretary of State and another [2004]* insofar as the property has been used in the manner permitted by the planning permission; that is, it was used as an agricultural workers dwelling until a change of use application in 2012 permitted the development to be occupied for agriculture and equine purposes.
33. However, the Aerlink case relates to works which were partially completed and whether or not those works represented implementation of a planning permission that would allow works to continue. The case before me differs in that the building works were completed more than 4 years from the date of the LDC application and, for the reasons that I have given, were not in accordance

with the planning permission representing a breach of planning control. Whether or not the dwelling was used in accordance with the agricultural occupancy condition is immaterial since the conditions on a planning permission that has not been lawfully implemented cannot have effect.

34. In reaching my decision I have had regard to the other case law referred to by both parties, but to which I have not specifically referred. However, they do not lead me to any other conclusions.

*Conclusion*

35. I conclude that, as a matter of fact and degree and on the basis of probabilities, the dwelling is likely to have been substantially completed in breach of the planning permission granted under Ref 10/2004/028, for a period in excess of four years prior to the date of the LDC application and so as to be immune from enforcement action. It cannot therefore be bound by the conditions contained therein.

36. The Council's decision to refuse to grant a LDC was not well-founded. The appeal should succeed and I will exercise accordingly the powers transferred to me under s195(2) of the 1990 Act as amended.

*Melissa Hall*

Inspector



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# Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2010: ARTICLE 35

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IT IS HEREBY CERTIFIED that on 24 October 2014 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The dwelling is likely to have been substantially completed in breach of the planning permission granted under Ref 10/2004/028, for a period in excess of four years prior to the date of the LDC application and so as to be immune from enforcement action.

Signed

*Melissa Hall*

Inspector

Dated 20 March 2017:

## **First Schedule**

The construction of the dwelling in breach of planning permission granted under Ref 10/2004/028.

## **Second Schedule**

Kedget Barton Farm, Churchstanton, Taunton, Somerset TA3 7RN



## NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



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# Plan

This is the plan referred to in the Lawful Development Certificate dated 20 March 2017 .

*By Melissa Hall*

**Land at: Kedge Barton Farm, Churchstanton, Taunton, Somerset TA3 7RN**

**Reference: APP/D3315/X/16/3150659**

Scale: NTS

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## Costs Decision

Site visit made on 14 December 2016

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

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

**Decision date: 20 March 2017**

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### **Costs application in relation to Appeal Ref: APP/D3315/X/16/3150659 Kedget Barton Farm, Churchstanton, Taunton, Somerset TA3 7RN**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Tony Reynolds for a full award of costs against Taunton Deane Borough Council.
  - The appeal was against the refusal of a certificate of lawful use or development for the construction of a dwelling with unrestricted occupancy.
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### **Decision**

1. The application for an award of costs is refused.

### **The submissions for the appellant**

2. Local planning authorities are required to provide evidence to substantiate each reason for refusing to issue a lawful development certificate based on substantive legal precedent and principles.
  3. The Authority failed to provide a complete, cogent and equitable justification for the reasons for refusal. The precedent cases cited by the Authority relate to cases where the approved developments were incomplete and other material circumstances differed from the appellant's case. The cases cited by the appellant have not been addressed by the Authority, nor has it sought to differentiate between these cases and that the subject of the appeal. It has simply dismissed the physical changes to the design and siting as being 'not material', without reference to any substantive or authoritative precedent to substantiate its case. Neither did it consider the cumulative effects of the changes. This represents unreasonable behaviour.
  4. The Authority failed on a procedural basis for two reasons. It did not produce two relevant documents when the planning file was inspected and it therefore failed to maintain a complete planning file. Furthermore, the Authority lost the appellant's planning statement only to find it at a later date, albeit it resulted in additional professional work being undertaken on behalf of the appellant. Such actions are tantamount to maladministration which represents unreasonable behaviour.
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## **The response by the Authority**

5. The relevance of the case law cited by the Authority in the determination of the application for a lawful development certificate is fully explained in the analysis provided with the decision notice and in its Statement of Case. The principles set out therein are not restricted to the facts of those cases, but are of general
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application. It is therefore considered that the reasons for refusal have been fully explained by reference to relevant case law and the facts of this particular case.

6. It is not disputed that the dwelling and access are in a different location to that shown on the approved plans. It is the materiality of those differences that is at issue. Similarly, each variation from the approved plans was considered and an explanation given as to why the change was not material. The analysis went on to consider whether the works taken as a whole have 'substantial useability' in the context of the approved development. Thus, the Authority has not acted unreasonably.
7. It is accepted that some correspondence was missing from the planning file albeit the letter was available to view on the website. It is also the case that the Authority temporarily mislaid the appellant's appeal statement. However, the statement was subsequently found and the appellant was not put to the expense of providing a second copy. Be that as it may, it is not clear how the absence of a letter from the planning file or the temporary mislaying of a document has resulted in the appellant incurring unnecessary or wasted expense.

## Reasons

8. The National Planning Policy Framework ("the Framework") advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
9. For the reasons given in my decision on the appeal, I have found against the Authority and concluded that the dwelling is likely to have been substantially completed in breach of the planning permission granted under Ref 10/2004/028 ("the 2005 permission"), for a period in excess of four years prior to the date of the LDC application and so as to be immune from enforcement action. I came to this conclusion based on the legal precedents before me and the particular circumstances of the case.
10. The Authority issued its decision refusing the application by reference to what it considered to be relevant case law whilst providing an analysis of the reasons for its decision. Whilst I have not been persuaded by the Authority's arguments, it nonetheless took a position on the law, which it was perfectly entitled to do. The matters at issue are based on fact and degree in each case and involve judgements which are, at times, finely balanced. In my view, it had grounds for pursuing the matter to appeal to defend its decision to withhold a lawful development certificate.
11. I understand the appellant's frustrations in respect of the missing correspondence from the planning file and the temporary mislaying of the submitted appeal statement. However, this did not result in the appeal coming into being or the appellant incurring any additional expense in the appeal process than he would otherwise have done.
12. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Framework, has not been demonstrated and that an award of costs is not warranted.

*Melissa Hall*

Inspector