

06/2004/025

A J RAUCKI & SON

RESIDENTIAL DEVELOPMENT COMPRISING 7 NO. DWELLINGS, LAND TO WEST OF LYDEARD MEAD, BISHOPS LYDEARD

16777/29458

OUTLINE

1.0 RECOMMENDTION

I recommend that permission be REFUSED for the following reasons:-

- 01 The site lies outside the settlement limits of Bishops Lydeard as defined in the adopted West Deane Local Plan in an area to be protected from development and is therefore contrary to Policies WD/SP/2 and WD/BL/7 of the plan; and outside the settlement limits of Bishops Lydeard as defined in the Taunton Deane Local Plan Revised Deposit Modifications.
- 02 The site lies within the Bishops Lydeard Conservation Area, wherein developments will only be permitted where it would preserve or enhance the appearance or character of the Conservation Area, the proposed development including the proposed flood alleviation measures are considered to be detrimental and contrary to Taunton Deane Local Plan Revised Deposit Policy EN15 and Somerset and Exmoor National Park Joint Structure Plan Review Policy 9.
- 03 The site lies within the Proposals Map as an area liable to flood within the Taunton Deane Local Plan Revised Deposit Modifications, and as such any residential development would be contrary to Taunton Deane Local Plan Policy EN30. The proposal comprises inappropriate development upon an area at high risk from flooding and does not provide sound flood defence measures in conflict both with national planning objectives as set out in PPG25 and Taunton Deane Local Plan Policy EN30.

2.0 APPLICANT

A J Raucki and Son

3.0 PROPOSAL

Residential development comprising 7 No. dwellings, land west of Lydeard Mead, Bishops Lydeard.

The application was accompanied by:-

- (i) location plan
- (ii) development brief with illustrative layout plan
- (iii) flooding study

The proposal is for residential development to the west of Lydeard Mead. The illustrative plan indicates 7 dwellings comprising 2 x 2 semi detached units and 1 terrace of three with associated garages or integral garages. The dwellings are arranged around a turning head, gardens are to the rear of each dwelling with amenity areas to their fronts. There is an existing ditch to the east of the site. New drainage channels are proposed to the north west and south west. A new shelter belt is located to the north west.

The agent has also included extracts from the Taunton Deane Local Plan Inquiry which, inter alia, states the site suffers from significant flooding problems, falls within Category 3a of PPG25 on flooding, a letter from the Environment Agency which indicated current proposals for flood protection achieve the required standard plus 20% and there would be no increase in third party risk and thus there is no in principle objection to the allocation on grounds of flood risk. The Local Plan Inquiry Inspector also concluded the allocation for housing would provide a defensible boundary against further development; there was no traffic objection; an overhead power line can be diverted; the modest scale of development is appropriate for the village which is a designated rural centre and will have no material impact on either traffic or the environment in Bishops Lydeard. New development would remove an existing eyesore and bring about environmental improvements, it would be screened from the High Street properties by dense hedges and its overall impact would be limited. He therefore concluded the site as suitable for residential development.

4.0 **THE SITE**

The site is roughly rectangular in shape and located directly to the north west of the end of Lydeard Mead. The site currently forms the site of the builder's yard as covered by Certificates of Lawfulness for an Existing Use. There are no restrictions concerning the nature, height and extent of building materials and machinery that can be stored. On the north side of the site, there is a mixture of indigenous trees of varying sizes on the boundary, providing some screening. The existing properties to the north of the site have 100 m long back gardens between them and the site and are set at a higher level than the site. To the west are open fields, and on the southern boundary there are mature, indigenous trees, bordering a stream. The site is fairly flat.

5.0 **RELEVANT PLANNING HISTORY**

06/1996/009LE Certificate of Lawfulness for existing use of land and premises at Lime Tree Farm for storage of builder's materials including plant (area A on plan Appendix A). Approved September, 1996.

06/1996/026LE Certificate of Lawfulness for an existing use of land and premises at Lime Tree Farm for storage of building materials and equipment and agricultural materials and equipment (area B on plan Appendix A). Approved September 1996.

06/2000/044LE Certificate of Lawfulness for an existing use of land and premises Lime Trees Farm for the storage of building materials and equipment and agricultural materials and equipment. (Area C on plan Appendix A). Approved October 2000.

06/2000/027 Outline application for residential development of approximately 0.75 acres to north west of Lydeard Mead was refused by Committee on 2nd October, 2002 on grounds of the site being outside the settlement limits of Bishops Lydeard in West Deane Local Plan, Prematurity in respect of Taunton Deane Local Plan Revised Deposit and consideration of residential development in an area liable to flood needing to be considered by the Local Plan Inspector in light of EN30 and PPG25. A subsequent appeal was dismissed on grounds that the proposal does not provide sound flood defence measures and the effect of the proposal on the setting of Bishops Lydeard. The Inspector also commented that the proposed development, together with the flood alleviation works would neither preserve nor enhance the character or appearance of the Conservation Area due to incursion of built form into this rural setting. (Appendix B).

6.0 **RELEVANT PLANNING POLICY**

Somerset and Exmoor National Park Joint Structure Plan Review (Adopted 2000)

STR 1 (Sustainable Development)

STR 6 (Development outside towns, rural centres and villages)

STR 7 (Planning Obligations)

Policy 8 (Outstanding Heritage Settlements) (includes Bishops Lydeard)

Policy 9 (Built Historic Environment)

Policy 35 (Affordable housing)

Policy 48 (Access and parking)

Policy 49 (Transport requirements of new development)

Policy 60

FLOODPLAIN PROTECTION

Areas vulnerable to flooding should continue to be protected from development which would cause a net loss of flood storage area or interrupt the free flow of water or adversely affect their environmental or ecological

value. In allocating land for development in local plans, consideration must be given to measures to mitigate the impact on the existing land drainage regime to avoid exacerbating flooding problems.

**Somerset and Exmoor National Park Joint Structure Plan Alteration
Deposit Draft June 2004**

(New Policy) STR6A Rural Settlements.

Policy 8 is deleted (other policies still applicable)

West Deane Local Plan

WD/SP/2 (Development outside Settlement Limits)

WD/EC/23 (Conservation Areas)

WD/BL/ 7 THE OPEN AREAS WEST AND SOUTH OF BISHOPS
LYDEARD WILL BE PROTECTED FROM DEVELOPMENT.

Taunton Deane Local Revised Plan Deposit Draft

Policy S1 (General Requirements)

Policy S2 (Design)

Policy S3 (Energy Conservation)

Policy S6 (Rural Centres)

Policy S8 (Outside settlements)

Policy H1 (Housing within Classified Settlements)

Policy H2 (Energy Efficient Dwellings)

Policy C4 (Standards of recreational provision)

Policy EN4a (Protected species)

Policy EN12 (Special Landscape Features)

Policy EN30 (Land liable to flood)

Policy EN31 (Flooding due to development)

Policy EN36 (Control of external lighting)

Policy BL2

A site of 0.25 hectares at Lime Tree Farm as shown on the Proposals Map is allocated for no less than 8 dwellings, provided that :-

- (A) the proposed scheme design respects the setting of the residential properties in Lydeard Mead;
- (B) adequate protection is given to the Important Tree Group adjacent to the Back Stream;
- (C) a substantial belt of landscaping is provided along the sites western boundary, where it backs on to open farm land; and
- (D) the overhead electricity supply line which passes through the site is removed, and either placed underground or diverted via an alternative overhead route.

In association with the development, the following will be sought:

- (E) appropriate works and measures to ensure adequate drainage and flood protection measures.

Taunton Deane Local Plan Revised Deposit Inspector's Report published September 2003

The inquiry into the local plan considered Policy BL2 – Lime Tree Farm; the Inspector heard objections, and supporting representations. He considered the main issues to be whether the site can be adequately protected against flooding in accordance with PPG25; whether the proposed development would unacceptably harm the environmental quality of The Lawns; whether the proposal would aggravate existing traffic problems in the village; whether Policy BL2 should require traffic calming on Lydeard Mead and sensitively designed street lamps and any development should not have an overhead electricity supply; whether the proposed allocation should be varied to coincide with the area covered by the Certificate of Lawfulness for an Existing Use issued on 25th September, 1996; whether the proposed scale of development should be more closely controlled; whether there is sufficient capacity in the village school to accommodate the additional pupils which would be generated; whether the development of the site would unacceptably alter the form and character of this part of the village. The Inspector's considerations and conclusions are in Appendix C.

The Local Plan Inspector concluded the site was Category 3a of PPG25 because of existing use as a builders yard; that the PPG advises that Category 3a areas may be suitable for residential development provided the appropriate minimum standard of flood defence can be maintained for the life time of the development. The Environment Agency has indicated that the current proposals achieve that standard plus 20%, and that there would be no increase in third party risk resulting from development. The Local Plan Inspector concludes there is no in principle objection to the allocation on flood grounds. In respect of the other issues outlined above, the Local Plan

Inspector also concluded that residential development was acceptable – see Appendix C. The recommendation (10/4) was to modify the Plan to amend the area for development to coincide with CLED and proposal map to be amended to now Area Liable to Flood.

Taunton Deane Local Plan Proposed Modifications Spring 2004

The Strategic Planning and Transportation and Economic Development Review Panel 23rd March, 2004 considered item:-

Recommendation:- the Council does not intend to accept recommendation 10/4 - R/BL/2. This refers to the Inspector's recommendation above. Copy of this report at Appendix D. it sets out the Local Planning Authority's reason for not accepting the local plan Inspector's recommendation to be the Appeal Inspector's dismissal of the appeal against refusal of residential development. (06/2000/027).

Appendix D also includes the proposed amendment to the maps to delete the housing allocation, to amend the settlement limits and to modify the Proposals Plan to include land liable to flood.

Taunton Deane Local Plan Proposed Modifications Comments

As part of the local plan adoption process, comments on proposed modifications following the Local Plan Inspector's report, have been made. The agent for the application has objected to proposed rejection of an Inspector's recommendation. At the present time these comments have yet to be reported to the Strategic Planning and Transportation and Economic Development Review Panel. Such report is due late September 2004.

The present situation in respect of Taunton Deane Local Plan is that the application site is no longer proposed to be allocated for residential development.

7.0 RELEVANT CENTRAL GOVERNMENT POLICY GUIDANCE

PPG1 – General Policy and Principles

Paragraphs 4 – 7 Sustainable Development

Paragraph 24 In preparing their development plans, local planning authorities should consider the land-use requirements of various types of social provision. For housing, the key objectives for the location of development and the allocation of land are:

-to ensure that the planning system identifies an adequate and continuous supply of housing land to meet future requirements which is both available and sustainable;

- to make effective use of land within urban areas, by allocating the maximum amount of housing to previously - developed sites within existing larger urban areas, which have access to a range of transport and other facilities, whilst protecting open space, playing fields and green spaces in cities and towns;
- outside urban or village areas, to promote land for housing in locations which are or will be well served by public transport and with good access to employment and a range of services including leisure, shopping, education and health facilities;
- to provide a mixture and range of types of housing to meet the increasingly varied types of housing requirements, including the need for affordable housing; and
- to ensure that housing is available where jobs are created.

Paragraph 32 Conserving the historic environment

Paragraph 40 Section 54A

PPG 3 – Housing

Paragraph 11 Creating mixed communities

Paragraphs 37 – 38 Determining planning applications

PPG25 – Development and Flood Risk

The susceptibility of land to flooding is a material consideration. Planning decisions authorities should recognised the importance of flood plains where water flows, or is held at times of flood, and avoid inappropriate development on undeveloped and undefended flood plains.

Paragraph 9 Sustainable development and the precautionary principle

Paragraph 10 Flood risk involves both the statistical probability of a flood occurring and the scale of the potential consequences. The impacts vary in their nature, scale and extent. Development constructed without regard to flood risk can endanger life, damage property and require wasteful expenditure on remedial works. While flood defence works can reduce the risk of flooding, they cannot eliminate it. For example, a flood bank designed to contain a particular level of flood will be overtopped by one that is more severe. Flood risk is also expected to increase over time as a result of climate change. It is important that those who plan and occupy development in flood risk areas are aware of the remaining risk, despite

the presence of flood defences, and the steps that they should take in the event of a flood. Local authorities and owners and occupiers of premises in flood-risk areas should consult the Environment Agency, the emergency services and other relevant agencies in drawing up their emergency plans for dealing with flooding.

Paragraph 11 Continued construction of hard-engineered flood defences to protect development in areas exposed to frequent or extensive flooding may not be sustainable in the long term. Soft engineering techniques such as creating, preserving and enhancing natural flood meadows and washlands or salt marshes and mud flats can be of great value in attenuating flooding as well as contributing to biodiversity. A sustainable approach to flood risk will involve avoiding additional development in some areas. Where this is not possible, development needs to be of a design and with an appropriate level of protection to ensure that the risk of damage from flooding is minimised, while not increasing the risk of flooding elsewhere

Paragraph 13 The precautionary principle

Paragraphs 27 – 34 Risk-based approach and the sequential test

Table 1 Flood Zone 3 High Risk (a) Developed Areas, (b) Undeveloped & sparsely developed areas and (c) Functional flood plains

Paragraphs 35 – 36 Previously developed land

Paragraphs 57 – 60 Development Control general considerations

8.0 **CONSULTATIONS**

County Highway Authority

“Whilst there is no objection in principle to the above proposal, the application is for outline planning permission with siting, design, external appearance, means of access and landscaping reserved for subsequent approval. Notwithstanding the above the nature of the application site is such that it is recommended the following conditions should be imposed at outline stage. The Highway Authority would however wish to reserve the right to add further conditions at any subsequent application for approval of reserved matters.

1. 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 outfalls, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture

shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. 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.

2. 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.
3. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway details of which shall have been submitted to and approved by the Local Planning Authority.

In respect of the above the Applicant is advised as follows:-

- (a) At the entrance to the site is an existing bridge. It is anticipated that this bridge is not to Highway Authority standards, both in construction and in dimensions, and would require replacing.
- (b) The access road is indicated as being immediately adjacent to a proposed new channel. There will need to be a minimum margin of 1.0 m between the edge of the carriageway and the top of the revetment. The revetment and carriageway will need to be designed such that the highway does not impose load on the adjacent revetment. A safety barrier will be required at the top of the revetment.
- (c) The footway to the east side of the access road must be a minimum of 1.8 m wide and be continuous from the existing footway on Lydeard Mead.
- (d) The access road appears to extend to the site boundary on the north west. Details of the reason for this along with the 5.0m wide access strip will be required.
- (e) It is acknowledged that the Applicant has submitted a flood alleviation study. In addition to this the Applicant should contact the Area Highways Manager to enquire as to any known drainage problems in Lydeard Mead.
- (f) It appears unlikely that soakaways would be suitable for highway drainage. No area has been set aside for such and it is likely that the water table in the area is too high."

County Archaeologist

“As far as we are aware there are limited or no archaeological implications to this proposal and we therefore have no objections on archaeological grounds.”

Environment Agency

“The Agency OBJECTS to the proposed development, as submitted, on the following grounds:-

The site lies within the flood plain of the Back Stream.

The site lies within an area at risk of flooding from the fluvial system. In accordance with the general aims of PPG 25 (Development and Flood Risk), local authorities should apply the sequential test in allocating or permitting sites for residential development, and use their planning powers to guide inappropriate development away from such areas.

In accordance with section 64 of PPG25, the Environment Agency advises that the current consultation documents do not contain sufficient information to enable a full and proper response from this Agency. We would ask that the application is held in abeyance until such time as the following information is provided by the applicant/agent, and further consultation with ourselves undertaken on this information:

In light of earlier correspondence between your Council, this Agency, and Turner Holden, we have yet to receive any formal notification from your Local Planning Authority as to the flood risk categorisation of the site. As you are aware from our last letter dated 16 April 2004 copied to Tom Noall at your offices, the categorisation of the site within table I, section 30 of PPG25 is a land-use matter that is absolutely fundamental to the advice of this Agency on the current application.

If the site is assessed as 3a, then this Agency would accept the principle of residential development of the land subject to appropriate flood mitigation measures, and would advise on a conditional response, including the requirement for submission of full engineering details of the flood mitigation works. However, should the site be either 3b or 3c, then notwithstanding the proposed flood mitigation works promoted by the developer, this Agency would maintain an objection in principle to the application. We are aware that your Mr M Leeman has expressed an initial opinion that the site may not be 3 a under the definitions contained within PPG25. Under the precautionary principle, we have no alternative but to object to this application until the matter is finally clarified by TDBC. The Agency is not obliged to comment on whether the existence of a Certificate of Lawful Use constitutes 'previously developed land'.

Advice should be sought from the Environment Agency's Flood Defence staff (contact Mr J Southwell - Development Control Engineer) who can be contacted on Tel No: 01278 457333

If your Authority wishes to approve the application despite the concerns which the Agency has expressed, the Agency would be grateful for a further opportunity to discuss the application. Further discussion needs to take place prior to any Planning Committee Meeting, to determine the application or, prior to any delegated decision being made. In the context of such discussions it would be useful to the Agency to be advised of all material considerations which are influencing the determination of the application. Such a request is made in accordance with PPG 25.

This letter only covers Flood Defence issues, should the Agency's objection subsequently be overcome, the Agency would seek the opportunity to request conditions covering conservation, ground and surface water protection interests.”

Landscape Officer

“Given the Inspector’s comments regarding the setting of Bishops Lydeard and his considered view that “I do not consider that landscaping would be fully effective in mitigating such impact ...” I would like to see a landscape assessment of the site before commenting further. “

Conservation Officer

“As with the previous application, I have concerns about the effect of the proposal on the character of the Conservation Area. In particular the effect of development impinging on the rural landscape to the west of village and the views to the village from the west. In my opinion, such extension of the village into the rural landscape, would cause harm to the character and setting of the Conservation Area. I also note the Inspector’s appeal comments in this respect.”

Environmental Health Officer

“I have the following observations due to the possibility of contamination arising from previous uses of the site.

Contaminated Land Condition:-

Before any work, other than investigative work, is carried out in connection with the use hereby permitted a suitably qualified person shall carry out an investigation and risk assessment to identify and assess any hazards that may be present from contamination in, on or under the land to which this permission refers. Such investigation and risk assessment shall include the following measures:- (a) The collection and interpretation of relevant information to form a conceptual model of the site; and a preliminary risk assessment of all the likely pollutant linkages. The results of this assessment should form the basis of any subsequent site investigations. (b) A ground investigation shall be carried out, if required, before work commences to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can

influence the behaviour of the contaminants. (c) A site-specific risk assessment shall be carried out to evaluate the risks to existing or potential receptors, which could include human health, controlled waters, the structure of any buildings and the wider environment. All the data should be reviewed to establish whether there are any unacceptable risks that will require remedial action. (d) If any unacceptable risks are identified a remediation strategy shall be produced to deal with them effectively, taking into account the circumstances of the site and surrounding land and the proposed end use of the site. (e) Submission to the Planning Authority of 2 copies of the Consultants written Report which shall include, as appropriate, full details of the initial research and investigations, the risk assessment and the remediation strategy. The Report and remediation strategy shall be accepted in writing by the Local Planning Authority and thereafter implemented. (f) If any significant underground structures or contamination is discovered following the acceptance of the written Report, the Local Planning Authority shall be informed within two working days. No remediation works shall take place until a revised risk assessment and remediation strategy has been submitted to and accepted in writing by the Local Planning Authority. (g) On completion of any required remedial works two copies of a certificate confirming the works have been completed in accordance with the agreed remediation strategy, shall be submitted to the Local Planning Authority. (h) All investigations, risk assessments and remedial works shall be carried out in accordance with current and authoritative guidance. (i) All investigations and risk assessments shall be carried out using appropriate, authoritative and scientifically based guidance (Stat guidance B.47). Any remedial works should use the best practicable techniques for ensuring that there is no longer a significant pollutant linkage. (Stat guidance C.18).

Reason: To ensure that the potential land contamination can be adequately dealt with prior to the use hereby approved commencing on site in accordance with Taunton Deane Local Plan Revised Deposit Policy S1(E).

Note to applicant:-

The Applicant is reminded that a Remediation Strategy should include reference to the measures to be taken to safeguard the health and safety of the workforce undertaking the remediation works and any other persons who may be affected by contaminated materials or gases. The site investigation and report should be in line with the latest guidance. Sources of such guidance will include, although not exclusively, publications by the Department for Environment, Food and Rural Affairs (formally DoE and then DETR) the Environment Agency and the British Standards Institute. The Council has produced a Guide to the Assessment and Remediation of Contaminated Land (attached) which gives more details on the relevant sources of information available.”

Drainage Officer

“I believe you are awaiting the Environment Agency’s comments on this outline application and that they are awaiting a decision from yourselves

regarding the status of this site in relation to PPG25. As we liaise closely with the Environment Agency on sites that have flooding implications I wish to reserve comments on this application until this matter has been resolved.

The issues raised by this office in our response to the previous application by this applicant (06/2000/027) dated 27th June, 2002 have not been addressed especially with regard to maintenance of watercourses, banks and flow control devices.

Therefore until the above has been resolved no approval should be given.”

Further response dated 29th June, 2004.

“I refer to your e-mail dated 29th June and I note that you are now in possession of the Environment Agency’s comments dated 23rd June.

As previously stated in my earlier response dated 23rd June, we liaise closely with them on all sites that have major flooding implications.

I have to reiterate again that until the flood risk categorisation of this site has been agreed, in accordance with PPG25, I cannot make any specific comments.

Please note also my concerns regarding the lack of information regarding future maintenance of flood control devices and watercourse/flood route through and around this proposal.”

Housing Officer

“This is a central village site which can provide much needed accommodation close to amenities. To satisfy need we would require 30% for social housing (2) of the total.”

Leisure Services

“This small scale development should make an off site contribution from all dwellings of £806.00 per dwelling towards local sports facilities for which we know there to be a need at the local football club. In addition to this all 2 bed dwellings to contribute an additional £1,250.00 per dwelling towards off site play provision in the local area.”

Cllr J Lewin-Harris (Ward Member)

“(1) FLOODING: This site at Lime Tree Farm, Bishops Lydeard is in the floodplain and, despite all the work that has been done in preparing a flood defence scheme to protect the site itself and properties downstream, there are still many uncertainties in terms of the effectiveness of the proposed scheme and its maintenance. It would be far too risky to proceed with development on the site, particularly in the knowledge that once the houses were built, the

developer would have no responsibility and any future flooding problems would result in calls to the Local Authority for solutions.

(2) The site falls in the protected area to the West of Bishops Lydeard known as The Lawns, an area that the village has always fought to keep open and undeveloped. Development on this site would destroy this open landscape area and provide a harmful visual impact in all the views to Bishops Lydeard from the West.”

9.0 **REPRESENTATIONS**

5 letters of objection have been received making the following points:-

1. Risk of flooding. As more houses are built, less area of open ground to absorb excess water.
2. Flooding will increase with global warming.
3. Cul-de-sac will become through road.
4. Traffic – cross roads situation with surgery and village hall car parks in close proximity constitute major hazard for pedestrians and cyclists.
5. Site is in Conservation Area. Previous application and appeal turned down – what has changed?
6. Too much traffic already in village – this should be relieved before any more house building.
7. Difficult for emergency vehicles to access Lydeard Mead.
8. The site has always been agricultural land, current users keep it in an untidy state, not appropriate for building.
9. The flood alleviation measures have been drawn up by the same group as drawn the original scheme which was designed to protect the existing houses, has failed on at least 2 occasions.
10. The level of flood protection to existing properties will be diminished from an already inadequate scheme.
11. Concern that the agent for the flood alleviation measures was unaware of the circumstances of the site and immediate surroundings so concerned about whole study.
12. Problems with maintenance of flood defences – no effective maintenance of existing defences.
13. Trees were felled by applicant just prior to last application reported to Committee.

14. Misleading statement in respect of height of building materials; permanent housing would have more of an impact than materials stacked in the open.
15. Inspector (in respect of previous application) stated the status quo would be less harmful to the setting of Bishops Lydeard than the proposed development which would conflict with Structure Plan Policy STR6 and Local Plan policies.
16. Applicant has stated he wishes to move his builder's yard further west into the designated farming land, this would start the process again and allow development to creep into the Lawns.

10.0 **PRINCIPLE ISSUES FOR CONSIDERATION**

- A. Is the proposed development in compliance with Development Plan Policies? POLICY
- B. Would the development affect the flood plain? FLOODING
- C. Would the character of the Conservation Area be adversely affected? CONSERVATION
- D. Would additional housing cause additional traffic? TRAFFIC
- E. is the proposed development sustainable? SUSTAINABILITY

A. Policy

The policy situation is complex in respect of the allocation of the site inside or outside the settlement limit in the Taunton Deane Local Plan. The Taunton Deane Local Plan Revised Deposit Policy BL2 included the site specifically as a housing allocation. An application for residential development (06/2000/207) was made and permission refused by Committee 9th October, 2002. The subsequent appeal was dismissed (June 2003); the Inspector gave little weight to the Taunton Deane Local Plan Revised Deposit as it was subject to 10 objections from local residents and interested parties due to unresolved objections. The Inspector concluded the main issues were the adequacy of flood prevention scheme to control flood risk and the effect on the setting of Bishops Lydeard; he considered the area to be at high risk from flooding, that the proposal did not provide technically sound flood defence measures in conflict with national planning objectives set out in PPG25 and emerging Local Plan Policy EN30 and that the development "would introduce a harmful form of permanent development that would seriously erode the quality of the rural setting of Bishops Lydeard in conflict with Somerset and Exmoor National Park Joint Structure Plan Review Policy STR6, West Deane Local Plan Policies WD/SP/2, WD/BL/3, WD/BL/7 and WD/BL/8." (see Appendix B)

The Local Plan Inspector however concluded that the site is currently a builder's yard with considerable amounts of open storage of plant and materials, it would be located adjacent to the existing modern housing in Lydeard Mead and not be seen in direct relationship to the more established village housing. He also agreed that the area of the site to be modified to coincide with the Certificate of Lawfulness dated 26th September, 1996 and the proposals map be amended to show area liable to flood. (see Appendix C).

The Local Planning Authority however has considered this modification and has concluded that the Lime Tree Farm site should be deleted from the Local Plan (see Appendix D) .

The site is now considered to be outside settlement limits. The local plan process is still ongoing and objections have been made to the above modifications; these will be considered by the Strategic Planning and Transportation & Economic Development Review Panel, in late September 2004.

B. Flooding

PPG25 advises local planning authorities to consider ways in which the planning system might be used positively to tackle the legacy of past development in unsustainable locations, such as flood plains. Because of the damage that can arise from flooding, the Government considers that the objectives of sustainable development require that action through the planning system to manage development and flood risk should be based on the precautionary principle. Paragraph 13 of PPG25 states that where there are threats of damage, a lack of scientific data should not be used as an excuse for not implementing cost effective measures to prevent environmental degradation. Accordingly, for proposals within areas liable to flooding, the implementation of the precautionary principle will require the applicant to demonstrate that a proposed scheme of flood protection of the required standard is both technically feasible and deliverable and that it will not adversely affect third parties by reason of increased risk of flooding. The PPG sets out an approach that directs authorities towards sites at lower risk of flooding from those at higher risk. Three categories of risk relating to flooding are identified, ranging from little or no risk, through low to medium risk, to high risk. The high risk category is split into three separate elements, namely developed areas (3a), undeveloped and sparsely developed areas (3b) and functional flood plain (3c).

The application site is considered to be within category 3a in the Local Plan Inspector's Report, given that the site has an existing use as a builder's yard. Paragraph 30 of PPG25 states that these areas may be suitable for residential, commercial and industrial development provided the appropriate minimum standard of flood defence can be maintained for the lifetime of the development, with preference being given to those areas already defended to that standard.

The Inspector considering the previous proposal for residential development (06/2000/027) concluded that given photographs of recent flooding events show that the site is part of the functional flood plan indicating categorisation with Zone 3C whereon built development should be wholly exceptional. However the presence of a building could categorise the site as Zone 3B as a sparsely developed area whereon general purpose housing should not normally be permitted. (see Appendix B). The Local Plan Inspector considered the site to fall within category 3a of PPG25 – see Appendix C. The inspector concluded this categorisation because of its existing use for storage of builders materials. Given these two very different conclusions, the Environment Agency has requested the Local Planning Authority give an opinion on such category. Over the history of the previous application and the Local Plan Inquiry, reference has been put forward by different planning officers that it is 3a or 3b.

There is therefore a difference of opinion with Planning Inspectors. A similar difference of opinion has also been noted from the previous application, and the varying views of officers into which category the site lies.

The Environment Agency, in a letter dated July, 2002 confirmed the site to be 3c as in its evidence to the Local Plan Inquiry.

This subject has been give much consideration, and after legal advice, the conclusion is that the Local Planning Authority should follow the views of the Inspector into the appeal (Appendix B) i.e. that the site should be categorised under Zone 3b as a sparsely developed area whereon general purpose housing would not normally be permitted. The site being categorised as Zone 3b which is not suitable for residential development; objection on this basis is therefore raised.

C. Conservation

The Conservation Officer has concerns about the effect of the proposal on the Conservation Area, in particular the effect of the development impinging on the rural landscape to the west of the village, and concludes that the extension of the village into the rural landscape would cause harm to the character and setting of the Conservation Area. The Appeal Inspector had a similar view (Appendix B) however the Local Plan Inspector found 'no harm' (Appendix C). The site is on the edge of the village being in a position between open rural landscape and the built form of the village. Consideration of harm on the character of the Conservation Area is subjective, but it is considered the development of the site together with the engineered flood alleviation measure contained within the accompanying documentation would result in features generally alien to Conservation Areas and these would adversely affect the character of the Conservation Area by reason of visual intrusion.

D. Traffic

The proposed development will be served by an extension to the existing public highway serving Lydeard Mead. The existing bridge into the site will have to be widened and strengthened to the County Highway Authority's requirements. The County Highway Authority consider that the additional traffic generated by the residential development would not be significantly greater than the builder's yard and would in any event consist mainly of light vehicles rather than heavy goods vehicles which could be associated with the builder's yard. They therefore raise no objection to the proposal subject to conditions and notes.

E. Sustainability

National and Local Planning Policies support and encourage sustainable mixed use developments on brownfield or previously developed land. There is some disagreement whether this site is brownfield. It is considered that the existence of a Certificate of Lawfulness for a particular use does not necessarily mean that the site is "brownfield". Use of the site as a builders yard, even with a building, does not in the opinion of the Local Planning Authority constitute previously developed site within PPG25 Zone 3a (see above) and thus the site is not suitable for residential development.

The site is close to the village's facilities, however given that the site is within the area shown to be within the area liable to flood, such an allocation is contrary to PPG25 and Policy EN30 relating to flooding, and this is considered to be unsustainable.

11.0 **CONCLUSION**

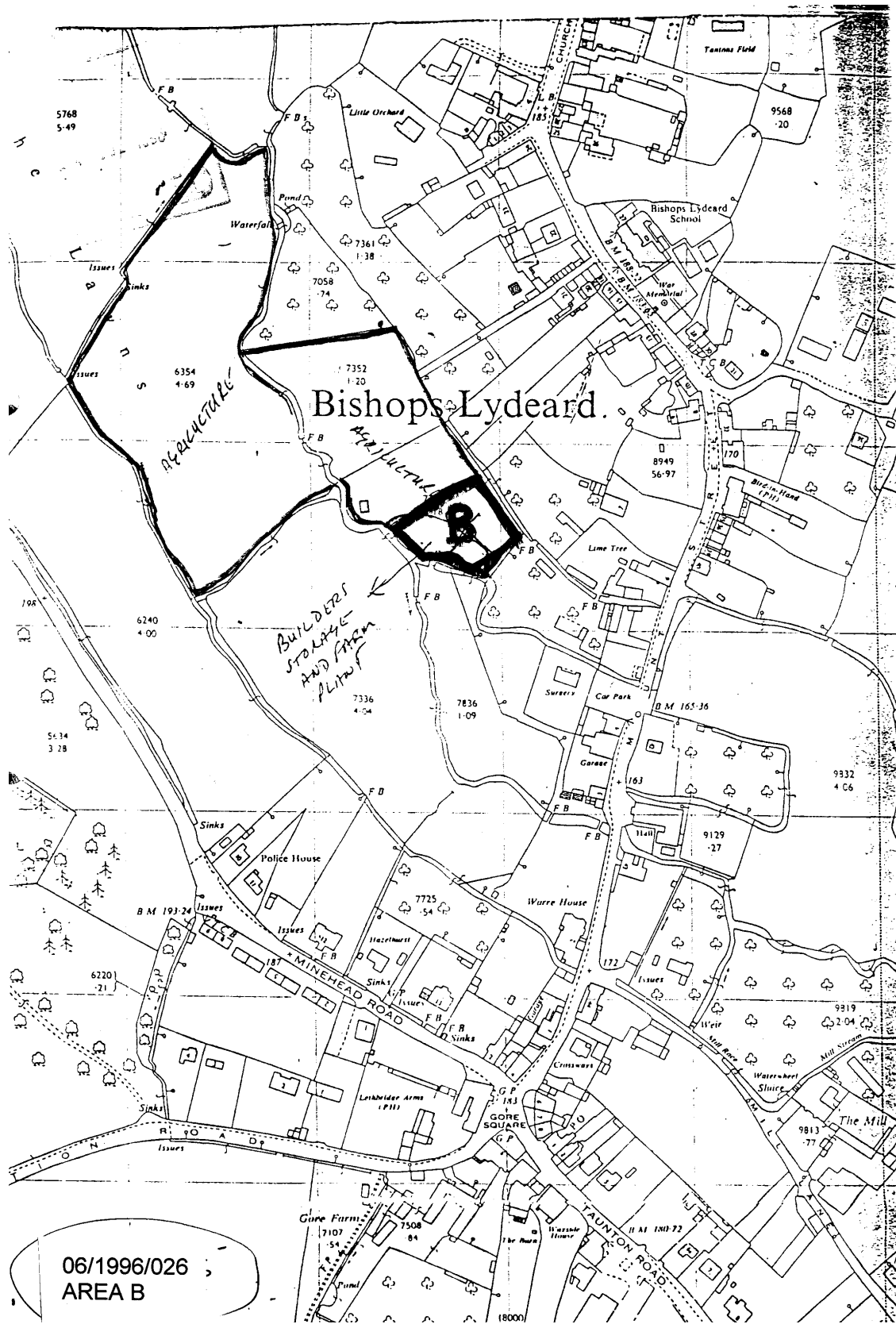
The site is now outside the defined settlement limits and is not a site allocated for housing and in an area liable to flood in the Taunton Deane Local Plan – Modifications. This situation follows two recent decisions by Inspectors of the previous refusal and the Local Plan. Section 54A of the Planning Act requires that applications which are not in accordance with the relevant policies in the plan should not be allowed unless material considerations justify granting planning permission. Thus in accordance with the above, the recommendation is to refuse.

Furthermore in respect of the location within Bishops Lydeard Conservation Area, the proposal is considered to be detrimental to the character of the Conservation Area, particularly in respect of the engineered revetments to the drainage channels required for the flood alleviation measures. The proposal is therefore considered not to preserve or enhance the character of the Conservation Area, indeed it is considered to be detrimental to its character.

The flooding issue is complex, with differing views as to the categorisation. However given that the decision of the Appeal Inspector has been followed in the recommendations above, the Inspector's view that the site is 3b is being taken by the Local Planning Authority and is consistent with this appeal decision, and is included in the recommendation for refusal.

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

CONTACT OFFICER: Ms K Marlow Tel: 356460



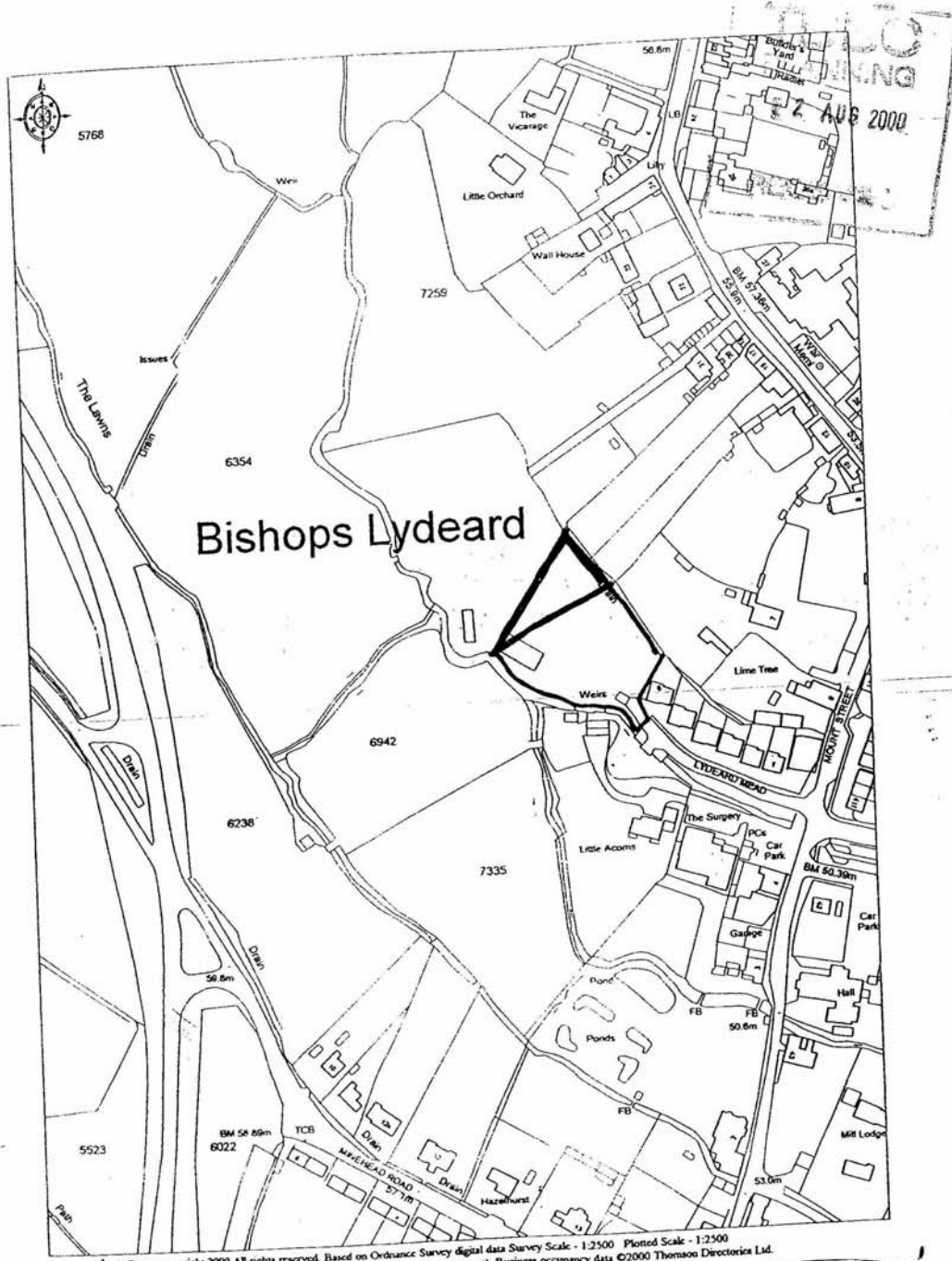
Bishops Lydeard.

AGRICULTURE

BUILDER'S STORAGE AND FARM ALIEN

06/1996/026
AREA B

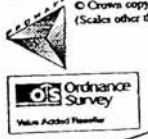
RAN



© Crown copyright 2000 All rights reserved. Based on Ordnance Survey digital data Survey Scale - 1:2500 Plotted Scale - 1:2500
 (Scales other than at Survey Scale should not be used for accurate measurement). Business occupancy data ©2000 Thomson Directorates Ltd.

Wilkie Group Surveyors

06/2000/044
 AREA C



APPENDIX B



Appeal Decision

Site visit made on 23 April 2003

by **Robin Bradbeer BA (Hons) MRTPI**

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
4/05 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Date

17 JUN 2003

Appeal Ref: APP/D3315/A/02/1106403

Land to the west of Lydeard Mead, Bishops Lydeard, near Taunton

- 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 A.J. Raucki & Son against the decision of Taunton Deane Borough Council.
- The application (ref: 06/2000/027), dated 7 June 2000, was refused by notice dated 9 October 2002.
- The development proposed is residential development.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. The application was in outline with all matters reserved for a subsequent application. The submitted plan comprises the ordnance survey based location plan on which the site is edged red. Further plans, which I shall treat as illustrative, include two layout drawings together with a drawing entitled "sketch proposals for channel improvement works" (drawing no. AB595-03B). The earlier layout drawing (no. 5869.2008) indicated 7 detached and semi-detached houses and the later drawing (no. 5869.2002.1) indicated 7 houses of semi-detached and terraced form together with a 6m wide tree planting shelter belt adjacent to the west boundary. I shall take these drawings into account in depicting a suggested flood alleviation scheme and possible housing layouts.
2. The appellant has provided a unilateral undertaking dated 14 April 2003 that deals with the provision of contributions towards off-site play and playing fields facilities, landscape and planting works and flood alleviation works. The Council has subsequently confirmed that the terms of this undertaking are considered satisfactory in relation to these matters with the exception that the Council would have sought a 20 year maintenance period for both the landscape and planting works and the flood alleviation works instead of the 12 year period stated in the undertaking.
3. Certificates of Lawfulness for an Existing Use (CLUE) were issued for different areas of the site in 1996 (ref: 06/96/026LE) and in 2000 (ref: 06/2000/044LE). The combined land and premises referred to in these certificates corresponds to the whole of the appeal site. Both certificates were for use of the land and premises for the storage of building materials and equipment and agricultural materials and equipment.

Planning Policy

4. The development plan includes the Somerset and Exmoor National Park Joint Structure Plan Review (2000) and West Deane Local Plan (1997). Structure Plan Policy STR1 aims to achieve a sustainable pattern of development in the selection of development sites and accords priority to the continued use of previously developed land. Policy STR6 states that development outside towns, rural centres and villages shall be strictly controlled and

restricted to that which benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel. The explanatory text at paragraph 3.43 states that any local plan allocations for development in rural centres should be located within the settlement boundary.

5. Although the Local Plan became time expired in 2001 it remains part of the adopted development plan for s.54A purposes. The plan describes Bishops Lydeard as a rural centre and Inset Map No. 4 shows the site located outside the defined settlement limits and within both the Conservation Area and an Area of High Archaeological Potential. An area along the southern boundary of the site is defined as an Important Tree Group. Policy WD/SP/2 aims to prevent development outside defined settlement limits unless it is either for the purposes of agriculture or forestry or otherwise in accordance with a specific development plan policy or proposal. Policy WD/EC/23 sets out the general principles the Council will apply to development affecting Conservation Areas relating to character and appearance. There are several relevant policies that are specific to Bishops Lydeard. Policy WD/BL/3 confines new housing development to within the defined settlement limits. Policy WD/BL/7 seeks to directly protect from development the open areas of flood plain west and south of Bishops Lydeard because they provide an important setting for the village. Policy WD/BL/8 aims to resist development that would adversely affect important views that contribute to the character of the village.
6. Also relevant is the emerging Revised Deposit Taunton Deane Local Plan published in 2000. Objections to the plan have been considered at an inquiry upon which the Inspector's report is awaited. Policy S6 defines Bishops Lydeard as a rural centre appropriate for selective development. Policy BL2 proposes to allocate 0.25ha of the appeal site for not less than 8 dwellings. The allocation specified a range of criteria to be fulfilled including respect for the setting of houses in Lydeard Mead; adequate protection of the important tree group adjacent to the Back Stream; provision of a substantial belt of landscaping along the western boundary; appropriate works and measures to ensure adequate drainage and flood protection and removal of the overhead electricity supply. Policy BL4 protects from development open farmland to the west of this proposed allocation because of its contribution to the setting of the village. Policy EN30 states that development on land liable to flood will not be permitted unless the proposal would comply with a range of specified flooding criteria. The proposed allocation under Policy BL2 was the subject of objections to the Local Plan Inquiry from 10 local residents and interested parties who raised concerns which included the effect of the proposal both upon the setting of the village and flood risk. The weight I attach to this emerging plan is limited by reason of these unresolved objections to relevant policies.

Site and Surroundings

7. The site is located in the flood plain on the west side of Bishops Lydeard. Notwithstanding the information supplied by the Council on the appeal questionnaire the site lies within the Conservation Area as defined in the adopted Local Plan. The premises have access from Lydeard Mead and comprise a relatively flat, open area of 0.3 hectares that includes a storage building in the western corner.

Main Issues

8. I consider the main issues to be firstly, the adequacy of the proposed flood prevention scheme to control flood risk associated with the proposed development; and secondly, the effect of the proposal upon the setting of Bishops Lydeard.

Reasons

Flood risk

9. Planning Policy Guidance Note 25 (PPG25) "*Development and Flood Risk*" applies the precautionary principle to flooding by requiring the planning system to ensure that new development is safe and not exposed unnecessarily to flooding. The guidance acknowledges the lead role of the Environment Agency in providing advice on flood issues relating to planning applications. Table 1 of the guidance sets out the planning response to sequential characteristics of flood risk. Both main parties agree that the site is within Flood Zone 3 "high risk". Differences of opinion have arisen in attributing the site, or parts thereof, to sub-divisions of Zone 3. Photographs of recent flooding events show that the site is part of the functional flood plain indicating categorisation within Zone 3c whereon built development should be wholly exceptional. However, the presence of a building leads me to conclude that the site could be categorised under Zone 3b as a sparsely developed area whereon general purpose housing should not normally be permitted.
10. The appellant's engineering consultants have produced a Flood Alleviation Study following extensive dialogue with the Environment Agency. The study undertook hydraulic modelling of the adjacent watercourse to analyse flood frequency relating to the watercourse both as existing and following implementation of a range of channel modification works. I understand that those works are shown on drawing no. AB595-03B. The model predicted that the 1-in-100 year flood event, including an allowance for climate change, would pass through the modified watercourse without causing any increased flooding down stream of the proposed development. By comparison the model predicted that the 1-in-100 year flood event on the watercourse as existing would cause flooding in the vicinity of the properties located between the north and south channels. The study concluded that the proposed channel modifications would increase flood protection to those existing properties.
11. The Environment Agency informed the Council by letter dated 12 June 2002 that it was satisfied that the proposed flood alleviation works provided an acceptable solution to the flooding issue and on that basis withdrew its earlier objection. However, further to its preparation for and attendance at the Local Plan Inquiry the Environment Agency wrote to the Council by letter dated 4 July 2002 reviewing its stance and effectively objecting to the proposal. In explanation the letter stated that the Agency believed that a number of issues were raised which warrant further investigation. The letter also expressed the view that part of the application site falls within Flood Zone 3c in Table 1 of PPG25 representing "landtake" in the flood plain.
12. I have taken into account the possible benefits to the occupiers of properties in the vicinity by increased flood protection arising from the proposed flood alleviation works. In my opinion those possible benefits are outweighed by the uncertainties expressed by the Environment Agency in the letter dated 4 July 2002 relating to both the principle

and effectiveness of the proposed works. The fact that the maintenance period referred to in the unilateral undertaking is insufficient to be fully acceptable to the Council reinforces those uncertainties.

13. On this issue I conclude that the proposal comprises inappropriate development upon an area at high risk from flooding and does not provide technically sound flood defence measures in conflict both with national planning objectives set out in PPG25 and emerging Local Plan Policy EN30.

The setting of Bishops Lydeard

14. The west boundary of the site is open to an extensive area of farmland known as The Lawns that stretches north towards West Street and west towards the A358 by-pass. There are filtered public views across this farmland towards the appeal site from both roads in which the appeal site and nearby housing feature. Having regard to the illustrative layout drawing and relevant advice set out in Planning Policy Guidance Note 3 (PPG3) "Housing" which encourages efficient use of land released for development, I consider that the proposal would result in a significant increase in permanent building coverage on the site. Such development would in my opinion cause a harmful visual incursion of urban form into the sensitive rural landscape to the west of the village. The likely need to raise site levels by approximately 0.5 m as indicated on the sketch proposals for flood alleviation works would accentuate the prominence of the development in the wider landscape. I accept that substantial landscaping to the west boundary would help to reduce the visual impact of development on the site. However, I do not consider that landscaping would be fully effective in mitigating such impact having regard to seasonal loss of leaf cover and the considerable period required for newly planted trees to become established and reach sufficient bulk to screen residential development.
15. I turn now to consider the appellant's submissions regarding the fall-back position which rely upon the two CLUE's that cover the whole site and do not qualify the height of the authorised open storage use. Taking into account the practical limitations affecting the use which include considerations of safety and convenience relating to the stacking of materials in the open, together with the susceptibility of the site to flooding, I consider that there would not be a real likelihood that storage use would have as much impact in terms of massing, height and extent by comparison with permanent housing development on the site. Therefore I conclude that the fall-back position would be less harmful to the setting than the proposed development.
16. In relation to housing site allocation decisions PPG3 advises a systematic approach which includes assessment of potential and suitability against a range of criteria including constraints such as flood risk. I accept that this site has certain merits since it comprises previously developed land under the Annex C definition and is located on the edge of this rural centre. However, having regard to the objections raised to this proposed allocation in the emerging local plan, it would be wrong in my opinion to approve development here, which clearly conflicts with the adopted development plan, in advance of a systematic approach to assessing the development potential of this and other sites through the emerging district-wide plan. On this issue I conclude that the proposed development on this site, which lies outside the settlement boundary, would introduce a harmful form of permanent development that would seriously erode the quality of the rural setting of Bishops

Lydeard in conflict with Structure Plan Policy STR6 and Local Plan Policies WD/SP/2, WD/BL/3, WD/BL/7 and WD/BL/8.

Other Considerations

17. Although the effect of the proposal on the Conservation Area did not form part of the Council's reason for refusal this was a concern expressed by the Conservation Officer. I consider that the proposed development, together with associated flood alleviation works, would neither preserve nor enhance the character or appearance of the Conservation Area due to incursion of built form into this rural setting. This finding adds weight to my conclusions on the main issues.
18. Concerns have been expressed regarding the traffic, highway safety and on-street parking implications of the proposal. I note that the Council consulted the Highway Authority who raised no objection in principle to the proposed development. Further to my visit to the site I am satisfied that the traffic implications of the proposal could be reasonably accommodated without harm to highway safety. Further concerns regarding the possible presence of badgers expressed by English Nature and The Somerset Wildlife Trust could be addressed by appropriate planning conditions and would not be grounds to reject this appeal.

Conclusion

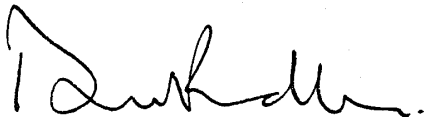
19. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

20. In exercise of the powers transferred to me, I dismiss the appeal.

Information

21. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.



INSPECTOR

APPENDIX C

concerned that the policy does not set a maximum figure. I note that the density indicated has increased over the previous proposal approved in the West Deane Local Plan, which provided for about 15 dwellings. However, the density proposed is in line with national guidance in PPG3, which suggest densities between 30 and 50 dwellings per hectare are appropriate, and the provision of smaller units would help in addressing the need for lower cost homes.

10.3.3.10. I recognise the concerns of the Parish Council that the number of dwellings could be higher than indicated in Policy BL1, since the policy sets no upper limit on the number of units on the site. However, I am satisfied that, with the limitations imposed by the size of the site and the need to retain the stone barns in any scheme, together with the constraints imposed on design by proximity to the Conservation Area, the eventual scale of the development would be commensurate with the levels indicated in the policy. I also note the view expressed by the Parish Council that no further development should take place in the village prior to the completion of Cotford St Luke, but given the modest scale of development proposed I take the view that it is appropriate for the village and will have no material impact on either traffic or the environment in Bishops Lydeard.

10.3.4. Recommendations

REC10/3: I recommend that no modifications be made to the Local Plan in respect of these objections.

10.4. POLICY BL2 – Lime Tree Farm

10.4.2. Objections

O/21/5041	Dickson
O/21/5042	Dickson
O/21/5043	Dickson
O/46/5108	Smith
O/95/6725	A&J Raucki & Son
O/269/5835	Bishops Lydeard and Cothelstone Parish Council
O/546/7009	Heron Land Developments Limited and Prowting Projects Plc
RO/95/10961	A&J Raucki & Son
RO/269/10047	Bishops Lydeard and Cothelstone Parish Council
RO/890/10004	Bush
RO/1018/11409	Spackman

10.4.3. Supporting Representation

S/21/5040	Dickson
S/95/6724	A&J Raucki & Son

10.4.4. Main Issues

- 10.4.4.1. Whether the site can be adequately protected against flooding in accordance with PPG25.
- 10.4.4.2. Whether the proposed development would unacceptably harm the environmental quality of The Lawns.
- 10.4.4.3. Whether the proposal would aggravate existing traffic problems in the village.
- 10.4.4.4. Whether Policy BL2 should require traffic calming on Lydeard Mead and sensitively designed street lamps, and any development should not have an overhead electricity supply.
- 10.4.4.5. Whether the proposed allocation should be varied to coincide with the area covered by the Certificate of Lawfulness for an Existing Use issued on 25 September 1996.
- 10.4.4.6. Whether the proposed scale of development should be more closely controlled.
- 10.4.4.7. Whether there is sufficient capacity in the village school to accommodate the additional pupils which would be generated.
- 10.4.4.8. Whether development of the site would unacceptably alter the form and character of this part of the village.

10.4.5. Inspector's Considerations and Conclusions

Background

- 10.4.5.1. The site lies on the edge of Bishops Lydeard, and has a lawful use as a builders' yard. The site is included as a housing allocation in the Revised Deposit Local Plan for a minimum of 8 houses subject, among other things, to the removal of the existing overhead electricity supply line and appropriate works to ensure adequate drainage and flood protection.
- 10.4.5.2. The site suffers from significant flooding problems, and was inundated most recently in October 2000. Because of the existing use as a builders yard, the site falls within Category 3a of PPG25 on Flooding, where development can be permitted provided an appropriate minimum standard of flood defence can be provided. The Environment Agency initially objected to the allocation pending a full investigation of flood risk to the site, because it was not convinced that a satisfactory solution could be found to the flooding problems. The Council reconsidered its suitability in September 2001, following the publication of PPG25, and deferred

a decision on the site pending the receipt of further flood risk studies.

10.4.5.3. Proposals for flood protection were submitted in support of a planning application on the site, and the Environment Agency now considers that the site can be protected to a 1 in 100 years standard plus 20%. The Council has subsequently considered the site again, and now proposes that the allocation should remain in the Local Plan.

10.4.5.4. The Planning Committee considered a report on 2nd October 2002 recommending conditional approval of an application for residential development of the site, subject to the departure procedure, the provision and maintenance of flood alleviation works, and contribution to off-site leisure facilities. The application was refused on grounds of prematurity and development in the flood plain.

10.4.5.5. The Proposals Map does not show the extent of the area subject to flood risk in the vicinity, but additional data have been received from the Environment Agency, and the extent of risk is shown on the map in Appendix 4 of TD/284. The Council proposes to amend the Proposals Map for Bishops Lydeard to show the area at risk, and I concur with that amendment.

Flood Risk

10.4.5.6. The land has historically been subject to flooding, and the Environment Agency originally objected to the allocation. Objector 890/10004 also raised concerns on this matter.

10.4.5.7. The site is in a high risk flood area as defined in Table 1 of PPG3. Because of its existing use for the storage of builders' materials it falls within Category 3a of Table 1 in PPG25. Such areas have an annual probability of flooding greater than 1% (1 in 100 years). However, the PPG advises that they may be suitable for residential development provided the appropriate minimum standard of flood defence can be maintained for the lifetime of the development. The Environment Agency has indicated that the current proposals for flood protection achieve that standard plus 20%, and that there would be no increase in third party risk resulting from development. I therefore consider that there is no in principle objection to the allocation on the grounds of flood risk.

Protection of The Lawns

10.4.5.8. Objectors 21/5042, 46/5108, 269/5835, and 1018/11409 express concerns about the impact of development on The Lawns, an open area adjacent to the village. Whilst I consider that the area should continue to be protected in general terms, the allocation site

comprises an existing builders' yard, which makes no contribution to the open rural aspect of The Lawns, and has a detrimental visual impact. I therefore consider that the allocation proposed would provide a defensible boundary against further development.

Traffic Problems

10.4.5.9. Objectors 21/5041, 269/5835, 890/10004, and 1018/11409 raise concerns about the impact of the additional traffic which would be generated by the development. However, the highway authority advises that the level of traffic generation would not be significantly greater than the existing builders' yard, and would consist of light vehicles as opposed to the heavy goods vehicles associated with the current use. I concur with that view, and do not consider this to be an over-riding objection to the allocation. Issues of traffic calming are not matters for consideration as part of the Local Plan, and should be discussed with the Highway Authority.

Power Supply/Lighting

10.4.5.10. Objections 21/5042 and 21/5043 raised concerns about the design of street lighting and the diversion of the existing overhead power supply which crosses the site. The Council has amended paragraph 10.4 to make reference to these requirements, and has introduced an additional criterion in Policy BL2 requiring the diversion of the overhead power line. These objections are therefore met.

Site Boundaries

10.4.5.11. Objector 95/6725 proposes that the boundaries of the site should be expanded to coincide with the area covered by the Certificate of Lawfulness for an Existing Use issued on 25 September 1996. Since that area could be used for storage of builders' materials, I consider that the whole of the area would be improved environmentally if development were allowed. I therefore concur with the objector.

10.4.5.12. The objector also proposes that the site be expanded to the north-east to incorporate land designated in the Plan as an Area to Remain Undeveloped (ARU). That area encompasses the rear gardens of houses along High Street, and I have considered a proposal to delete the ARU designation in paragraph 7.42.4.15. I concluded on that issue that PPG17 provides amenity open space can include domestic gardens, and the designation is in line with that advice. In my view, the gardens are significant in providing a setting to the built-up area of the village, and for that reason I consider that the ARU designation should be maintained. As a consequence, I see no justification for extending the boundaries of the site at Lydeard Mead to incorporate this land.

Scale of Development

10.4.5.13. The Parish Council is concerned that the policy sets no upper limit on the number of dwellings which could be built on the site. However, the density proposed is in line with national guidance in PPG3, which suggest densities between 30 and 50 dwellings per hectare are appropriate, and the provision of smaller units would help in addressing the need for lower cost homes.

10.4.5.14. I recognise the concerns of the Parish Council that the number of dwellings could be higher than indicated in Policy BL2, since the policy sets no upper limit on the number of units on the site. However, I am satisfied that, with the limitations imposed by the size of the site and the need to provide for significant flood protection works, the eventual scale of the development would be commensurate with the levels indicated in the policy. I also note the view expressed by the Parish Council that no further development should take place in the village prior to the completion of Cotford St Luke. However, given the modest scale of development proposed I take the view that it is appropriate for the village, which is a designated rural centre in the Plan, and will have no material impact on either traffic or the environment in Bishops Lydeard.

School Capacity

10.4.5.15. Objector 1018/11409 indicates that the village school is at capacity. The Local Education Authority confirms that the school has a capacity of 237 pupils, and the forecast roll for September 2002 was 247 pupils. However, that number is forecast to fall to 198 pupils by 2006 because of reduced birth rates and the opening of the new school in Cotford St Luke. The proposed housing gain in Bishops Lydeard would be likely to generate an additional 6 pupils and, on that basis, the school would have sufficient capacity to accommodate the additional pupils.

Impact on Form and Character of the Area

10.4.5.16. Objector 1018/11409 considers that the proposal would significantly alter the form and character of this part of the village.

10.4.5.17. The site is currently a builders yard with considerable amounts of open storage of plant and materials, and provides an unattractive foreground to the open land which forms the remainder of The Lawns. Whilst a new development would change that character it would, in my view, remove an existing eyesore which has a detrimental effect on the area and bring about environmental improvements to the area generally.

Scale of Development

10.4.5.13. The Parish Council is concerned that the policy sets no upper limit on the number of dwellings which could be built on the site. However, the density proposed is in line with national guidance in PPG3, which suggest densities between 30 and 50 dwellings per hectare are appropriate, and the provision of smaller units would help in addressing the need for lower cost homes.

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implemented and maintained for the lifetime of the development, and it does not object in principle to the allocation.

10.5.5.2. Objections were received from several local residents (68/10052, 1031/11174, and 1018/10997). The latter submitted photographs showing the site flooded on 30 October 2000, which demonstrate that the existing flood protection works would not be sufficient to provide protection for the allocation site. At that stage the allocation site was inundated by flood-water, the existing channels were operating at capacity, and there was flooding of some garden areas. There were also photographs of other flood events in earlier years.

10.5.5.3. I have considered the issue of flood risk in paragraphs 10.4.5.2 to 10.4.5.6 above, and my conclusions on that matter are set out therein.

10.5.5.4. The Environment Agency objected to the wording of paragraph 10.4 in the Deposit Local Plan, and suggested a revised form of words. That wording was included in the revision at Revised Deposit stage, and the objection is therefore met.

10.5.5.5. Objector 68/10052 also suggested additional wording for paragraph 10.4, referring to the need for a drainage investigation to assess the flood attenuation measures needed. However, PPG25 has already introduced much more rigorous requirements for the consideration of sites which are at risk of flooding, and I do not consider it necessary to include specific reference to those matters in this paragraph.

10.5.6. Recommendations

REC10/5: I recommend no modification to the Plan.

APPENDIX D

**Taunton Deane Local Plan
Proposed Modifications – Spring 2004**

**RECOMMENDATION THE COUNCIL
DOES NOT INTEND TO ACCEPT
R/BL/1**

Relevant Local Plan Policy / Paragraph: Policy BL2, Paragraph 10.4

Subject: Lime Tree Farm

Inspector's Recommendation(s): REC10/4, 10/5

Modification Reference: M/BL/3, M/BL/3/MAP

Summary Of The Inspector's Recommendation(s):

REC10/4

- (i) The area of the site be amended to coincide with the Certificate of Lawfulness for an Existing Use dated 25 September 1996, and the Certificate of Lawfulness for an Existing Use dated 12 October 2000.
- (ii) The Proposals Map be amended to show the extent of the area liable to flood.

REC10/5

No modification to the Plan.

Council Decision:

Reject Inspector's Recommendation.

Reasons For Not Accepting The Recommendation(s):

The Inspector's Recommendation has been overtaken by events. The site should be removed from the Plan following refusal of planning permission for residential development at appeal during 2003.

Planning permission was refused for the following reasons:

- (i) The proposal comprised inappropriate development on an area at high risk of flooding and did not provide technically sound flood defence measures, contrary to national planning objectives set out in PPG25 and the emerging Local Plan policy EN30
- (ii) Development on the site, outside the settlement boundary, would seriously erode the rural setting of Bishops Lydeard, contrary to policies in the adopted Structure Plan and the West Deane Local Plan

Paragraph 10.4 needs to be deleted from the Plan following the deletion of Policy BL2 to which it refers. Consequential modifications will be required to other sections of the Plan.

**Taunton Deane Local Plan
Proposed Modifications – Spring 2004**

**PROPOSED MODIFICATION
M/BL/3, M/BL/3/MAP**

Relevant Local Plan Policy / Paragraph: Policy BL2, Paragraph 10.4, Proposals Map

Subject: Lime Tree Farm

Inspector' Recommendation: REC10/4, 10/5

Summary Of The Inspector's Recommendation:

REC10/4

- (i) The area of the site be amended to coincide with the Certificate of Lawfulness for an Existing Use dated 25 September 1996, and the Certificate of Lawfulness for an Existing Use dated 12 October 2000.
- (ii) The Proposals Map be amended to show the extent of the area liable to flood.

REC10/5

No modification to the Plan.

TDBC Response:

Disagree, because the Inspector's Recommendation has been overtaken by events. The site should be removed from the Plan following refusal of planning permission for residential development at appeal (April 2003). Planning permission was refused for the following reasons:

- (i) The proposal comprised inappropriate development on an area at high risk of flooding and did not provide technically sound flood defence measures, contrary to national planning objectives set out in PPG25 and the emerging Local Plan policy EN30.
- (ii) Development on the site, outside the settlement boundary, would seriously erode the rural setting of Bishops Lydeard, contrary to policies in the adopted Structure Plan and the West Deane Local Plan.

Consequential modifications will be required to other sections of the Plan.

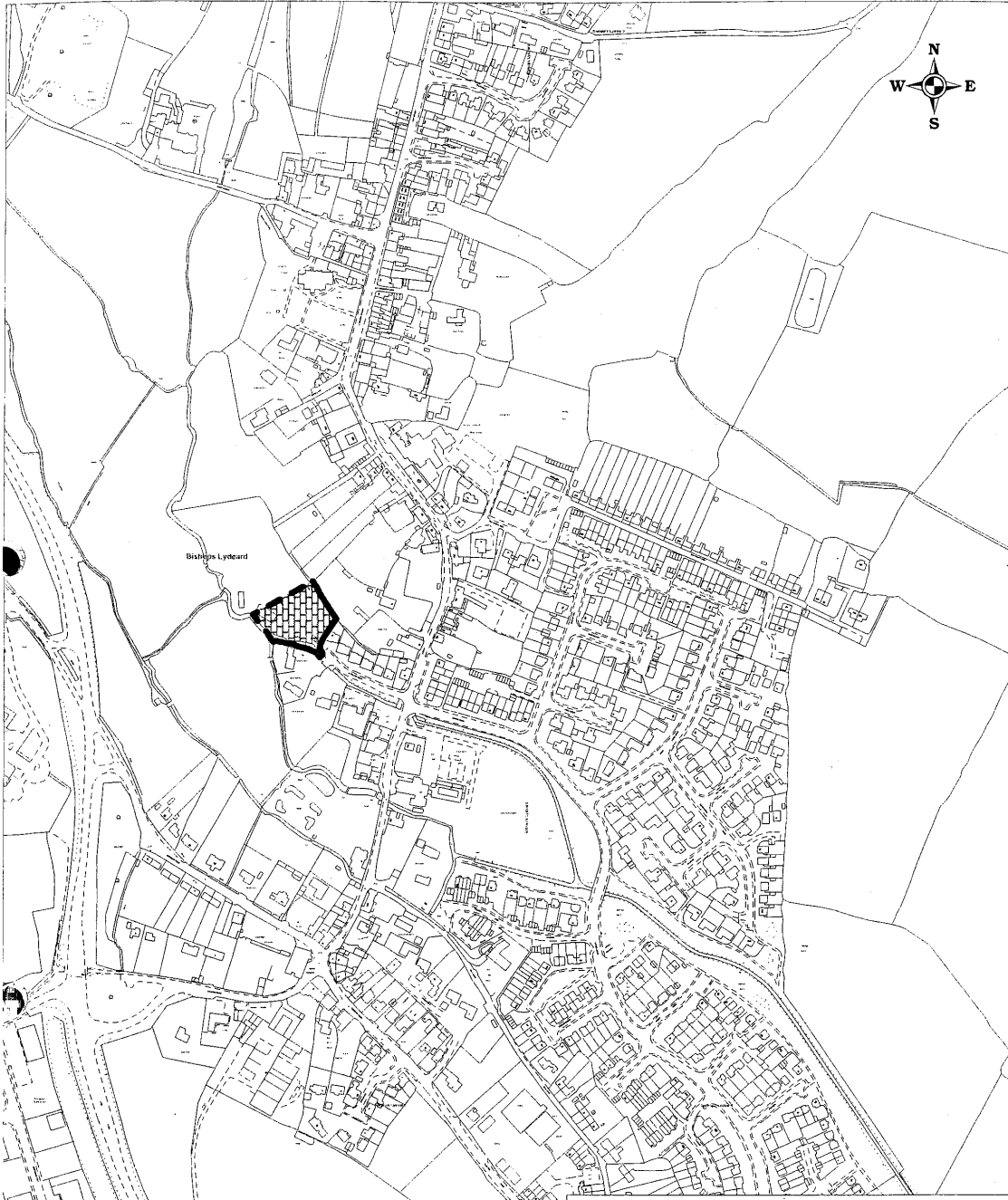
Regarding the land liable to flood, it is proposed to update the Proposals Map to show areas of 1 in 100 year flood plain, as explained in M/EN/17/MAP above.

Council Decision: Reject Inspector's Recommendation – refer to R/BL/1.

Modification Detail:

Delete policy BL2 and supporting text (paragraph 10.4).

Delete the Lime Tree Farm housing allocation, and amend the settlement limits accordingly, on the Bishops Lydeard inset map (refer to Map 20).



KEY

- Amended Settlement Limit
- Deleted Settlement Limit
- Deleted Housing Allocation at Lime Tree Farm

**Map 20 Taunton Deane Local Plan Proposed Modifications to Inset Map 4 Bishops Lydeard
M/BL/3/MAP Deletion of Housing Allocation and Amendment of Settlement Limits**

Date: 15/03/2004

Scale 1: 5000

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APPENDIX E Areas liable to flooding

