

23/2004/030

MR M BROOKE

FORMATION OF NEW ACCESS TO BUTTS WAY AND UPGRADING AND EXTENSION OF EXISTING VEHICULAR ACCESS TRACK INTO PREMISES FROM BUTTS WAY, THE ORGANIC HERB TRADING COMPANY LTD, COURT FARM, HIGH STREET, MILVERTON, AND AS AMPLIFIED BY WILDLIFE SURVEY RECEIVED ON 1ST DECEMBER, 2004 AND PLAN RECEIVED ON

11243/25702

FULL

1.0 **RECOMMENDATION**

I recommend that permission be GRANTED subject to the following conditions:-

- 01 The development hereby permitted shall be begun within five years of the date of this permission.
- 01 Reason: In accordance with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.
- 02 (i) Before any part of the permitted development is commenced, a scheme of planting of trees, shrubs and hedges, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority.
(ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority. (iii) For a period of five years after the completion of the planting scheme, the trees, shrubs and hedges shall be protected and maintained to the satisfaction of the Local Planning Authority and any trees, shrubs or hedges that cease to grow shall be replaced by trees, shrubs or hedges of similar size and species, or the appropriate trees, shrubs or hedges as may be approved in writing by the Local Planning Authority.
- 02 Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Revised Deposit Policy S2.
- 03 No development shall take place until Butts Way has been widened to 6.75 m for a length of 50 m in the vicinity of the proposed access as shown on Drawing No. 041041-R03B.
- 03 Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.
- 04 A passing place shall be provided on Butts Way in a position shown on Drawing No. 041041-R03B; the passing place to be provided prior to the development taking place.

- 04 Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.
- 05 There shall be no obstructions to visibility in excess of 300 mm above adjoining carriageway level within the splays of 4.5 m x 60.0 m in each direction from the centre line of the access. Such visibility splays to be provided prior to the access coming into use. The access for the first 20 m shall be no steeper than 1-in-10 and the first 5.0 m of the access to be a maximum gradient of 1-in-20.
- 05 Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.
- 06 The first 20 m of the access drive from the edge of carriageway shall be hard-surfaced (not loose stone or gravel) prior to its use commencing.
- 06 Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.
- 07 Positive drainage shall be provided at the junction of the access road and Butts Way to prevent surface water discharging onto the highway.
- 07 Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.
- 08 All work in cutting back overhanging vegetation, managing adjacent hedges and removing the roadside section of hedge shall only be carried out in the period October to November inclusive (to avoid damage and disturbance to badgers (not December to June) and nesting birds (not April to September)). Such work could also be carried out during the period December to March inclusive if there are no occupied badger setts within 20 metres of the proposed work i.e. work on removing the roadside hedge could be carried out at this time.
- 08 Reason: In order not to disturb protected species. Taunton Deane Local Plan Policy EN4a.
- 09 Work on upgrading, extending and altering the track shall be carried out during the period July to November inclusive but only once a method of working has been agreed with English Nature and a licence has been granted with relation to measures regarding the badger setts.
- 09 Reason: In order not to disturb protected species. Taunton Deane Local Plan Policy EN4a.
- 10 The existing access shall be permanently closed when the access hereby permitted is brought into use. Details of the means of closure shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is commenced.
- 10 Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.

Notes to Applicant

- 01 The requirements of Conditions 03 and 04 will need to be the subject of a Section 278 Agreement with the Highway Authority.

- 02 With regard to Condition 02, a suggested planting mix for the required hedge would be 40% hawthorn (*Crataegus monogyna*), 40% blackthorn (*Prunus spinosa*), 10% hazel (*Corylus avellana*) and 10% field maple (*Acer campestre*), common dogwood (*Cornus sanguinea*), guelder rose (*Viburnum opulus*) and spindle (*Euonymus europaeus*). These trees/shrubs should be obtained from local stock if possible. Alternatively consideration could be given to attempting to transplanting the existing hedgerow.
- 03 If slow worms or other species of reptile or amphibian are found during the work they should be carefully moved to a suitable safe location in local habitats that will not be disturbed by the work. The relocation of these creatures should be carried out by a qualified and licensed ecologist.
- 04 If dormice or other legally protected species are discovered during the construction process, work should be immediately stopped and a qualified ecologist should be called in for advice.
- 05 With regard to Condition 08, because of the presence of active badger setts where animals may be rearing young, it is generally accepted that work on the track should not be carried out during the period December to June inclusive unless other measures are taken to avoid damage and disturbance to these animals. It is also generally accepted that although "earthworks or machinery associated with road construction or maintenance should not encroach within 20 metres of any entrance to an (active) sett", it is reasonable that "where badgers have made setts in existing road embankments or cuttings, machinery may have to approach more closely and a licence is likely to be required" (road is used here in its widest sense of any vehicular access way). Ref: "Badgers and Development" (English Nature).

REASON(S) FOR RECOMMENDATION:- The proposal is considered to provide for a safe access and not to harm the rural character of the area or wildlife and is therefore in compliance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49 and Taunton Deane Local Plan Policy S1(C) and (D).

2.0 **APPLICANT**

Mr M Brooke

3.0 **PROPOSAL**

The proposal provides for the formation of a new access to Butts Way and the upgrading and extension of an existing vehicular access track which leads from Butts Way to the Organic Herb Trading Company Ltd at Court Farm, High Street, Milverton. This will enable its use by delivery vans and lorries and other such visiting vehicles and will replace the existing access to the premises via High Street. The proposal does not involve any new building work at the premises themselves.

Some existing small trees and shrubs which border the southern section of the track are to be cleared as necessary to enable adequate width to be gained. The track is to be to a standard 4 m width with passing bays along its length. The track width at the position of passing bays is to be increased to 7 m. A 4 m section of walling on the southern boundary of the herb company premises is to be demolished to provide access to the buildings.

The width of Butts Way in the vicinity of the new access is to be increased to 5.5 m. The new access will be 6.75 m wide at the entrance with 10 m radius bends and a 4.5 m x 60 m visibility splay extending in both directions. A new field boundary fence and hedge will be provided behind the visibility splay.

The herb company currently employs 14 office staff (some only part time), 11 warehouse staff and 2 horticulture/farm workers. Excluding employees' vehicles, the current estimated vehicular flow to the premises (currently via High Street) is 4 cars, 3 vans and one lorry, but the applicant's agent indicates that, as the company expands in the future, these figures may double.

A letter of support from the herb company is included as Appendix 1 to this Report.

4.0 **THE SITE**

Butts Way leads westwards out of the village of Milverton in the direction of Spring Grove and Bathealton. The proposed new access will replace the existing access beyond the western edge of the residential development on the northern side of Butts Way. The access track leads in a northerly direction towards Court Farm.

5.0 **RELEVANT PLANNING HISTORY**

23/1994/011 change of use of agricultural building and milking parlour for the storage and packing of herbs and w.c., mess room and office at Milverton Court, Milverton. Full planning permission granted May 1994.

23/2000/017 - Widening of an access, erection of wall and construction of concrete area to enable the loading of apples at Milverton Cider Orchards, Bathealton Road, Milverton. Application withdrawn August 2000

6.0 **RELEVANT PLANNING POLICY**

Somerset and Exmoor National Park Joint Structure Plan Review

Policy STR1 sustainable development

Policy STR6

DEVELOPMENT OUTSIDE TOWNS, RURAL CENTRES AND VILLAGES

Development outside Towns, Rural Centres and Villages should 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.

Policy 19 Employment and Community Provision in Rural Areas

Policy 49

TRANSPORT REQUIREMENTS OF NEW DEVELOPMENT

Proposals for development should be compatible with the existing transport infrastructure, or, if not, provision should be made for improvements to infrastructure to enable development to proceed. In particular development should:-

- provide access for pedestrians, people with disabilities, cyclists and public transport;
- provide safe access to roads of adequate standard within the route hierarchy and, unless the special need for and benefit of a particular development would warrant an exception, not derive access directly from a National Primary or County Route; and,
- in the case of development which will generate significant freight traffic, be located close to rail facilities and/or National Primary Routes or suitable County Routes subject to satisfying other Structure Plan policy requirements.

Policy 54

TRANSPORT PROPOSALS AND THE ENVIRONMENT

New transport proposals and improvements, particularly road schemes must take into account the need to:-

- minimise the impact of proposals through mitigation and compensation measures, improve or conserve the natural and built environment,
- avoid the risk of pollution to the water environment, including water resources,
- minimise the consumption of resources both in construction and operation,
- minimise conflict with adjoining land uses.

Taunton Deane Local Plan

Policy S1 General requirements

Policy S8 Outside defined settlement limits, new building will not be permitted unless it maintains or enhances the environmental quality and landscape character of the area and

- (A) is for the purposes of agriculture or forestry;
- (B) accords with a specific Development Plan policy or proposal;

- (C) is necessary to meet a requirement of environmental or other legislation; or
- (D) supports the vitality and viability of the rural economy in a way which cannot be sited within the defined limits of a settlement.

New structures or buildings permitted in accordance with this policy should be designed and sited to minimise landscape impact, be compatible with a rural location and meet the following criteria where practicable:-

- (E) avoid breaking the skyline;
- (F) make maximum use of existing screening;
- (G) relate well to existing buildings; and
- (H) use colours and materials which harmonise with the landscape.

Policy EC1a Proposals by existing firms to expand onto land subject to restrictive policies will be permitted where relocation to a more suitable site is unrealistic and the economic benefit of the proposal outweighs any harm to the objectives of the relevant policy. Mitigating measures will be sought to reduce any environmental impact to a minimum.

Policy M1 Non-residential developments will be permitted provided that they cater safely for the expected number of trips generated or attracted by them and:

- (A) the proportion of total trips provided for by car parking does not exceed the maxima set out in policy M2;
- (B) cycle, pedestrian and public transport facilities are provided sufficient to cater safely and conveniently for those trips with no car parking provision; and
- (C) provision is made for the movement needs of staff, customers and other visitors with impaired mobility or disabilities by careful positioning of potential obstructions, ramps, dropped kerbs, textured surfaces and reserved car parking.

Policy EN3

Development which would significantly adversely affect local nature conservation or geological interests will not be permitted unless:

- (A) the importance of the development outweighs the value of the substantive interests present; and

- (B) every possible effort to minimise harm to those interests is made.

Where it is decided to allow development affecting local nature conservation or geological interests, planning obligations will be sought requiring developers to provide adequate compensatory measures for the site's long term management to preserve and enhance its wildlife or geological interest.

Policy EN4a Development which would harm protected species will not be permitted unless:

- (A) conditions and/or planning obligations would prevent such harm;
- (B) other material factors are sufficient to override the importance of the species, and
- (C) every possible effort is made to minimise ill effects on wildlife.

Policy EN5 Development which would harm trees, woodlands, orchards, historic parklands and hedgerows of value to the area's landscape, character or wildlife will not be permitted unless adequate provision is made for tree cover to compensate for this loss.

The good management of such tree cover for nature conservation purposes will be sought.

Policy EN8 Tree planting

Policy EN13 Landscape character areas

7.0 **CENTRAL GOVERNMENT POLICY GUIDANCE**

PPG1 General Policy and Principles

Paragraphs 4 –6

Paragraph 21

Paragraph 28 A number of the previous themes come together in considering development in the countryside. Here, the planning system helps to integrate the development necessary to sustain economic activity in rural areas with protection of the countryside. Rural areas can accommodate many forms of development without detriment, if the location and design of development are

handled with sensitivity. Building in the open countryside, away from existing settlements or from areas allocated for development in development plans, should be strictly controlled. In areas such as National Parks which are statutorily designated for their landscape, wildlife or historic qualities and in areas of best and most versatile agricultural land, policies give greater priority to restraint.

Paragraph 40

The Government is committed to a plan-led system of development control. This is given statutory force by section 54A of the 1990 Act. Where an adopted or approved development plan contains relevant policies, section 54A requires that an application for planning permission or an appeal shall be determined in accordance with the plan, unless material considerations indicate otherwise. Conversely, applications which are not in accordance with relevant policies in the plan should not be allowed unless material considerations justify granting a planning permission. Those deciding such planning applications or appeals should always take into account whether the proposed development would cause demonstrable harm to interests of acknowledged importance. In all cases where the development plan is relevant, it will be necessary to decide whether the proposal is in accordance with the plan and then to take into account other material considerations. The status of plans which are not yet adopted or approved is covered in paragraph 48.

Paragraph 50

Paragraph 54

PPG4 'Industrial, commercial development and small firms'

Paragraph 13

The planning system should operate on the basis that applications for development should be allowed, having regard to the development plan and all material considerations, unless the proposed development would cause demonstrable harm to interests of acknowledged importance. Development control should not place unjustifiable obstacles in the way of development which is necessary to provide homes, investment and jobs, or to meet wider national or international objectives. Nevertheless planning decisions must reconcile necessary development with environmental protection and other development plan policies. Local planning authorities can do much to guide firms, and particularly small firms, through the requirements of the planning system.

PPS7 Sustainable Development in Rural Areas

Paragraph 2 Planning policies in Regional Spatial Strategies (RSS) and Local Development Documents (LDDs) should facilitate and promote sustainable patterns of development and sustainable communities in rural areas. This should include policies to sustain, enhance and, where appropriate, revitalise country towns and villages (including through the provision of affordable housing) and for strong, diverse, economic activity, whilst maintaining local character and a high quality environment. To ensure these policies are relevant and effective, local planning authorities should be aware of the circumstances, needs and priorities of the rural communities and businesses in their area, and of the interdependence between urban and rural areas. Where there is a lack of up to date, robust information, local authorities should consider commissioning surveys and assessments of rural economic and social conditions and needs, including local housing needs.

Paragraph 6

Paragraph 15

Paragraph 17

PPG13 Transport

Paragraph 1

Paragraph 3

Paragraph 6

Paragraphs 45 and 46.

8.0 **CONSULTATIONS**

County Highway Authority

“The site. Court Farm, would appear to have two accesses to the public highway - one to High Street and one onto Butts Way, although the access to Butts Way is at present in the form of an un-metalled track.

The access to High Street is narrow and has sub-standard visibility at its junction with St Michael's Hill.

The proposal is to make up and improve the existing access track to Butts Way and reposition its junction and provide improved carriageway width, visibility and a passing place.

The access will result in the redistribution of the business traffic from the development site from an unclassified road to the Class 3 road. Butts Way.

The business traffic will use Butts Way and the residential traffic to Court Farm and its buildings will use High Street.

The business employs twenty-seven staff and, in addition, the application states that a further eight vehicles per day access Court Farm in connection with the business. Therefore, it is likely that the number of vehicles that may use Butts Way in conjunction with the business in a working day is thirty-five.

I understand that concerns have been voiced by residents regarding the likely increased conflict between vehicles and pedestrians on Butts Way and at the junction of Butts Way with the B3187 close to Milverton School. Butts Way has no facilities; however, pedestrians at the school have facilities to enable them to cross safely and the school has a crossing patrol at school arriving and leaving times.

Current levels of traffic on Butts Way have been counted on a single day. The number of vehicles counted varied between 336 in one count and 686 in the other. It can be seen that the likely increased traffic generated by the proposal is small when compared with the existing level of use and it is my view that the planning application would not result in a situation where highway safety would be significantly prejudiced. I set out below the following conditions, which must be attached to any consent granted and implemented prior to the access coming into use:

1. No development shall take place until Butts Way has been widened to 6.75m for a length of 50m in the vicinity of the proposed access as shown on Drawing No 041041-R03B.
2. A passing place shall be provided on Butts Way in a position shown on Drawing No 041041-R03B; the passing place to be provided prior to the development taking place.
3. Items 1 and 2 to be the subject of a Section 278 Agreement with the Highway Authority.
4. There shall be no obstructions to visibility in excess of 300 mm above adjoining carriageway level within the splays of 4.5 m x 60.0 m in each direction from the centre line of the access. Such visibility splays to be provided prior to the access coming into use. The access for the first 20 m shall be no steeper than 1-in-10 and the first 5.0 m of the access to be a maximum gradient of 1-in-20.

5. The first 20 m of the access drive from the edge of carriageway to be hard-surfaced (not loose stone or gravel).
6. The positive drainage shall be provided at the junction of the access road and Butts Way to prevent surface water discharging onto the highway.”

Somerset Environmental Records Centre

“Statutory and Non-statutory sites and species at the application.

None

Statutory and Non-statutory sites and species within 1 km

Statutory: Legally Protected Species

One or more Legally Protected Species have been found

Non-Statutory: County Wildlife Sites

File Code	Name	Description
ST02/004	River Tone and Tributaries	Biologically rich river and tributaries with a variety of associated habitats and legally protected species Ancient semi-natural broadleaved woodland.
ST12/001 ST12/003	Aslant Covert Higher Park Kill Covert	Ancient semi-natural broadleaved woodland with conifer plantation stream and flush.
ST12/004	Burnhill Covert	Ancient semi-natural broadleaved woodland.
ST12/005	Duck's Copse &	Ancient semi-natural broadleaved woodland with herb-rich ground flora.
ST12/006	River's Wood	Ancient semi-natural broadleaved woodland with areas of conifer and broadleaved plantation.
ST12/007	West Park Covert	Ancient semi-natural broadleaved woodland, and old quarry.
ST12/091	Lower Lovelynch Meadow	Unimproved Calcareous Grassland

Non-Statutory: County Geological Sites

File Code	Name	Description
ST12/536	Poole's Kiln Quarry	Triassic Budleigh Salterton Pebble Bed.

Statutory: 1990's Badger Data

One or more 1990's Badger Data have been found.”

Somerset Wildlife Trust

"We have studied the response of the Somerset Environmental Records Centre.

Badgers

We note that the applicant intends to seek advice from Defra and English Nature on the "relocation of the badgers". Neither the location of any badger setts nor the likely impacts upon them is evident from the information we have received.

In our view the avoidance of adverse impacts in the first place is always preferable to removal operations, which are generally expensive and also carry some risk of failure. In order to inform the Authority's decision on this application we therefore recommend it require the submission of an expert evaluation of the likely impacts of the development on these legally protected animals, together with recommendations for any mitigation or, failing this, compensation measures that might be required.

Hedgerow

The proposal includes the creation of a 4.5 m wide visibility splay extending 60 m in each direction along Butts Way. We are particularly concerned about this aspect of the proposal since it seems highly likely to us that this would involve the removal of the existing hedgerow.

It has been reported to us that this is of high quality and here, too, we would recommend the Authority consider asking for an ecological survey and evaluation of the hedge in order to inform its decision. Ancient and/or species rich hedgerows are one of the habitats that appears on the list of habitats of "principal importance" for biodiversity in England, published by the Secretary of State under Section 74 of the Countryside and Rights of Way Act, 2000. Furthermore, all hedgerows are examples of features of the landscape, which are of major importance to wild flora and fauna (see PPG9, para 16).

If there are no options for avoiding the removal of the hedgerow we would at least recommend the Authority make use of appropriate conditions or obligations to secure an appropriate mitigation and/or compensation package.

In our view this should certainly include a requirement that the proposed new boundary feature alongside the visibility splay should comprise a native hedgerow.

This might be achieved through attempting to transplant the existing hedgerow. There have been a few successful examples whereby entire mature hedgerows have been transplanted and particularly if this hedgerow were to prove ancient and/or species rich, it would seem appropriate to attempt that here.

However, the success of such operations is by no means guaranteed and in the event of failure we believe there should still be a requirement to replant using appropriate native species of local provenance.

In either case - transplant or new planting - we believe it would also be appropriate to require a long-term maintenance plan for the hedgerow.

Finally we would recommend that any vegetation clearance work be conducted outside the bird breeding season (March to August inclusive) so as to avoid the potential for disturbance of nesting birds.”

Council for the Protection of Rural England

“1. The removal of hedgerow at the junction to Butts Way

The threatened hedgerow is of too poor a quality to warrant protection. Unlike the hedge on the orchard side it has been badly maintained and is in poor shape. Given assurances that the site will be replanted with new trees and shrubs that are in keeping with the local flora, and that any resident wildlife will be sensitively relocated, CPRE has no objection to the removal of these low-grade hedgerows and welcomes the improvement that a significant replanting will bring as well as the improvement to the view that will be the fortunate result of a vision splay onto Butts Way.

2. New lease of life for Taunton Deane footpath

If the above application is successful the current High Street drive to Milverton Court will no longer be used by commercial vehicles. This lane is, as you know, a public footpath at the start of one of the major circular walks recommended by the Taunton Deane Borough Council. There has already been one near-fatal accident on this lane in the last 18 months. The removal of heavy and potentially fatal commercial traffic from this idyllic pedestrian route is therefore a strong recommendation of the CPRE.

It is for these reasons that we believe that the application should be granted. “

Milverton County Primary School

“I am writing as Headteacher of Milverton School to express concerns (that may be unfounded) about a potential increase in heavy traffic using Butts Way in Milverton as a result of developments at Milverton Court.

Milverton School pupils use Butts Way and there is no pavement on either side of the road. We have a crossing patrol at the bottom of the hill to see children across Butts Way but there is little protection for children walking up or down the hill. There are also parked cars which create hazards and the road is heavily overhung by trees.

We are in negotiations with the Parish Council and Somerset County Council to open up a footpath alongside the school boundary which would join Butts

Way near the old water pump. This would still leave an area of up to 100 m without a footpath for children walking to and from Courtfields. An increase in traffic on Butts Way given these considerations would be a concern.”

Landscape Officer

“My main concern is the impact of the new access way which will have a significant impact on the rural character of Butts Way. The removal of the existing bank and low hedgerow will look urban and out of character with the area. If approval is given I recommend a more rounded cutting rather than the engineered lines to suggest an alternative more traditional reason for the lane widening. This would require more land but would provide an opportunity for tree planting as well as replacement hedgerow.

There may be some impact on the lane vegetation but as it is a private trackway, it is unlikely to have a significant wider impact.”

Wildlife Species Co-ordinator

“I advise that a wildlife survey be carried out to establish if there are badger setts along the track and if there are implications for any other protected species.”

Parish Council

“The Parish Council objects to the application because (1) the works required to upgrade the track will be an unwarranted intrusion into the rural scene; (2) the required road widening will impact adversely on Pound Lea Cottage; (3) the road will adversely impact on protected species (badgers) and the environment; (4) the creation of a new access will significantly increase traffic onto Butts Way which is narrow and unsuitable thus making it more hazardous for pedestrians and other road users.

9.0 **REPRESENTATIONS**

29 LETTERS OF OBJECTION have been received making the following points:-

1. Will have adverse impact on the wildlife of the area, in particular owls and badgers.
2. Impact on safety of Butts Way. There is always a lot of congestion and traffic at the junction with the main village street. Implication of more traffic flow and lorries. The road is quite narrow at present and parking around the area is always a problem, making the road even more narrow. Bigger and heavier vehicles may result in accidents and congestion if the development occurred.
3. Concern that with more traffic an accident may happen with children who use the recreation ground and the cricket club in Butts Way.

4. Loss of 60 m of existing hedge and earth bank in each direction. Appalled at the prospect of the destruction of such a large expanse of mature and ecologically diverse hedgerow. New planting will take a considerable time to establish.
5. Will be detrimental to the tourist village.
6. Proposal will inevitably lead to new industrial units or housing and a great increase in traffic will change Butts Way from a tranquil part of an historic village with much character to a busy more frantic area.
7. Query whether this is the sort of area traffic flow should be encouraged.
8. Proposal will have a very severe visual impact and totally destroy the character and beauty of this pleasant country lane and its attendant wildflower and animal life.
9. Will significantly extend the urban fringe of Milverton further into the countryside.
10. Concern at possibility of soil erosion from newly extracted field boundaries and embankments. The local sandy clay soil is rather prone to run-off following heavy winter rainfall when exposed by this sort of excavation. This could result in tons of soil being washed onto the road, causing a slippery dangerous driving surface.
11. Increased damage to roadside verges, hedgerows and kerbstones by vehicles manoeuvring to avoid parked cars in Butts Way.
12. Difficulties of accessing via Butts Way through Milverton may result in vehicles approaching via Wiveliscombe, Spring Grove Cross and down Butts Way. This section is very twisty and in the winter, with mud and ice on the road, is extremely dangerous to unwary drivers.
13. The prospect of more traffic, especially large/high sided vehicles using this road will not be welcomed by the local equestrian community.
14. Shifting road traffic and safety problems from one dangerous bottleneck to another.
15. A more suitable alternative access to Court Farm should be identified or better use made of the existing access.
16. Danger to school children walking down Butts Way to the primary school. There is no pathway on Butts Way, the lane is very narrow in places and the traffic is busy enough now with school buses, farm vehicles, horse boxes, milk lorries, etc.

17. The herb company has reached a point in its development where moving to a more convenient site, near a motorway junction, or on an industrial estate at Wellington or Wiveliscombe, should be the next stage in its development, particularly for the distribution part of its business.
18. Access track has not been used as such for a very long time and was then used as a cart track for use by horse drawn vehicles.
19. There is not enough room for a big lorry to turn right at the end of Butts Way, as heavy traffic would be forced to come right through the village to turn round at the roundabout.
20. There are more child pedestrians using Butts Way than High Street.
21. Only reason for the proposal is to increase the sale price of Milverton Court. This is an act of selfishness and extreme greed.
22. Understood access could be constructed from the by-pass.
23. Milverton is a rural village where narrow streets are approached by countrified routes that have been designated as unsuitable for HGVs.
24. When Butts Way is clear, vehicles can shoot down at surprising speeds.
25. Council should provide a grant to enable relocation of company.
26. Increased use of Butts Way by heavy lorries would result in the further destruction of the already pitted road surface.
27. Increased heavy traffic will exacerbate problem of damage to tree branches from passing traffic.
28. Increased damage to parked vehicles.
29. If Butts Way becomes blocked, emergency services could be hindered.
30. Traffic figures are underestimated with as many as 5 lorry deliveries per day – a survey should be carried out.
31. Views from Butts Way towards Court Farm would change for the worse.
32. Track cannot be considered in any way an 'existing vehicular track' – what actually exists is an overgrown footpath and then a field.
33. Will adversely affect residents' quality of life.

34. This area needs a restriction in traffic flow with speed humps throughout.
35. Detrimental effect on value of properties.
36. Widening the track will mean cutting down a lot of trees and shrubs which have taken a long time to establish.
37. If High Street cannot cope with the vehicles of the herb farm, why should the residents of Butts Way have to tolerate them?
38. Believe herb company intend to use larger lorries to cut their transport costs.
39. Not everyone affected has been notified of the proposal.
40. Traffic will come very close to house where Butts Way is to be widened with a passing place.
41. Query re: ownership of land.
42. Increased noise from traffic.
43. A development on this scale should not be considered without a rigorous environmental and health impact assessment.

A letter of objection has been received from the Milverton Traffic Action Group making the following points:-

“The Milverton Traffic Action Group (MTAG) was formed towards the end of last year at the invitation of the Milverton Parish Council, and now works under the auspices of the Council. The purposes of the Group are to examine the ongoing situation with regard to traffic flow through the Village, to identify the implications for the safety of residents, visitors and others and the implications of any effects on the fabric of buildings and works, both private and public, to prepare a plan of action for approval by the Council, and to implement the plan.

MTAG objects to this planning application for the following reasons:

I. Butts Way carries far more pedestrian traffic than High Street. A survey by this organisation taken at the bottom of Butts Way on 18th October, 2004 showed that 276 pedestrians passed the survey point between 7 a.m. and 7 p.m. Peak pedestrian traffic occurred between 8 and 9 a.m. at 37 pedestrians and between 3 and 4 p.m. at 101. We also counted 11 cyclists during the time of the survey. These figures take no account of the internal pedestrian and cycle traffic on Butts Way, particularly children and parents using the Recreation Ground. Attached is a series of graphs indicating these figures. Herb Farm traffic using Butts Way rather than High Street would thus place a

large number of pedestrians, including Mothers and Children at increased risk of being struck by these extra vehicles.

Traffic Survey, Butts Way, 18th October, 2004													
	7/8	8/9	9/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18	18/19	Total
Cycles	3					1				2	1	4	11
Motor Cycles						1	1			2	3	3	10
Pedestrians	9	37	11	4	13	13	24	7	101	19	12	26	276
Cars/4x4s	45	63	33	26	24	40	35	26	52	48	35	54	481
Pick-ups/ Vans	3	12	13	11	8	13	17	4	3	10	8	17	119
Goods: 2 Axles	2		1	1	5	3	14	8	2	3		7	46
Buses/Agri		2	2	1	1	1	1	1	2	6	2		19
Totals	62	114	60	43	51	72	92	46	160	90	61	111	962

2. The dangers to pedestrian traffic would also be exacerbated by the lack of footpaths along the entire length of Butts Way.

3. The proposed increase in activities at the Herb Farm may double the traffic associated with the herb farm (Application for Planning Permission, point 20). This would further increase the danger to pedestrians.

4. Large vehicles experience some difficulty in turning into Butts Way from the Wellington direction (from the B3187), and out of Butts Way into the B3187 to Wellington because the turning angle is greater than 90°, sometimes requiring three point turns to get round. This is at the pedestrian entrance and road crossing of Milverton County Primary School.

5. The new Somerset 'strategic freight routes and service information' map now indicates that the B3187 between Wellington and Milverton is 'Unsuitable for HGV's' (see attached copy of letter from David Horne, Principal Transport Officer, 10th June, 2004).

6. We find it difficult to reconcile the employment figures (Application, point 19) of up to 27 needing to get to and from work and the vehicular traffic flow (Application, point 20) of 4 cars and 3 vans and 1 lorry."

A letter has also been received from the newly formed Butts Way Safety Action Group stating the following:-

"The above planning application has caused deep concern amongst many Milverton residents, and appears to be generating a level of anxiety not experienced in our community for many years.

As a consequence, residents in Buttsway, Courtfield and High Street, as well as other concerned villagers, have formed the BUTTSWAY SAFETY ACTION GROUP (BSAG), to oppose the application in the interests of the community as a whole. Our group has initiated a petition in the village the results of which will reach you in due course. Further, when this matter comes before the

Planning Committee for consideration, we will be present to make our views on the application known.

In the meantime, we bring to your attention a matter that has caused us some concern. The Organic Herb Trading Company, in the course of this application, has circulated a document entitled: "The Organic Herb Trading Company, Planning Application 23/2004/030, Background Information" (We enclose a copy for your reference.) It is our view that numerous statements within this document do not accurately reflect the issues that this application has raised. We have therefore taken it upon ourselves to provide a rebuttal of these statements. In the interests of an informed debate on this application, we urge you to read the attached with care.

This document has been circulated to all Councillors on the Planning Committee."

Copies of the background information from the Organic Herb Trading Company and the refutation from the Action Group are set out as Appendices 2 and 3 of this Report.

A petition containing about 300 signatures has been received. The heading of the petition is as follows:-

"This is a petition against the proposed new road at the top of Butts Way leading to The Organic Herb Company. The existing track would become the main route for HGV and other business traffic. Their lorries would be using Butts Way for every delivery and collection. They have also stated that they intend to double their existing traffic in the future. Please sign below to stop this proposal."

5 LETTERS OF SUPPORT have been received making the following points:-

1. Trust that the committee will respond only to the facts of the application, ignoring the irrational conjecture on which most of its opposition seems to be based.
2. Butts Way is wider than High Street in all aspects, especially its emergence onto Sand Street. It is a through road which would allow some traffic to disperse in either direction, and it is already deemed suitable for large vehicles as it is a dedicated bus route.
3. Butts Way is on the southern fringe of Milverton, closer to the motorway than any other road in the village which could create an access to Court Farm - surely an advantage to this application.
4. It is physically impossible to access High Street without using at least two other streets in Milverton, so the safety of all these residents, plus that of potential developments must be considered.

5. It is the width of High Street, absence of pavements, its Junction with St Michaels Hill plus the lack of visibility in several places that causes problems, not the volume of traffic that the applicant's business attracts.
6. High Street and the drive to Court Farm serve as an integral public footpath, promoted by TDBC as one of the County's circular walks.
7. The official route to The Organic Herb Trading Company is M5 Junction 25, B3227 westbound, 2nd turning into Milverton i.e. Wood Street, St Michael's Hill (7.5T weight limit), High Street (7.5T weight limit). However, people will undoubtedly find the quickest route with the help of maps and satellite navigation systems.
8. There is nothing in current planning legislation to prevent the applicants from increasing the volume of traffic to their site along it's current route if this application were unsuccessful.
9. If larger vehicles were able to access Court Farm, this would surely be more environmentally efficient (larger loads = fewer vehicles on the road). It has been my experience that Class 1 drivers are more conscientious than Class 2 drivers.
10. There has been a huge emotional reaction to this proposal, clouded, I believe, by other road safety issues in the village, e.g. relatively high volumes of speeding through traffic, and lack of a pedestrian access to the school & recreation ground on Buttsway (these apparently exist, but are out of public use at present). If these problems are genuine, solutions must be expedited regardless of this application.
11. Many local people are being incorrectly led to believe that the Herb Farm traffic will double overnight if the applicants are successful. They are also being misinformed that this application forms part of a longer term plan to develop Court Farm on a fairly large scale, and persuaded to sign a petition against it on this basis.
12. With the inevitable advent of increased road usage in the future, Milverton should be concentrating on how best to manage the traffic, rather than trying to resist it.
13. Amazed by the defamatory and fantasy rumours that are going around the village in reaction to this plan and feel the need to put the balance right before something very special is lost through mass hysteria.
14. The arrival of the company is the best thing that has happened to the village in the last 20 years. Not only do they employ lots of local people, they also conserve and maintain exceptional farm cultivation of national importance and international significance as an extraordinarily fine and rare collection of cultivated herbs on a par with the Chelsea

Physic Garden and Leiden University in the Netherlands and a fine organic herd of Devon Red cattle.

15. It is one of the Soil Association's award winning farms and facilitates organic farm walks.
16. The family has suffered a very serious accident to one of their children which as affected the whole family and its fortunes.
17. Acts as a location for arts projects, including use by pupils from the local school – an all-round experience of joy that is not often actually available to be felt now.
18. Not only is the company innovative and creative as an employer, it also runs a company based on clear environmental ideas and staff care and relationships that are excellent. This provides an important educational flagship.
19. The Organic Herb Trading Company is the largest employer in Milverton and has always been a supporter of the local community and we should be supporting them and not pushing them out.
20. To hold public meetings in private dwellings without asking the main question in a fair and calm manner and to ban Mr Brook from attending in a rude and offensive way is unacceptable, amounting to a 'witch hunt', the sort of thing that happened in the 16th century.
21. Feel very sad that long term villagers are being pushed aside to make way for a new regime of people who would like to turn this village into a heritage site.
22. Butts Way is already a through road, without a weight restriction. The flow of traffic to the farm is far from constant, only during normal business hours, and unlikely to be hugely increased, even taking account of some expansion.
23. The Organic Herb Trading Company is a fine example of an ethically and environmentally sound local business providing rural jobs and adding to the prosperity of the village. Milverton should do all it can to accommodate it and ensure its continued success.

A letter has been received from Somerset College of Arts and Technology which uses Court Farm for students with learning difficulties . A copy of the letter is included in Appendix 4 to this Report.

10.0 **PRINCIPLE ISSUES FOR CONSIDERATION**

- A. Would the proposal result in an adverse impact on highway safety?
HIGHWAY SAFETY

- B. Will the proposal have an adverse impact on the landscape of the area? LANDSCAPE
- C. Will the proposal have an adverse impact on wildlife? WILDLIFE
- D. Will the proposal set a precedent for further development in the area? PRECEDENT
- E. SUSTAINABILITY

A. Highway Safety

Most of the letters of objection and the Parish Council raise concerns with regard to highway safety along Butts Way.

It is accepted that Butts Way is relatively narrow in parts and is subject to parking of cars owned by local residents. However vehicles serving the herb company currently approach the premises via High Street. The routes to High Street and High Street itself also have similar characteristics.

There is an existing, albeit little used, vehicular track leading from Butts Way towards the herb company premises. Ordnance Survey maps show this is as continuing to the premises, although the most northerly part has now been cultivated and grassed over and the remainder is currently impassable by vehicles. However, the track could be upgraded along most of its length without the need for planning permission.

Traffic counts along Butts Way have been carried out by both the applicants and Milverton Traffic Action Group. These indicate between 336 and 686 vehicles per day at present. On the basis of 35 vehicles per day visiting the premises, the County Highway Authority consider that the likely increased traffic to be generated by the proposal is small when compared with the existing level of use of Butts Way. They do not consider that the proposal would result in a situation where highway safety would be significantly prejudiced.

In the light of the above, I do not consider that it would be appropriate to refuse the application on highway safety grounds.

B. Landscape

The proposal will result in the loss of approximately 110 m of roadside back and hedgerow. In addition, some trees and shrubs along the access track, which hinder its width, will need to be removed. The latter work could, however, be legitimately carried out as part of normal, routine maintenance of the track. The Landscape Officer considers that this is unlikely to have a significant wider impact.

The Landscape Officer does, however, raise concerns with regard to the impact of the new access. He considers that it will have a significant impact

on the rural character of Butts Way and that the removal of the existing bank and low hedgerow will look urban and out of character with the area.

He recommends that a more rounded cutting, rather than the engineered lines, to suggest an alternative more traditional reason for the lane widening. This would provide an opportunity for tree planting as well as replacement hedgerow. The Council for the Protection of Rural England consider that the hedgerow is of poor quality, having been badly maintained and in poor shape.

I consider that with replacement tree and hedge planting as recommended by the Landscape Officer, the proposal can be satisfactorily assimilated into the rural environment, and with the additional tree planting suggested could actually enhance it.

C. Wildlife

The applicant has commissioned a Wildlife Survey by an Environmental Consultant. This indicates that the banks at the edges of the track contain access tunnels to active badger setts in a number of locations. Several regular access routes that are used by badgers also cross the track, but these animals do not appear to regularly forage along the line of the track because of the nature of its construction. Badgers do forage along the hedges on either side of the track, however. Because of this, and the fact that the track is only to be used during normal working hours, it is unlikely that the increased usage of the track by vehicles will seriously impinge on the occupation and use of the area by badgers, especially if the speed of vehicles is restricted. The upgrading work of the sections of the track where occupied badger setts lie directly below the track is likely to affect these creatures, however, particularly during the breeding season, December to June inclusive.

The hedges alongside the track are suitable as nesting habitats for a range of farmland/hedgerow species. Cutting back overhanging vegetation and management of the hedgerows in general, will not affect these creatures provided work is not carried out during the main breeding season, April to September inclusive.

The Survey concludes that badgers and nesting birds appear to be the only legally protected species that could possibly be disturbed by the proposed works. Mitigation recommendations are put forward to avoid damage and disturbance to badgers and nesting birds and these are incorporated in the recommended conditions.

D. Precedent

A number of the letters of objection refer to the likelihood of future industrial and housing development in the area should the current application proceed.

There is no indication in the proposal that such proposals would follow. Any planning applications in this regard would be dealt with on their merits and assessed against the relevant Development Plan policies pertaining at the

time. Such conjecture should not form the basis of any decision taken on the current proposal.

E. Sustainability

The herb company is presently accessed via High Street. The current proposal will not in itself result in any increase in vehicular traffic to the premises. To that extent, the proposal is neutral in terms of traffic generation.

Mitigation measures to safeguard protected species are incorporated in the proposal though the recommended conditions.

11.0 CONCLUSION

It is considered that the proposal will not significantly prejudice highway safety. The County Highway Authority do not raise objection to the proposal.

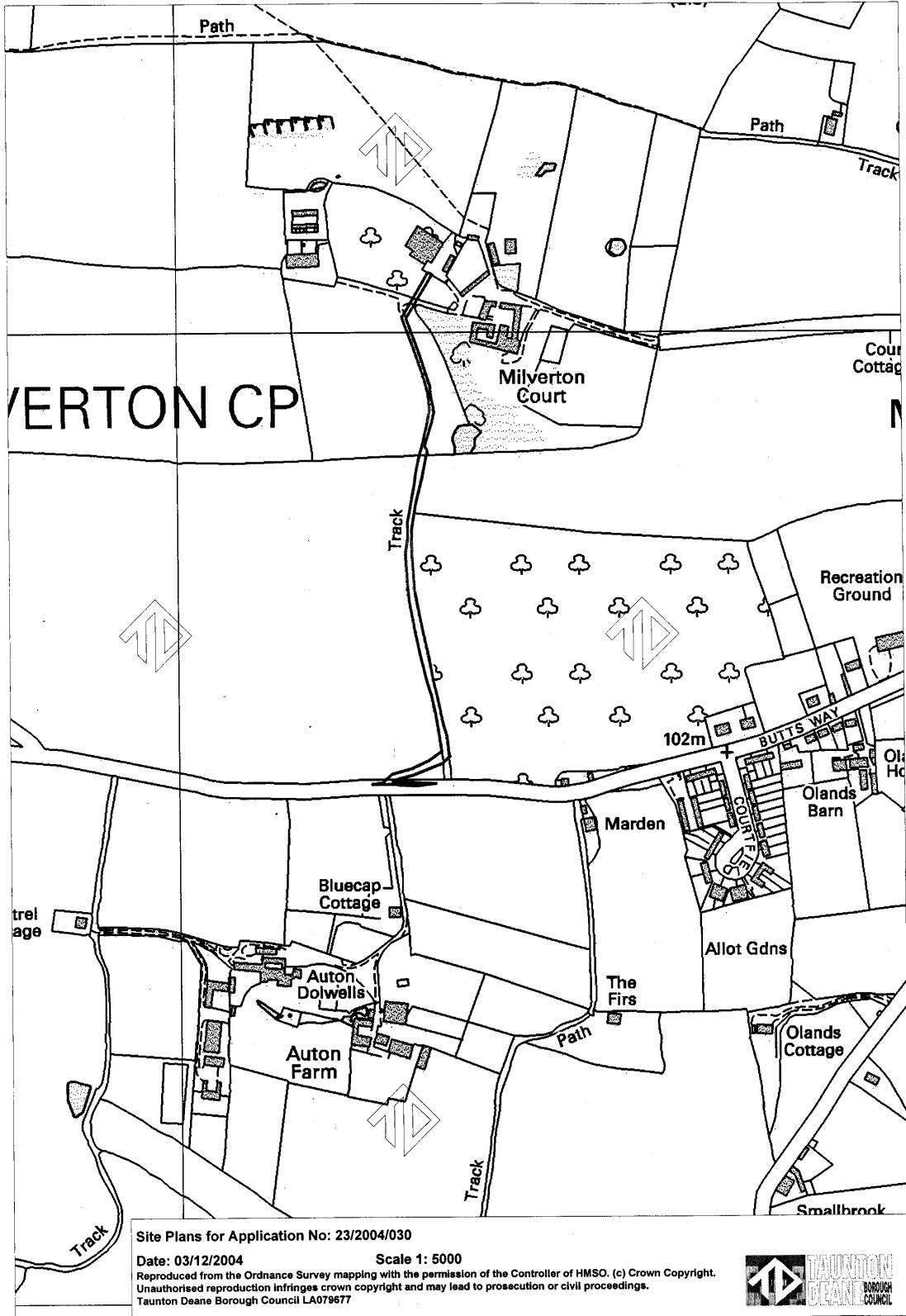
There will be the loss of some roadside bank and hedgerow, but I consider that with the planting proposals recommended by the Landscape Officer, in time the replacement planting will enable the impact of the development to be softened. The loss of bank and hedge has also to be balanced against the continued operation of what is a significant employment operation in this rural area.

Mitigation measures are recommended for the wildlife on the site.

In the light of the above considerations I consider the proposal to be acceptable.

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

CONTACT OFFICER: Mr J Hamer Tel: 356461



Site Plans for Application No: 23/2004/030

Date: 03/12/2004

Scale 1: 5000

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APPENDIX 1

LETTER OF SUPPORT FROM HERB COMPANY

THE
ORGANIC HERB
TRADING CO.

The Organic Herb Trading Company
Milverton, Somerset TA4 1NF United Kingdom
tel: +44 (0) 1823 401205 fax: +44 (0) 1823 401001
e-mail info@organicherbtrading.com
www.organicherbtrading.com

Mr John Hamer
Planning Services
TDBC
Deane House
Belvedere Road
Taunton
Somerset TA1 1HE



25th October 2004

Dear Mr Hamer

Re: Planning Application ref 23/2004/030

As Operations Director of the Organic Herb Trading Company, I am writing to you on behalf of the company and the 30 or so staff currently employed by the business. For the past ten years we have, as you know, been using the High Street access to service the business. This access is inadequate and problematic in a number of ways.

Firstly, the turn from St Michaels's Hill into High Street is very tight and it is also a blind corner. As there is no pavement, pedestrians walk on the road when going down to the village or school. Secondly, when the road reaches the farm the layout of the buildings creates a very sharp right angle turn, which has to be negotiated with zero visibility (as well as our staff, there are children and animals who also use this road all the time). This right angle turn is very difficult for lorries to negotiate. Lastly, the drive up to the business is a public footpath and so our traffic forces dog walkers to step into the hedge, as there are very few passing places.

We have been intending to improve and use our access on to Butts Way for two or three years. However, the development of the track required substantial capital which we needed to raise from the sale of our branded herb business, Hambleton Herbs. The sale of this company (which was begun in late 2001) was finally completed in February this year, and so at last we had the capital requirement at our disposal.

Should we be unsuccessful in our application, we will have to consider relocation as a very serious option. For our business to continue to develop we need to improve our access as a priority. We are also, as you are aware, a farm-based business, growing and processing over 100 herbs on the farm. It is important for us that we can continue to run the trading and production sides of our business from the same site. It takes two years to achieve organic certification and so a forced relocation would be detrimental to us.



Lastly, I would like to draw your attention to the fact that we are a highly respected, award-winning business. We are a recognised Investors In People company and we have also won over 30 national accolades and awards in the past ten years for quality of product and the ethical sustainability of what we do here – we even won a third prize at Taunton Show a couple of years ago for the herb field!

There are, moreover, a number of special needs projects which are run from the farm and we play host to regular school trips (there is an approved farm trail for visitors), numerous W.I. visits and horticultural groups throughout the year. We have good reason to believe that we contribute hugely to the local community, not just through the provision of jobs but also through the facilities that we offer groups and individuals in and around the parish.

On behalf of our staff and myself, I would ask you to include this information and all its implications in your submission regarding the application.

Yours sincerely

Simon M. Barry
Operations Director

APPENDIX 2

BACKGROUND INFORMATION FORM ORGANIC HERB TRADING COMPANY

The Organic Herb Trading Company

Planning Application 23/2004/030

Background Information

Reasons for the application:

- Planning permission was granted in 1994 to change the farm buildings from agricultural to light industrial use. The access specified at the time was via High Street. However, the track from the farm to Butts Way has for centuries been used as the second access to the property.
- Over time, due to the growth in our business, the present access has proved to be inadequate and potentially dangerous; St Michaels Hill is narrow, the turn into High Street is very tight and on a hill and there is inadequate visibility in both directions. High Street has no pavements for pedestrians and the 600 meter drive to the Organic Herb Trading Company also serves as a major public footpath which is promoted by Taunton Deane as one of the county's circular walks. Once on the farm, vehicular access leads between two listed barns and is narrow and potentially dangerous with regard to the Organic Herb Trading Company as well as farm animals and children. The track from the warehouse to Butts Way has no public access for walkers and is straight from the warehouse to the road.
- We have been intending to improve and use the track for the business for over two years – in fact we were asked to do so by prominent village members in the summer of 2002. However, the development of the track required capital, which we needed to raise from the sale of our branded herb business, Hambleden Herbs. The sale of this company (which was begun in late 2001) was finally completed in February this year, and so at last we had the money available to do the work. We have been working with the Highways Department and Planning Services since May to design a proposal that is acceptable to both of their departments as well as meeting our own business needs.
- Should we be unsuccessful in our application, we will have to consider relocation as a very serious option. For the Organic Herb Trading Company to continue to function efficiently we need to resolve the access issues as a priority. We are a farm-based business and grow and process over 100 herbs here. We have to run the trading and production sides of our business from the same site so relocation of a part of the business is not an option. Fresh herbs need to be made into tinctures immediately to maximise quality. As it takes a minimum of two years to achieve organic certification, a forced relocation would be detrimental to us in many more ways than one might imagine.

Assurances:

- We are not going to develop an 'industrial estate'. The curtilage of the business is clearly defined by the lease and includes the warehouse and herb field only. It would be impossible to develop the herb field as it is on a steep gradient and anyway, should we even intend to, planning restrictions would prevent us doing any industrial or domestic development anywhere on the farm, just as they prevent development in other parts of the village.

- Unless forced, we do not intend to move from the farm ourselves and the beauty of our environment is obviously very important to us - we have no intention of creating an 'eye-sore' in our own back garden
- All of our dedicated lorries (approximately 3 per day) usually deliver or collect between the hours of 9.30am and 3.00pm on weekdays only. There will be no work traffic at all at weekends, on public holidays or after 5pm on-weekdays.
- Organic farming and our environmental policy are central to the business and we have won over 30 awards for our ethical integrity and good business practice. We lay all our hedges, have planted over 400 trees, renovated an old pond and will obviously landscape the new access in the same way. Our farm is already a haven for wild life and this track will not affect this in any way.
- English Nature were consulted in the application planning phase and it is a condition of approval that the requirements of both DEFRA and English Nature are met. Arguably we have already done as much as anyone in the village to preserve and enhance the environment, increasing the diversity of both flora and fauna.
- The track, even when developed, will still be surfaced with scalpings. It will be no wider than it is at present – it cannot be any wider as we do not own the hedges on either side of the track. New scalpings were last placed on the track in 2001 when it was used as the back entrance/exit for our open day. The only tarmac areas will be where it joins the road at Butts Way and on the steep incline through the herb field.

Other issues:

- Any road safety issues connected to this application are the remit of the Highways Department and not us. It is they who decide road usage, speed limits, traffic calming requirements, etc. They are fully involved in any application of this kind and it is their recommendations not ours which influence road safety as we are not qualified to make recommendations of this sort.
- The plan for the vision splay developed out of a desire to remove as few hedges as possible. It is for this reason that we are moving it further up the road so that the mature hedge bordering the orchard is maintained. Any hedges removed will be replaced in a way that improves what is currently there.
- We are moving to a barn on the farm but this is a personal issue and not connected to the application by the Organic Herb Trading Company to improve its access.
- The track is on private property with only ourselves, Farthings Farm and the Orchard - having the right to use or walk it. Without a vision splay it is currently dangerous for other road users during the apple collection period and when farm vehicles use it. At present the 40 tonne arctic lorries, which collect the apples have to be parked up on Butts Way as they cannot access the track.
- The possible future development of the orchard is not an issue over which we have any control. We do not own the orchard. It already has significant road frontage and so could create an access anywhere. Objections can be made if ever an application was placed.
- We believe in sustainability both environmentally and socially. We provide work for over 30 people in the local community and it is our belief that rural employment is central to a thriving community. In the advent of intensive agriculture thousands of jobs in the countryside have been lost and businesses like ours help to keep the countryside alive.

- If we are forced to relocate another business will undoubtedly occupy the existing warehouse and we will have no input as to who this might be – perhaps better the devil you know? It is just a thought!
- The farm is also open for school visits – we have an educational remit and a farm trail. We also have a number of community projects organised by SCAT happening on the farm each week. We have good reason to be proud of our contribution to the local community, not just through the provision of jobs but also through the facilities that we offer groups and individuals around the parish.
- Lastly, the most personally depressing aspect of the village campaign against this application, is that we have offered in the Parish Council meeting on the 11th October and through a circular letter to the residents of Butts Way, to answer any questions or anxieties personally and yet to date we have received only three calls. Much of the village information regarding this application is incorrect and it seems that the fight is of more importance to the village than the actual issues. We were rudely bared from attending the public meeting advertised in the paper shop window and the details on the petition being circulated around the village are incorrect.
- So, once again we invite any questions. Please call Mike or Gaye on 01823 401116 or 401205 (work) if you require further information

APPENDIX 3

REFUTATION FROM THE BUTTS WAY SAFETY ACTION GROUP

A Refutation from the Buttsway Safety Action Group

The Organic Herb Trading Company
 Planning Application 23/2004/030
 Background Information

Reasons for the Application:

Item 1

- **Paragraph 1...***Planning permission was granted in 1994 to change the farm building from agricultural to light industrial use.*
- **Rebuttal:** Light industrial means, *inter alia*, compatible with residential environment. It is our view that the nature of the applicant's business has evolved over the last 10 years so that 'light industrial' may no longer apply. In any case, HGV's using Buttsway to access Court Farm are incompatible with the overwhelmingly residential character of Buttsway. Our best estimate of the number of dwellings along the length of Buttsway up to the proposed visibility splay and in Courtfield is 69, while the total of dwellings on High Street is 17. Our counts indicates that there are between 30 and 35 children living in the Buttsway area, while 12 live along High Street.

Item 2

- **Paragraph 1...***the track from Buttsway has for centuries been used as the second access to the property.*
- **Rebuttal:** The track in question, which terminates in a meadow before reaching Court Farm, has been over-grown and mainly disused except by walkers for more than 20 years.

Item 3

- **Paragraph 2...***the present access has proved to be inadequate and potentially dangerous.*
- **Rebuttal:** Every point the applicant makes regarding the unsuitability of the present access can be made equally well or better for Buttsway: narrow; on a hill; inadequate visibility; no pedestrian pavements. By the applicant's own admission, the majority of residents of High Street are opposed to the application even though the new access route would remove traffic from their street.

Item 4

- **Paragraph 2...***High Street has no pavements for pedestrians and...also serves as a major public footpath which is promoted by Taunton Deane as one of the county's circular walks.*
- **Rebuttal:** This same circular walk, in fact, exits onto Buttsway. Further, Buttsway provides the only pedestrian access to and from the village centre and there are no pavements along its entire length. Pedestrian traffic on Buttsway exceeds that on the present access route.

Item 5

- **Paragraph 2...***Once on the farm, vehicular access leads between two listed barns and is narrow and potentially dangerous with regard to....staff as well as farm animals and children.*
- **Rebuttal:** The applicant expresses concern for the safety of their family, staff and livestock, and for the protection of Court Farm's listed buildings. We believe that the safety of all Milverton residents along with the preservation of all aspects of village architectural heritage deserves equal consideration. The village recreation grounds, comprising a large children's playground; cricket square and clubhouse; and two football pitches, is accessed via Buttsway so that safety on that road is a village-wide concern.

Item 6

- **Paragraph 2...***The track from the warehouse (at Court Farm) to Buttsway has no public access for walkers and is straight from the warehouse to the road.*
- **Rebuttal:** The existing track does not connect with Court Farm warehouse, but, rather, ends in a meadow, and has been used consistently by walkers for more than 20 years; enough to establish right of passage (see Addendum below). In addition, the proposed 120 metre visibility splay on Buttsway, and the double lane 'S' bend leading to it, will not follow the existing track, but will be located on land to be purchased by the applicant for the purpose.

Item 7

- **Paragraph 3...***we were asked... (to improve and use the track for business)... by prominent village members in the summer of 2002.*
- **Rebuttal:** Who were these 'prominent village members' and how did they get to speak for the whole of Milverton? The vagueness of the phrase disallows any confirmation of this claim. What we can confirm is that the elected 'prominent village members' – the Milverton Parish Council – when asked to comment on the application early in October 2004, voted by a significant majority not to support it. Furthermore, two of the councillors who voted against the application live in High Street itself.

Item 8

- **Paragraph 3...***We have been working with the Highways Department and Planning Services to design a proposal that is acceptable to both of their departments as well as meeting our own business needs.*
- **Rebuttal:** Where do the village of Milverton and its residents come into this equation? Information regarding the application only reached the residents in early October – a full six months after negotiations with Highways and with Planning had begun. We believe that a proposed change on this scale and of this consequence should, at the very least, have begun with a full and public consultation with those residents who stand to be most directly affected.

Item 9

- **Paragraph 4...***We are a farm-based business and grow and process over 100 herbs here.*
- **Rebuttal:** The implication of this statement is that the total of the applicant's product originates from the few acres surrounding Court Farm. In fact, upwards of 90% or more of the company's product originates from farms outside the UK, and is trucked in to Milverton for processing, packaging and redistribution.

Item 10

- **Paragraph 4...***Fresh herbs need to be made into tinctures immediately to maximize quality.*
- **Rebuttal:** This statement implies that the majority of the company's product depends on fresh produce grown on site when, in fact, the bulk of the company's raw materials are trucked in from overseas.

Item 11

- **Paragraph 4...***As it takes a minimum of two years to achieve organic certification, a forced relocation would be detrimental to us...etc.*
- **Rebuttal:** The packaging and redistribution of imported goods is the primary function of the business. Organic certification of the Court Farm site would appear to have little or no bearing on this primary aspect of the applicant's operation.

Item 12

- **Paragraph 4...***a forced relocation would be detrimental to us in many more ways than one might imagine.*
- **Rebuttal:** Given the dependence of the company's operation on vehicular shipping, Chelston Industrial Estate, situated close to Junction 26 of the M5, would be a far more appropriate venue for such an industrial enterprise. It is our understanding that, some 2 years ago, the applicant held discussions with the owners of Foxmore Nurseries at Chelston with the intent of relocating some of the company's operations. Furthermore, we understand that Foxmore Nurseries have the capacity to handle the applicant's processing operation, both at the current levels and based on the applicant's stated growth plans.

Assurances:

Item 13

- **Paragraph 2...***we have no intention of creating an 'eyesore' in our own back garden.*
- **Rebuttal:** Fortunately, the 'eye-sore' will be created well away from the applicant's back garden. The residents of Buttsway, however, will not be so fortunate. The application necessitates a 120 metre wide visibility splay onto a Grade 3 Road; an entrance large enough for to HGV's to enter and exit at the same time. An entrance on this scale will permanently alter what is presently an unspoiled countryside lane creating a glaringly urban and man-made feature in an otherwise rural landscape.

Item 14

- **Paragraph 3...***All of our dedicated lorries (approximately 3 per day) usually deliver or collect between the hours of 9:30am and 3:00pm, etc.*
- **Rebuttal:** Residents of High Street report some commercial vehicle traffic going up to Court Farm before 8:am, with the highest volume traffic occurring between 3pm and 5pm. In addition, we have evidence of an artic lorry en route recently to Court Farm at 7:30pm. Whatever the applicant may mean by 'dedicated lorries', their application states, as confirmed by the SCC Transport Development Group, that 8 vehicles per day access the business site over and above employee commuter traffic. The applicant has also stated that the volume of non-employee commuter traffic will increase by two thirds in the future – an implied increase to a minimum of 13 commercial vehicles per day.

Item 15

- **Paragraph 4...***Organic farming and our environmental policy are central to the business and we have won over 30 awards for our ethical integrity and good business practice.*
- **Rebuttal:** The virtuousness of the applicant has no bearing on the validity of the application. There are any numbers of decent, virtuous Milvertonians who oppose the application.

Item 16

- **Paragraph 4...***Our farm is already a haven for wild life and this track will not affect this in any way.*
- **Rebuttal:** Far from not affecting wild life habitat, the application will require the destruction of 120 metres of well-established hedgerow. The application also envisages the "relocation of the badgers". Somerset Wildlife Trust has responded thus:

"In our view the avoidance of adverse impacts in the first place is always preferable to removal operations, which are generally expensive and also carry some risk of failure."

Item 17

- **Paragraph 5...***English Nature were consulted in the application planning phase...*
- **Rebuttal:** Our enquiries with English Nature have indicated that at no point in the planning phase of the application has English Nature undertaken an official consultation with the applicant involving a visit to and inspection of the site. We invite the applicant to make clear with whom at English Nature they 'consulted' and in what capacity that individual advised them.

Item 18

- **Paragraph 6...***The track, even when developed, will still be surfaced... etc., etc.*
- **Rebuttal:** The applicant's focus on the track and the changes proposed for it diverts attention from the real issue: the extent and nature of the commercial traffic that will be drawn up Buttsway and spilled out onto it and the consequences to the safety of Milverton residents thus arising.

Other Issues:

Item 19

- **Paragraph 1...***Any road safety issues connected to this application are the remit of the Highways Department and not us.*
- **Rebuttal:** Unfortunately, many villagers cannot afford the luxury of such a disinterested view. It is our children's and our grandchildren's lives and well being that are at risk when such developments are approved without adequate consideration for the safety consequences arising from them. The applicant has put forward a proposal that gives rise to major safety issues for the village, and yet they seem to take the position that these issues are not of their making.

Item 20

- **Paragraph 4...***The track is private property with only ourselves, Farthings Farm and the Orchard having the right to use or walk on it.*
- **Rebuttal:** While the track may be on private property, its use by walkers for more than 20 years establishes a right of passage by the public. (See Addendum)

Item 21

- **Paragraph 4...***At present the 40 tonne artic lorries, which collect the apples (from the orchard) have to be parked on Buttsway...*
- **Rebuttal:** In the first instance, the apple lorries are 28 tonne vehicles not 40 tonne. Further, the implication here is that artic lorries already use Buttsway on a regular basis. In fact, the apple harvest time is a brief period – one week per year – and an accepted part of our agricultural heritage. It is a far cry from the anticipated 15 HGV's per week to service an industrial enterprise, expected to rise to 25 per week with business expansion.

Item 22

- **Paragraph 6...***We provide work for over 30 people in the local community and it is our belief that rural employment is central to a thriving community.*
- **Rebuttal:** We agree that 'rural employment is central to a thriving community'. It is our understanding, however, that only two Milverton residents work at the applicant's Court Farm operation. The remaining employees commute by car and do not reside in the immediate local community.

Item 23

- **Concluding Paragraph...***We have offered in the Parish Council meeting on the 11th October, and through a circular letter to the residents of Buttsway, to answer any questions or anxieties personally...*
- **Rebuttal:** The offer was made only when it was glaringly apparent that the application was facing vociferous opposition. As far as we are aware, the applicant made no effort at direct communication with the parties most affected until the week prior to the Parish Council meeting. By that time the application process had been on going for some six months.

Item 24

- **Concluding Paragraph...***it seems the fight is of more importance to the village than the actual issues.*
- **Rebuttal:** To the contrary, the villagers are highly focused on the actual issues – particularly the issue of road safety which has always been a high priority for Milverton, especially for those villagers with children. Indeed, the village has a long established body (MTAG) which has for some years diligently concerned itself with traffic and road safety problems in the village. The applicant undertook no consultations with MTAG.

Item 25

- **Concluding Paragraph...***the details on the petition being circulated around the village are incorrect.*
- **Rebuttal:** The full, verbatim text of the petition is given below. All 'details' are taken directly from Application 23/2004/030. To our knowledge, there are no aspects of this text that are incorrect.

This is a PETITION against the proposed new road at the top of Buttsway leading to The Organic Herb Company. The existing track would become the main route for HGV and other business traffic. Their lorries would be using Buttsway for every delivery and collection. They have also stated that they intend to double their existing traffic in the future.

ADDENDUM:

A PUBLIC RIGHT OF WAY

A Highway is a way over which a public right of passage exists, that is to say "a right for all her Majesty's subjects at all seasons of the year freely and at their will to pass and repass without let or hindrance". A Highway may be subject to certain restrictions or obstructions, for example, it may be limited to a recognised class of traffic such as vehicles only (a roadway) or pedestrians only (a footway). It is an essential characteristic of a highway that every member of the public should have a right to use it; there can be no limitation to a defined section of the public.

A Highway can be created in two ways:

- (a) through statutory provision; or
- (b) through the common law doctrine of dedication and acceptance.

Dedication means that the owner of the land has either stated that he is willing for the public to have this right of passage or he has conducted himself in a manner which leads the public to infer that he meant to state that he was willing that the public should have this right of passage. From the moment that a dedicated way has been accepted by the public there is a right of passage by the public. In this respect there is a statutory presumption of dedication if the right of way is used for more than twenty years.

APPENDIX 4

LETTER FROM SCAT

Our Ref: TS281004

Your Ref: 23/2004/030

28 October 2004

John Hamer
Planning Services
Taunton Deane
Deane House
Belvedere Road
TAUNTON TA1 1HE

Dear Mr Hamer

Use of Court Farm

As project leader, I have been asked to provide you with information regarding the use of Court Farm by students with learning difficulties from Somerset College.

The project is part of the Partnership for Community Work Related Learning, which is based on a clear commitment to connect students to work related learning within the local community and business.

Mike and Gay's generosity in providing access and facilities on the farm is what makes the success of this project possible. In particular they have provided us with classroom facilities, planting areas, a large area including a pond for conservation work, building materials and tools. They have also taken on some of our more vulnerable students for work experience. Their level of commitment gives our students a unique opportunity to learn in this caring, supportive and safe environment.


There are clear conditions for our use of the farm, namely that we do not compromise the organic status of the farm, that anything we do there is environmentally sustainable, and that we support conservation efforts on the farm. These conditions are in place to ensure that our work is consistent with Mike and Gay's strongly held beliefs about the importance of conservation and care of the environment.

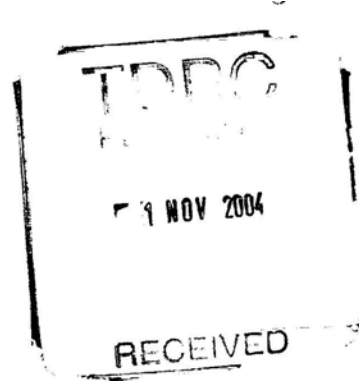
Currently students are using these facilities three times per week, which is a high proportion of their college time. This project has been built up over a period of three years. The loss of this facility would have serious implications for this project.

I am also a part time Social Worker with children in crisis, and we have been very grateful over the years for Mike and his family allowing us access to the farm where the children have benefited greatly from this positive experience.

Should you have any questions or wish to discuss further this project please do not hesitate to contact me at the above address.

Yours sincerely


Tony Scully
Tutor
Division of Student Entitlement



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