

You are requested to attend a meeting of the Planning Committee to be held in Meeting Room C, Flook House, The Deane House, Belvedere Road, Taunton on 23 May 2018 at 17:00.

Agenda

- 1 Apologies.
- 2 Minutes of the meeting of the Planning Committee held on 14 March and 4 April 2018 (attached).
- 3 Public Question Time.
- 4 Declaration of Interests
To receive declarations of Disclosable Pecuniary Interests or personal or prejudicial interests, in accordance with the Code of Conduct, in relation to items on the agenda. Such interests need to be declared even if they have already been recorded in the Register of Interests. The personal interests of Councillors who are County Councillors or Town or Parish Councillors will automatically be recorded in the minutes.
- 5 Latest appeals and decisions received

The following items are likely to be considered after the exclusion of the press and public because of the likelihood that exempt information would otherwise be disclosed relating to the Clause set out below of Schedule 12A of the Local Government Act 1972.

- 6 E/0244/43/17 Unauthorised works to listed building to front of Tonedale House, Wellington through the demolition of a significant amount of the internal building fabric

Bruce Lang
Assistant Chief Executive

19 July 2018

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

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

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

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

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

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

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

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



The meeting rooms at both the Brittons Ash Community Centre and West Monkton Primary School are on the ground floor and are fully accessible. Toilet facilities, with wheelchair access, are available.

Lift access to the Council Chamber on the first floor of Shire Hall, is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are available through the door to the right hand side of the dais.



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

For further information about the meeting, please contact Democratic Services on 01823 219736 or email r.bryant@tauntondeane.gov.uk

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Planning Committee Members:-

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

Planning Committee – 14 March 2018

Present: - Councillor Bowrah (Chairman)
Councillor Mrs Hill (Vice-Chairman)
Councillors Mrs J Adkins, M Adkins, Brown, Booth, Cavill, Gage, C Hill,
Morrell, Nicholls, Mrs Reed, Townsend and Watson

Officers: - Bryn Kitching (Area Planning Manager), Tim Burton (Assistant Director
–Planning and Environment), Martin Evans (Solicitor, Shape
Partnership Services) and Tracey Meadows (Democratic Services
Officer)

Also present: Brendan Cleere (Director of Growth and Development), Andrew
Goodchild (Assistant Director - Energy Infrastructure), Lisa McCaffrey
(Somerset County Council Highways), St Modwen, Councillors Berry,
Edwards, Ms Lisgo, Sully, Farbahi, Habgood, Horsley, Williams, Wren
and Mrs A Elder, Chairman of the Standards Advisory Committee.

(The meeting commenced at 6.20 pm)

19. Apologies/Substitutions

Apologies: Councillors Coles, Martin-Scott and Wedderkopp

Substitutions: Councillor Cavill for Councillor Martin-Scott
Councillor Booth for Councillor Coles

20. Declarations of Interest

All Councillors declared that they had received an email from a member of the public regarding application No. 38/17/0150

21. 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 **outline planning permission be granted** for the under-mentioned development:-

38/17/0150

Outline planning application with some matters reserved, except for access for the NIDR only, for the redevelopment of the former cattle market site to provide up to 3500sqm of convenience retail development (Class A1), up to 6000sqm of non-food development (A1), up to 4000sqm of office (B1) or hotel (C1), up to 3900sqm of assembly/leisure (D2) and

non-residential institutions (D1) (of which no more than 1500sqm shall be D1) , up to 2600sqm of food and drink establishments (A3/A4/A5), and up to 200 residential units (C3) with redevelopment of the former Priory Bridge Road car park and former 84-94 Priory Bridge Road to provide up to 2964sqm of office (B1) and 5525sqm of office (B1) or hotel (C1) uses and a further 1300sqm of A3/A4/B1 (office) D2 uses with car parking, landscaping, public realm, access, (in detail for the NIDR connection) highways, infrastructure works and relevant demolition at Firepool, Priory Bridge Road, Taunton (resubmission of 38/15/0475)

Reported this application.

Resolved that subject to no new issues arising from the consultation on the amended description and addendums to the Environmental Statement and Transport Statement and planning obligations under S106 to secure the following items to the Council's satisfaction:-

- (a) Affordable Housing - 25% Affordable Housing with a tenure split of 60% social rented and 40% shared ownership. 10% of the total affordable housing provision should be in the form of fully adapted disabled units;
- (b) Temporary Flood Barriers - The provision of the off-site temporary flood barrier mitigation features as described in the Flood Risk Assessment addendum. Details of ownership, storage, deployment and maintenance of the temporary defences to be agreed prior to any ground raising taking place;
- (c) Public Art - A public art contribution either by commissioning and integrating public art into the design of the buildings and the public realm or by a commuted sum to value of 1% of the development costs;
- (d) Children's Play - 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;
- (e) Development Specific highway matters – Site Access;
- (f) Offsite highway mitigation necessary to accommodate proposed development - Contribution the Rowbarton Gyratory, Wickes Roundabout improvements;
- (g) Travel plan measures to include but no limited to - Bus services / stops and if required improvements, Parking, for bikes, motorcycles and vehicles, and Travel plan packs and incentives, Electric Charging points, Travel Plan coordinator and safe guarding sums and fees;

and

Subject to the Local Planning Authority being satisfied that the development agreement includes suitable non-competition / relocation clauses to help minimise the risk of detrimental impact on the vitality and viability of the existing Town Centre, particularly the Primary Shopping Area, as a result of the proposals.

and

subject to conditions as set out in the main report, suitable highway conditions based on the recommendations of the County Highway Authority contained in this update sheet and any further conditions recommended by consultees as a result of the latest consultation – please note that the precise wording of some of the condition may require further amendment to allow for the development to come forward in a phased manner.

the Assistant Director – planning and Environment be authorised to determine the application in consultation with the Chairman or Vice-Chairman and, if outline planning permission was granted, the following conditions (subject to minor change or additional conditions following further consultation responses) be imposed:-

- (a) Approval of the details of the layout, scale, appearance, access (other than the main access off the NIDR) and landscaping of the site (hereinafter call 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced; Application for approval of the reserved matters shall be made to the Local Planning Authority not later than the expiration of two years from the date of this permission. The development hereby permitted shall be begun not later than the expiration of two years from the 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;
- (b) The development hereby permitted shall be carried out in accordance with the following approved plans:-
- (A1) DrNo 11-032 P004 Rev AC Parameters Land Use & Massing;
 - (A1) DrNo 11-032 P005 Rev R Parameters Movement Plan;
 - (A1) DrNo 11-032 P006 Rev Y Parameters Public Realm & Green Infrastructure;
 - (A1) DrNo 11-032 P007 Rev K Parameters Frontages;
 - (A1) DrNo P13-405 P107 Northern Access Design;
 - (A3) DrNo P13-405 P106 Rev Canal Road Entrance;
- (c) The boulevard and pedestrian/cycle crossing of the NIDR shall be constructed and open for public use prior to the occupation of any of the units in Zones A1, B, C, E1 and E2 shown on the Land Use and Massing, drawing ref. 11-032 P004 rev. AC in accordance with details to be submitted to, and approved in writing by, the Local planning Authority;
- (d) No unit within Zones B and C shown on the Land Use and Massing, drawing ref. 11-032 P004 rev. AC shall be occupied until such time as all other units within those zones have been constructed to shell finish;

- (e) No unit within Zones A1, E1 and E2 shown on the Land Use and Massing, drawing ref. 11-032 P004 rev. AC shall be occupied until such time as all other units within those zones have been constructed to shell finish;
- (f) Floor space within Use Class A1 hereby approved shall not exceed 9,500sq m gross floor area and 7,251sq m net sales area. The Class A1 retail floor space shall be provided in non-food retail floor space (6,000sq m gross maximum for the sale of comparison goods) and foodstore floor space (3,500sq m gross maximum for the sale of convenience and comparison goods). Floor space within Use Classes A3/A4/A5 hereby approved shall not exceed 2,600sq m gross. Floor space within Use Classes D1/D2 hereby approved shall not exceed 3,900sq m gross of which no more than 1,500sq m gross shall be within Use Class D1. The Use Classes are those set out in 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. The distribution and amount of Class A and D floor space hereby approved, including the minimum and maximum number of units and floor space in each zone, is to be controlled via the contents of 'land use and massing' plan reference 11-032 P004 Rev AC;
- (g) No more than 2,083sq m of the net sales area of the Class A1 retail floor space hereby approved shall be used for the sale of convenience goods and no more than 5,168sq m of the net sales area of Class A1 floor space shall be used for the sale of comparison goods;
- (h) An application for approval of reserved matters for a phase or sub phase shall not be submitted until there has been submitted to the Local Planning Authority a Masterplan and Design Guide for the Area to which that application for approval of reserved matters relates. The Masterplan and Design Guide shall be accompanied by a statement explaining how it accords with the Masterplan Framework approved by this outline consent. If they do not accord with these documents then reasons for this will need to be given. The Masterplan and Design Guide shall provide information on the proposed arrangement of development blocks, streets and spaces, building design, building materials, surface materials, street furniture and tree species for the Area to which they relate. The Masterplan and Design Guide should demonstrate how the Area will function and explain its overall character and grain;
- (i) Prior to the laying out of any of the car parking zones 1, 2 or 3 shown on the Land Use and Massing, drawing ref. 11-032 P004 rev. AC, details of the car park management regime, including pricing, management and minimum and maximum stays shall be submitted to, and approved in writing by, the local planning authority. The car park shall subsequently be operated in accordance with the approved scheme;
- (j) The development hereby permitted shall not be commenced until a scheme of works for the diversion and/or protection of foul and surface water infrastructure is submitted to, and approved in writing by, the local

Planning Authority. The drainage scheme shall include appropriate arrangements for any temporary works needed to accommodate live flows and works to seal off any redundant connections and shall be completed in accordance with the approved details and timetable agreed with the local planning authority;

- (k) Before the commencement of the development hereby permitted the applicant, or their agents or successors in title, shall have secured the implementation of a programme of archaeological work, involving monitoring of ground works and building recording, in accordance with a Written Scheme of Investigation (WSI) which has been submitted and approved in writing by the Planning Authority. The WSI shall include details of the archaeological monitoring, the recording of the heritage asset, the analysis of evidence recovered from the site and publication of the results. The development hereby permitted shall be carried out in accordance with the approved scheme;
- (l) A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the occupation of any phase of development to which it relates. The content of the LEMP shall include the following;
 - a) Description and evaluation of features to be managed;
 - b) Ecological trends and constraints on site that might influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions;
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - g) Details of the body or organization responsible for implementation of the plan;
 - h) On-going monitoring and remedial measures;

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details;

- (m) Prior to occupation of any unit with Zones D, E2 or F as the shown on the Land Use and Massing, drawing ref. 11-032 P004 rev. AC, a "lighting design for bats and riverine species" shall be submitted to and approved in writing by the local planning authority. The strategy shall:

- a) identify those areas/features on site that are particularly sensitive for bats and other riverine species and that are likely to cause disturbance along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed (through the provision of 'lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority;

- (n) No development approved by this planning permission shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to, and approved in writing by, the LPA:

- 1) A preliminary risk assessment which has identified:

all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors potentially unacceptable risks arising from contamination at the site;

- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;

- 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken;

- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action;

Any changes to these components require the express written consent of the LPA. The scheme shall be implemented as approved;

- (o) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the LPA) shall be carried out until the developer has submitted a remediation strategy to the LPA detailing how this unsuspected contamination shall be dealt with and obtained written

approval from the LPA. The remediation strategy shall be implemented as approved;

- (p) No development shall commence until the design of the flood relief culvert and ancillary work has been submitted to, and approved in writing by, the LPA. The culvert scheme shall subsequently be fully implemented in accordance with the approved details before the development is occupied;
- (q) The development hereby permitted shall not be commenced until such time as external ground and internal finished floor levels have been submitted to, and approved in writing by, the Local Planning Authority;
- (r) The development hereby permitted shall not be commenced until such time as external ground and internal finished floor levels have been submitted to, and approved in writing by, the Local Planning Authority;
- (s) Conditions as recommended by the County Highway Authority;

(Notes to applicant:- Applicant was advised by the Environment Agency that This project provides a fantastic opportunity for Taunton to enhance the centre of the town by creating a community green space alongside the river corridor that can deliver ecosystem services through the provision of green infrastructure, recreation and public open space; Otters are known to be present within the River Tone. We would welcome plans to further biodiversity gain within the development through the provision of reed beds, tree planting, bird and bat boxes and otter ledges. This would help to maintain the continuity of the river corridor habitat; There are opportunities to create shared use pedestrian and cycle pathways alongside the river, linking up key areas of the town for access by sustainable travel. The riverfront area could include fishing platforms and access for canoes and boats; Applicant was advised by the Council's Ecological Officer that 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; Applicant was advised by the Environment Agency that for the purposes of condition x regarding contamination We note the recommendation for "further investigation particularly of the former canal will be required to enable risk assessment and design of remedial works, if required. Sampling and chemical testing of groundwater and the River Tone will be required to enable further risk assessment." We also note a number of potential contaminant sources were identified. Please show where these potential sources of contamination are on a simple site plan. Mark on the site where the exploratory holes are done in the site investigation and annotate where there is any evidence of contamination (e.g. visual, lab test results) so that it's easy to see where the concerns are. It doesn't need to be a CAD drawing cluttered with trees and proposed buildings - they're not relevant. The plan needs to show the site boundary, existing/previous infrastructure (i.e. the canal), a north arrow and a scale bar; Applicant was advised by The Environment Agency that for the

purposes of condition x regarding ground raising and finished floor levels, We recommend that the external ground levels across the site must be raised above the 1 in 100 year plus climate change flood level, with the finished floor levels at least 300 mm above the proposed external ground levels.)

22. (2) That **planning permission be granted** for the under-mentioned developments:-

48/17/0064

Erection of extension to rear of garage, installation of CCTV system, replacement of shed with glass house and replacement of side boundary gate at The Old Dairy, Dyers lane, Bathpool

- (a) The development hereby permitted shall be begun within three years of the date of permission:-
- (b) The development hereby permitted shall be carried out in accordance with the following approved plans:-
- (A2) Proposed Garage Extension;
 - (A2) Proposed Glasshouse and Gates;
 - (A3) Proposed Installation of CCTV Cameras;
 - (A4) Location Plan;
 - (A4) Site plan;
 - (A4) Proposed Glasshouse Proposed Rear (North) Elevation;
 - (A4) Proposed Garage Extension Side (West) Elevation;

(Note to applicant:- 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 and had imposed planning condition to enable the grant of planning permission.)

48/17/0065/LB

Erection of extension to rear of garage, installation of CCTV system, replacement of shed with glass house and replacement of side boundary gate at The Old Dairy, Dyers Lane, Bathpool

- (a) The works for which consent is hereby granted shall be begun not later than the expiration of three years from the date of this consent;
- (b) The development hereby permitted shall be carried out in accordance with the following approved plans;
- (A2) Proposed Garage Extension;
 - (A2) Proposed Glasshouse and Gates;
 - (A3) Proposed Installation of CCTV Cameras;

- (A4) Location Plan;
- (A4) Site plan;
- (A4) Proposed Glasshouse Proposed Rear (North) Elevation;
- (A4) Proposed Garage Extension Side (West) Elevation;

(Note to applicant:- 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 and had imposed planning conditions to enable the grant of planning permission.)

23. Appeals

Reported that two appeal decisions had been received details of which were submitted.

(The meeting ended at 8.10 pm)

Planning Committee – 4 April 2018

Present: - Councillor Bowrah (Chairman)
Councillor Mrs Hill (Vice-Chairman)
Councillors Mrs J Adkins, M Adkins, Brown, Coles, Gage, C Hill,
Morrell, Nicholls, Mrs Reed, Townsend and Watson

Officers: - Bryn Kitching (Area Planning Manager), Gareth Clifford (Principal Planning Officer), Martin Evans (Solicitor, Shape Partnership Services) and Tracey Meadows (Democratic Services Officer)

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

(The meeting commenced at 6.15 pm)

24. Apology

Apology: Councillor Wedderkopp

25. Declarations of Interest

Councillor Brown declared a personal interest on application No. E/0264/46/16 as he knew the applicants.

26. 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:-

49/17/0021

Formation of ramped access to north porch, alterations to entrance driveway and insertion of glazing to upper panels of the west and north porch doors at St Andrews Church, Church Street, Wiveliscombe

(a) The development hereby permitted shall be begun within three years of the date of this development:-

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

- (A1) DrNo 603.WD.03 North Porch Plan, Section & Elevations;
- (A1) DrNo 603.WD.02 Rev E Driveway access ramp plan and section;
- (A1) DrNo 603.P.021 Proposed north & West Elevations;

27. E/0264/46/16 – Alleged unauthorised stationing and occupation of two mobile homes at Sellicks Nurseries, Chelston

Reported that it had come to the attention of the Council in December 2016 of an alleged unauthorised stationing and occupation of two mobile homes at Sellicks Nurseries, Chelston.

Contact was made with the owner who advised that he was going to submit an application. This never transpired. A Planning Contravention Notice was issued on the 1st August 2017, this was not returned.

The site was revisited in September 2017 with the owner requesting to liaise with the Planning Manager regarding various issues on the site. Unfortunately time passed and contact was never made.

The Planning Contravention Notice was returned on 23 February 2018 which confirmed Mr R and Mrs A Sellick and Mr E Sellick resided on the site. The mobile homes were placed on the land late 2016 early 2017.

Resolved that:-

- (1) An enforcement notice be served seeking the removal of :-
 - (a) Cease the use of the site for the stationing and occupation of mobile homes from the site;
 - (b) Remove the mobile homes from the site;
 - (c) Remove all residential and domestic equipment and materials associated with the unauthorised use from the site;

- (2) Any enforcement notice served to have a compliance period of:
 - With regards to a) above 6 months from the date on which the notice takes effect;
 - With regards to b) above 6 month from the date on which the notice takes effect;
 - With regards to c) above 6 months from the date on which the notice takes effect;

- (3) Subject to being satisfied with the evidence, the Solicitor to the Council be authorised to take Prosecution Action should the notice not be complied with.

28. E/0009/49/16 – Alleged unauthorised siting of containers at Candletrees, Jews Farm, Wiveliscombe

Reported that a Planning application was submitted in 2016 for the Change of Use of Land to allow the siting of two storage containers in the farm yard of Candletrees, Jews Farm, Jews Lane, Wiveliscombe.

The application was refused and a recommendation to take Enforcement Action was approved for the removal of the two storage containers stacked one on top of the other sited along the boundary of the adjoining property from the site. The Notice also stated that they could not be sited in the location applied for in the application and both containers to be removed from the site.

It was noted that one of the containers had been removed from its unauthorised location and relocated within the site adjacent to a barn that was used for the stabling of horses, and was used for the storage of tack.

Given the new siting of the container alongside the main buildings and amongst other containers it was not considered to cause unacceptable harm to neighbours or other matters of interest.

Resolved that:- Despite the technical non-compliance with the Notice it was considered that it was neither expedient or in the public interest to take Prosecution action in the this case. It was also advised that the applicant contact the planning officer for further guidance.

29. Appeals

Reported that one appeal and five decisions had been received details of which were submitted.

(The meeting ended at 7.05 pm)

Site: HOLBAINES MEADOW, WHITEBALL ROAD, SAMPFORD ARUNDEL,
WELLINGTON, TA21 0LS

Proposal: Creation of a hardstanding at Holbaines Meadow, Sampford Arundel

Application number: E/0087/32/17

Reasons for Enforcement: It appears to the Council that the above breach of planning control has occurred within the last ten years.

The Land is in open countryside located to the south of the hamlet of Holywell Lake. The storage of piles of hardcore and building waste and the provision of a hard surface on the Land is detrimental to the visual amenities and landscape character of the rural area within which the Land is located. In addition, the storage of piles of hardcore and building waste and the provision of a hard surface is not reasonable or necessary for the purposes of agriculture use.

This is contrary to Taunton Deane Core Strategy Policies DM1 (General Requirements) , DM2 (Development in the Countryside) and CP8 (Environment) .

The Council do not consider that planning permission should be given, because planning conditions could not overcome these objections .

Appeal Decision: Dismissed

Site: NORTH STREET, WIVELISCOMBE, TAUNTON, TA4 2LB

Proposal: Outline Planning Application with all matters reserved, except for means of access, for the erection of up to 130 dwellings with public open space, landscaping and sustainable drainage system with vehicular access point on land at North Street, Wiveliscombe

Application No: 49/17/0007

Appeal Decision: Withdrawn



Appeal Decision

Inquiry Held on 10 April 2018

Site visit made on 10 April 2018

by **P N Jarratt BA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 April 2018

Appeal Ref: APP/D3315/C/17/3189132

<https://www.gov.uk/planning-inspectorate>

Land at Holbaines Meadow, Sampford Arundel, Wellington, TA21 OLS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Paul Sparks against an enforcement notice issued by Taunton Deane Borough Council.
 - The enforcement notice was issued on 3 October 2017.
 - The breach of planning control as alleged in the notice is:
 - (i) The change of use of the land from agricultural use to B8 storage use by way of unauthorised storage of piles of hardcore, waste from building materials including bricks, paving slabs and general rubble; and,
 - (ii) The laying of hardcore on the ground resulting in the provision of a hard surface on the land; as shown on the 5 photographs attached to the notice.
 - The requirements of the notice are:
 - (i) Remove the hardcore and building waste being stored on the land; and,
 - (ii) Cease using the land for the storage of hardcore and building waste; and,
 - (iii) Remove the area of hard surfacing from the land.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b), (c), and (d) of the Town and Country Planning Act 1990 as amended.
 - **Summary of Decision: Notice varied, appeal dismissed and notice upheld.**
-

Procedural Matters

1. The appellant conducted his own case and gave evidence on his own behalf. All evidence was given on oath.

The appeal site and relevant planning history

2. The site is a triangular area of land in open countryside bounded by the A38 on its south side and by a narrow lane on its north-west boundary. Vehicular access into the site is from the lane with an agricultural building sited nearby. A track leads up to an area of hardstanding where building waste materials are stored which are piled in mounds up to about 3m in height. Some of the waste has been crushed. There is also a concrete hardstanding, a caravan, a small area of container plants, a number of palettes, waste ceramic sanitary goods and bricks.
3. An area of hardcore/hard surfacing nearest the north corner of the site appears to have been laid some time ago and part of it has had additional crushed building waste spread more recently on top. This area has been extended with

the spreading of hardcore and the storage of building waste on top of existing drainage beds up to about 5m from the line of trees running in a north-easterly direction across the site. To the south of the trees is a field laid to pasture.

4. In March 1988 planning permission was granted for the excavation of OS 2131 and the erection of an agricultural building (32/88/001). The continued siting of a mobile home was conditionally approved in March 1989 (32/88/0010). Permission was granted in March 2014 for security fencing and gates (32/13/007).
5. There have been various refusals including applications for change of use to a retail garden centre; the change of use of the agricultural building to the manufacture and sale of concrete garden products, and subsequently to light industrial use, commercial and horticultural use; the continued siting of a mobile home; the retention of a mobile home for an agricultural worker and part use of the agricultural building for the production of garden architecture. An application for the formation of a new access onto the A38 was dismissed on appeal in September 2017.

The appeal on ground (b)

6. An appeal on this ground is that the breach has not occurred as a matter of fact.
7. It was evident from my site inspection and the photographs submitted by the Council that the alleged breach has taken place as a matter of fact.
8. The appeal on this ground therefore fails.

The appeal on ground (c)

9. An appeal on this ground is that there has not been a breach of planning control.
10. The appellant contends that the site has permission as a wholesale nursery for the production of container grown trees and shrubs. He states that the nursery project was started in the late 1980s when planning permission was not required for this type of development. It was developed in the full knowledge of the planning officer at the time. Drainage paths were completed over 30 years ago, together with a substantial portion of the hardstanding area and a polytunnel. Having started the project, the appellant is seeking to complete what was started and asserts that there are no breaches of planning control as all the stored hardcore on site is for completion of the project. The container plants are required to be drained on a solid base and for the manoeuvring of vehicles.
11. The appellant refers to the planning permission 32/88/001, which he implemented within the 5 years required by condition, and also to permitted development rights, as indicators that the activities currently on site are lawful. However, the permission was for excavation and construction of an agricultural building. The ADAS letter of 19 February 1988¹ provides an agricultural appraisal of the application and comments that if the business develops further, additional requirements such as hardcore, sand or fabric stabilised beds will be needed on which to stand the container grown plants. However,

¹ Appendix A3 of the Stacey Salter's evidence

whilst reference is made to possible future business development, the application drawings² do not show any hardcore beds but provide details of the agricultural building, excavation and fill areas, and a tree screen. In view of this I do not consider that the laying of hardcore and/or storage of waste materials fall within the scope of that permission.

12. Although the appellant refers to the hardcore areas being permitted development, he provides no evidence or reference to the relevant Order in support of this claim.
13. Class B, Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO)sets out permitted development rights of agricultural development on units of less than 5 hectares. This includes at (e), the provision of a hard surface, and at (f), the deposit of waste, where the development is reasonably necessary for the purposes of agriculture within the unit. For planning purposes agriculture includes horticulture.
14. The appellant states that between 1990 and 2016 there was no work on the site other than general maintenance, largely due to the cost of establishing the horticultural enterprise which required an investment of £25,000 to £30,000. In 1988/89 it was projected that 25-30,000 plants would be required to provide a living. As the containers would be stored on palettes, with each palette holding 20 plants, space for over 1000 palettes would be required. However, in the absence of finance, the appellant sought to diversify his business, such as concrete garden architecture. The appellant stated that the last sale of plants from the site was in 1990/91.
15. Although the appellant states that he is seeking to complete the project started many years ago, it is not his intention to run the business now. He has a prospective tenant who would like to run a horticultural business on the site. However, he does not know whether he would work part or full time and no agreement is in place. If this arrangement falls through the appellant would advertise the availability of the site.
16. The evidence shows that the site has been hardly used as a nursery for about 25 years and there is considerable uncertainty over the future business use of the site which indicates that increasing the hardstanding to the extent so far or as intended by the appellant is not reasonably necessary for the purposes of agriculture. Even had the appellant been able to demonstrate that the works were reasonably necessary for agriculture, further considerations need to be taken into account.
17. The GPDO at B.5 (3) permits development in Class B(f) subject to the following conditions-
 - (a) *that waste materials are not brought on to the land from elsewhere for deposit unless they are for use in works described in Class B(a), (d) or (e) and are incorporated forthwith into the building or works in question; and*
 - (b) *that the height of the surface of the land will not be materially increased by the deposit.*
18. There is a clear delay in the bringing of the waste material onto the site and for it to be crushed and spread on the land. The Council's witness advised that

² Appendix A4 of the Stacey Salter's evidence

there were substantial piles of uncrushed material on the site when she visited it in June 2016 and these remained for over a year. I do not regard such a delay in incorporating the materials into a hardstanding as being 'incorporated forthwith'.

19. The appellant has said that the depth of the hardcore spread on the site is between 23–30 cm (9-12 inches). However, this represents a significant amount which has materially increased the height of the surface of the land over a wide area.
20. On the basis of the current GPDO, I conclude therefore that the storage of waste material on the site and the laying of hardcore to create a hard surface do not benefit from permitted development rights. Additionally no planning permission exists and the use of the site and the works carried out are therefore unauthorised.
21. In an appeal on a legal ground the onus of proof rests with the appellant and the standard of proof is the balance of probability. The appellant has not demonstrated that the alleged breach of planning control is lawful and therefore the appeal on ground (c) fails.

The appeal on ground (d)

22. An appeal on this ground is that at the time the enforcement notice was issued, it was too late to take enforcement action.
23. At the site inspection and from the Council's submitted photographs it was evident that part of the site had benefitted from a hard surface for some time and this is distinguishable from the more extensive area of more recently laid hard surface. The appellant states that the original hardstanding was laid in the late 1980s and that this represented about 40% of the extent of the current area of the hard surface/waste storage area. The Council accepts that the notice should have distinguished between the original and extended area of hard surface.
24. The appellant acknowledges that the creation of an extended area of hard surfacing and waste material storage has taken place from 2016 onwards. The appeal on ground (d) fails in respect of the extended area but succeeds in respect of the original hard surfaced area which is identified by the cross-hatched area in the plan attached to this decision. I will vary the notice by amending the requirement in part 5 (iii) of the notice accordingly. I am satisfied that no injustice to the parties would occur as a result.
25. It should be noted that the requirements of the notice at part 5(i) and 5(ii) are retained without amendment.

Conclusions

26. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations.

Formal Decision

27. It is directed that the enforcement notice be varied by the replacement of the words in 5 (iii) of the notice with the words " Remove the area of hard surfacing from the land that is outside the area shown cross-hatched on the

plan attached to this notice. Subject to these variations the appeal is dismissed and the enforcement notice is upheld.

P N Jarratt

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Nick Hill, Solicitor

He called
Stacey Salter BSc Planning Enforcement Officer

FOR THE APPELLANT:

Paul Sparks, appellant

He called
Mrs T J Sparks

INTERESTED PERSONS:

None



Plan

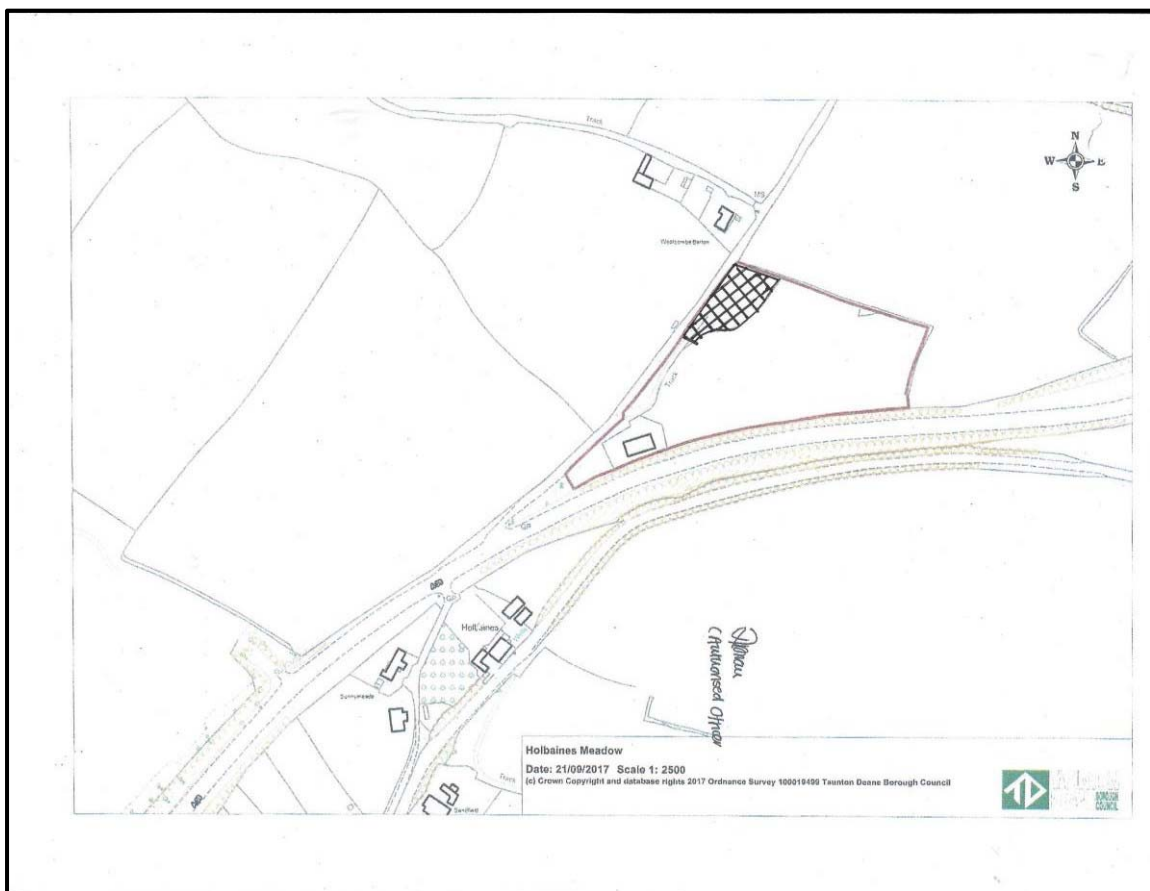
This is the plan referred to in my decision dated:

by **P N Jarratt BA DipTP MRTPI**

Land at Holbaines Meadow, Sampford Arundel, Wellington, TA21 0LS

Reference: APP/D3315/C/17/3189132

Scale: Do not scale



P N Jarratt

Inspector



The Planning
Inspectorate

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Julie Harcombe
Taunton Deane Borough Council
Review Support Manager
The Deane House
Belvedere Rd
Taunton
TA1 1HE

04 May 2018

Dear Ms Harcombe,

Your Ref: 49/17/0007

Our Ref: APP/D3315/W/17/3189981

Town and Country Planning Act

1990 Appeal by Gladman

Developments Ltd

**Site Address: Land off North Street, Wiveliscombe, Somerset, TA4 2UE
(nearest)**

I enclose for your information a copy of a letter received withdrawing the above appeal. I confirm no further action will be taken on 3189981.

We will continue to process appeal 200773.

Yours
sincerely,

*Holly
Dutton*

Holly
Dutton

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is -
www.planningportal.gov.uk/planning/appeals/online/search

APPEALS RECEIVED – 23 May 2018

Site: LAND OFF NORTH STREET, WIVELISCOMBE TA4 2UE`

Proposal: Outline Planning Application with all matters reserved, except for means of access, for the erection of up to 95 dwellings with public open space, landscaping and sustainable drainage system with vehicular access point on land at North Street, Wiveliscombe (amended scheme to 49/17/0007)

Planning Application Number: 49/18/0001

Appeal reference: APP/D3315/W/3200773

Start Date: 03 May 2018

Site: 128 GALMINGTON ROAD, TAUNTON, TA1 5DW

Proposal: Formation of vehicular access at 128 Galmington Road, Taunton

Planning Application Number: 52/18/0003

Appeal reference: APP/D3315/D/18/3200772

Start Date: 09 May 2018

Site: CHERRY ORCHARD LODGE, CHERRY ORCHARD, TRULL, TAUNTON, TA3 7LF

Proposal: Erection of 1 No. detached dwelling with detached double garage and associated works on land to the south east of Cherry Orchard Lodge, Cherry Orchard, Trull as amended by email dated 31 October 2017 and plans 2930/01C, 2A, 3A, 05A and 3D Visuals.

Planning Application Number: 42/17/0012

Appeal reference: APP/D3315/W/18/3196961

Start Date: 14 May 2018