

**OUTLINE APPLICATION FOR THE ERECTION OF A BUNGALOW IN THE GARDEN OF 8 HEATHFIELD CLOSE, CREECH ST MICHAEL (AMENDED)**

Grid Reference: 327857.127129

Outline Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

The proposal, for a single dwelling, is located within defined settlement limits where the principle of new housing is considered acceptable. The proposed access would be satisfactory and the development would not have a detrimental impact on the amenity of surrounding residential properties in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policies STR5 (Development in Rural Centres and Villages) and 49 (Transport Requirements of New Development), Policies DM1 (General Requirements) and SP1 (Sustainable Development Locations) of the Taunton Deane Core Strategy and retained Policy M4 (Residential Parking Provision) of the Taunton Deane Local Plan.

**RECOMMENDED CONDITION(S) (if applicable)**

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

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

Reason: In accordance with the provisions of S92 (2) Town and Country Planning Act 1990 (as amended by S51 (2) Planning and Compulsory Purchase Act 2004).

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

- (A3) DrNo VPH-Trott-001 Elevations/Floor Plans
- (A3) DrNo VPH-Trott-002 dated 16/11/12 site plan
- (A4) Block Plan
- (A4) Location Plan with revised red line including Crown Lane

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

3. The parking and turning area shown on the submitted plan, shall be hard surfaced before it is brought into use. It shall be made of porous material, or alternatively provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the new dwelling. This area shall be retained for parking and turning in association with the dwelling hereby permitted.

Reason: In the interests of highway safety in accordance with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review and to ensure that there is adequate space within the site for the parking of vehicles clear of the highway in accordance with retained Policy M4 of Taunton Deane Local Plan.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any order revoking and re-enacting that Order, with or without modifications, no vehicular access gates shall be erected at any time unless they are set back a minimum distance of 5m behind the boundary with Crown Lane and hung so as to open inwards only.

Reason: To allow a vehicle to wait off the highway while the gates are opened or closed and thus prevent an obstruction to other vehicles using the highway. In the interests of highway safety in accordance with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.

5. No site clearance works or development (or specified operations) shall take place between 1st March and 31st August without the prior written approval of the Local Planning Authority.

Reason: To ensure that wild birds building or using their nests are protected and the Authority will require evidence that no breeding birds would be adversely affected before giving any approval under this condition bearing in mind that all wild birds, their nests and eggs (with certain exceptions) are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended).

6. The dwelling shall be not occupied until works for the disposal of surface water and sewage have been provided on the site to serve the development hereby permitted, in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent discharge into nearby water courses in accordance with Policy CP1(C) of the Taunton Deane Core Strategy.

7. Before any part of the permitted development is commenced, the hedges to be retained on the site shall be protected by a chestnut paling fence 1.5 m high, placed at a minimum distance of 2.0 m from the edge of the hedge and the fencing shall be removed only when the development has been completed. During the period of construction of the development the existing soils levels around the base of the hedges so retained shall not be altered.

Reason: To avoid potential harm to the root system of any hedge leading to

possible consequential damage to its health which would be contrary to retained Policy EN6 of the Taunton Deane Local Plan.

8. The development shall provide for covered and secure storage facilities for cycles, details of which shall be indicated on the plans submitted in accordance with condition 1 above. Such facilities shall be provided prior to the occupation of the new dwelling and shall thereafter be retained for those purposes.

Reason: To ensure that adequate facilities are included for the storage of cycles, in accordance with retained policy M4 of the Taunton Deane Local Plan and policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.

9. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The agreed boundary treatment shall be completed before **the building is occupied** and thereafter maintained as such, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the neighbouring residents in accordance with policy DM1(E) of the Taunton Deane Core Strategy.

10. Further to the reference to landscaping in condition 1 above, for the avoidance of doubt:
  - (i) Before any part of the permitted development is commenced, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority.
  - (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority.
  - (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

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

11. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 ("the 1995 Order") (or any order

revoking and re-enacting the 1995 Order with or without modification), no extensions, garage(s), loft conversions, rooflights, windows on the northern elevation other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.

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

#### Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.
2. In respect of connections, you are asked to contact Wessex Water, 01225 526222 for water supply and 01225 526333 for waste water; further information can be obtained from the website [www.wessexwater.co.uk](http://www.wessexwater.co.uk). Separate systems of drainage will be required to serve the proposal; no surface water connections will be permitted to the foul sewer system.
3. If you intend the surface water to discharge to a soakaway, this should be constructed in accordance with Building Research Digest 365 (September 1991).
4. Whilst it would appear from the application that the proposed development is to be entirely within the curtilage of the application site, care should be taken upon the commencement and during the course of building operations to ensure that no part of the development, including the foundations and roof overhang will encroach on, under or over the adjoining property.
5. You are reminded that the granting of planning permission does not override the requirement to obtain consent from the respective owners of Crown Lane for access and use of that Lane.
6. Somerset County Council Rights of Way section advises:-

Any proposed works must not encroach on to the width of the footpath.

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

In addition, if it is considered that the development would result in any of the outcomes listed below, then authorisation for these works must be sought from SCC Rights of Way Group.

- A PROW being made less convenient for continued public use.
- New furniture being needed along a PROW.

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

If the work involved in carrying out this proposed development would

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

then a temporary closure order will be necessary and a suitable alternative route must be provided. A temporary closure can be obtained from Sarah Hooper on (01823) 483086.

## **PROPOSAL**

The proposal in outline, and is to erect a detached bungalow in the current rear garden of no 8 Heathfield Close. The access would be onto Crown Lane as shown on the submitted plans. It is an outline application with illustrative plans showing the position of the bungalow sited close to the boundary of the site southwest of no 7 Heathfield Close. The building would be 7m by 10.5m, be sited approx 7.3 from the boundary with Crown Lane. The plans show a gap of 3.5m in the existing hedge which forms the current boundary to the lane, this accesses a parking area which is the whole of the front of the site. A garden area of 6.9m by approx 15m lies to the west of the proposed dwelling, this would leave a rear garden to no 8 of approx 6.5m by 15m.

The application is accompanied by a hedge survey, which has concluded that the hedge is regularly trimmed, resulting in a dense hedge with no gaps; the average height being 1.5m. The hedge is about 2m as the ground drops to the track to the east and the average width is 1.6m. Whilst it is dense with good cover, no bird nests were found.

## **SITE DESCRIPTION AND HISTORY**

The site is in the rear garden of no 8 Heathfield Close, which is a semi-detached dwelling fronting the Close. Currently there is no independent access to the site, there is a private road to the rear of the site, which serves properties in Crown Lane and is also a public footpath. The site is largely clear of trees; a small apple tree will be removed and replanted elsewhere in the garden, and there is a thick hedge (approx 1.6m thick) forming the 'L' shaped boundary with Crown Lane.

### **History**

On opposite side of Crown Lane to current application site, planning permission was granted and two properties built in 2003. These dwellings are known as Tivoli and Lilyhayes.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*SCC - TRANSPORT DEVELOPMENT GROUP* - The village of Creech Heathfield does not accommodate adequate services and facilities, such as, education, employment, health, retail and leisure, and the public transport services within the village are infrequent. As a consequence, occupiers of the new development are likely to be dependant on private vehicles for most of their daily needs. Such

fostering of growth in the need to travel would be contrary to government advice given in National Planning Policy Framework and RPG10, and to the provision of policy STR1 of the Somerset and Exmoor National Park Joint Structure Plan Review and Policy DM2 of the Taunton Deane Borough Council Local Plan and would normally receive a recommendation of refusal from the Highway Authority as a result.

Notwithstanding the aforementioned comments, it is noted that the site is located within the development limits of Creech Heathfield and as a consequence, there may be a presumption in favour of small-scale development in this location. Therefore, it must be a matter for the Local Planning Authority to decide whether the principle of development on this site outweighs the transport policies that seek to reduce reliance on the private car.

The development is located within the residential cul-de-sac known as Heathfield Close, an unclassified unnumbered section of highway to which a 30mph speed limit applies. It was noted from my site visit that vehicle movements and speeds in this location were reduced, due to Heathfield Close being a residential cul-de-sac (no through road) and numerous vehicles parked on the publicly maintained highway.

In detail, the outline application seeks to erect a bungalow to the rear of No. 8 Heathfield Close. I have the following comments on the highway and transportation aspects of the proposal.

The development would gain access off of Crown Lane, an unadopted private carriageway, to which a 40mph speed limit applies. From my site visit it was observed that although Crown Lane, is allocated as a 40mph speed limit Traffic Regulation Order, vehicle speeds are significantly lower than the allocated limit, due to the limited width of carriageway, especially in proximity to the proposal. At the point where the access is proposed a 30mph speed limit is in place, again as mentioned before vehicle speeds are likely to be significantly less than this. I would estimate that vehicles are travelling at approximately 10mph or less.

Firstly, it should be noted that from the submitted block plan drawing that the applicants' redline drawing does not meet the publicly maintained highway, so technically the proposal does not have a permitted means of access to the highway. Clarification will be needed with regards to the ownership of this section of land and whether the applicant has a right of access over this land (Crown Lane). The appropriate notice will need to be served on the respective land owner(s).

Based on TRICS database a dwelling has the potential to generate 6-8 vehicle movements per day. It is noted that there will be increase in vehicle movements along Crown Lane, however, the Highway Authority consider that at the point where vehicles will meet the publicly maintained highway Creech Heathfield Road and Charlton Road are suitable to accommodate the traffic levels that are likely to be generated by the development.

Commenting further on the scheme, Creech Heathfield has been identified as a 'Zone B' for parking provision therefore the Somerset County Council – Parking Strategy (adopted March 2012) states the following requirement for Zone B parking provision:-

The standards for residential development (ZONE B)

Zone	1 bedroom	2 bedroom	3 bedroom	4 bedroom
B - Amber	1.5 car space	2 spaces	2.5 spaces	3 spaces

The submitted information, states that the dwelling will be provided with two bedrooms, as a result, two vehicle parking spaces should be provided for the proposed property. It is noted from the submitted block plan drawing that the provision of parking is therefore in line with the Somerset County Council – Parking Strategy, albeit restricted.

In terms of parking dimensions, a standard vehicle parking spaces is 2.4m x 4.8m, however in this instance where a parking bay abuts a wall the Highway Authority would expect a length of at least 5.5 metres. This is because drivers are reluctant to park with their vehicle touching the wall and tend to stop short of the wall when parking. A parking bay abutting a wall less than this length is likely to be situated partly on the Highway, which would mean that a vehicle will be overhanging the public highway, therefore, cause an obstruction to pedestrians and to all other users of the highway. However, as Crown Lane, is a private track it would be difficult for the Highway Authority to enforce any sort of recommendation as a result.

I have concerns over the proposed parking layout for the site. Whilst it is acknowledged that Crown Lane is private access track and therefore the Highway Authority could not enforce any vehicle turning objections, I have concerns that vehicles will be forced to reverse approximately 90 metres (North) or 100 metres (South) before being able to manoeuvre into a forward driving position.

Furthermore it would be interesting to see an appropriately scaled drawing showing how vehicles will be able to manoeuvre into the site from Crown Lane, as I have reservations that vehicles will not be able to manoeuvre into given the restricted nature of Crown Lane. I do not believe the 3.5 metre wide access to be large enough to accommodate a vehicle turning manoeuvre. Which would lead me to consider that vehicles as a result of the ineffective parking area, would park on either the publicly highway or cause an obstruction to other motor vehicle users along Crown Lane (private).

Therefore, I recommend that the hedgerow site frontage is removed allowing for an open site frontage to allow two vehicle to access vehicle parking area safely.

I would estimate that typical vehicle speeds are approximately 10mph. Therefore, in this case visibility splays of 2.4m x 11.0m to the nearside carriageway edge, with no obstruction to visibility greater than 900mm, to either side of the accesses should be provided as stated in the Manual for Streets. This will permit vehicles emerging from the access a clear line of site in both directions. The proposed accesses shall incorporate pedestrian visibility splays on both its sides to the rear of the existing footway based on co-ordinates of 2.0m x 2.0m. These visibility splays should be maintained at all times.

I do not consider that adequate visibility can be achieved from this scheme. However, as Crown Lane is a private track and it would be difficult for the Highway Authority to recommend refusal of the development on these grounds as it will not affect the adopted public highway. The only suggestion, is that the site frontage is opened up to accommodate the minimum of pedestrian visibility splays of 2.0m x 2.0m, to safeguard pedestrians walking along Crown Lane.

In addition, as part of the newly adopted Parking Strategy, new residential dwellings need to provide a minimum of one cycle space/storage facility per bedroom. These are based on dimensions of 2m x 1m or show provision within the site to allow the occupiers of the proposed dwellings to use alternative sustainable modes of transportation.

As a result, in the first instance I would request that an amended plan be submitted to show clarification on the red line and permitted right of access to the publicly adopted highway, the removal of hedgerow across the entire site frontage (11000mm) and the inclusion of cycle facilities within the site to accommodate sustainable modes of transport, once additional information has been received the Highway Authority will comment further on the scheme.

*CREECH ST MICHAEL PARISH COUNCIL* - the PC wishes to record its unanimous objection to this application. The application would create a precedent at this location which the PC does not want in the village. In addition the PC noted it has no garage and that subsequent application would be likely for these.  
re amended plan, - objection as this would create a precedent at this location which the PC does not want in the village.

*DRAINAGE ENGINEER* - I note the surface water is to be discharged to soakaways. These should be constructed in accordance with BDR (Building Research Digest) 365 (September 1991 and made a condition of any approval. No details have been provided as to how Foul Sewage is to be disposed of, therefore till such details have been forwarded, no planning permission should be given.

*Additional information* - There is a foul sewer to the rear of 8/9 Heathfield Close.  
*Additional comment;* As long as Wessex Water is happy to accept foul flows, acceptable.

*WESSEX WATER* - new connections required. Notes for applicant.

*LANDSCAPE* - subject to retention of existing hedgerow where possible the proposals are acceptable. There may be scope to soften the impact of the proposals.

*BIODIVERSITY* - The surveyor found no bird nests or signs of mammals using the hedge; no objection subject to conditions.

*SCC - RIGHTS OF WAY* - No response

## **Representations**

11 letters/emails of OBJECTION.

One letter signed by 5 households, 2 of which have also written individual letters,



OBJECTS on basis that Crown Lane is not a public highway but a private road; the right of way does not include the properties in Heathfield Close and therefore there is no access to the site.

### Traffic

- Additional traffic using a private lane which is not for the benefit of the general public;
- There is already additional traffic from the 4 new large family dwellings;
- No inconvenience to the applicant as she does not use this lane;
- It should be up to the owners of the private highway, whom should be granted access, not the responsibility of the Local Planning Authority;
- Access should be from Heathfield Close;
- There will be additional cost to all local residents with no benefit;
- There is already a dispute over the amount of traffic using this lane;
- The access will be from an unmade driveway;
- Children currently use the lane for playing, cycling and roller skating;
- Visibility splays are inadequate for the proposed dwelling;
- The Lane is being used as a through route;
- The restrictive nature of Crown Lane does not provide enough space for vehicles to turn and out safely;
- Insufficient parking space;
- Access on a blind corner is not safe;
- Crown Lane is single track, with limited passing places;
- Delivery lorries have difficulty accessing this area and have to reverse out;
- Crown Lane is in a bad state of repair close to the application site;
- The only public right of way is that of a public footpath, the residents only have a right of access if Crown Lane is maintained;
- Residents of Crown Lane would be within rights to legally and physically prevent access to the site;
- It cannot be established that there will be an access in perpetuity and there is no secure suitable means of access;

### Amenity/siting

- The first dwelling to be built in a garden in Heathfield Close;
- Precedent;
- Overdevelopment;
- Increase in density;

### Drainage

- There is a ditch close to the site, which currently drains the surface water off Crown Lane, and the unmade driveway, development of the site will add to run-off;
- The recently built properties have probably contributed to the flooding, by the grubbing out of a hedge, filling of a drainage ditch and 'metalling' part of the drove road;

### Procedures

- The incorrect certificate has been served;
- The application remains invalid as the certificate D is dated 20/12/12, the application is dated 11/11/12, and since the original submission objections have been raised relating to land ownership, therefore the certificate could have been served on known occupiers/owners.

1 letter of no objection

## **PLANNING POLICIES**

NPPF - National Planning Policy Framework,  
S&ENPP49 - S&ENP - Transport Requirements of New Development,  
DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,  
CP1 - TD CORE STRAT. CLIMATE CHANGE,  
CP8 - TD CORE STRATEGY- ENVIRONMENT,  
M4 - TDBCLP - Residential Parking Provision,  
EN6 - TDBCLP -Protection of Trees, HISTORIC,  
ROW - Rights of Way,

## **LOCAL FINANCE CONSIDERATIONS**

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

### 1 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£1,079
Somerset County Council (Upper Tier Authority)	£270

### 6 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£6474
Somerset County Council (Upper Tier Authority)	£1619

## **DETERMINING ISSUES AND CONSIDERATIONS**

The proposal is in outline and is to erect a single storey dwelling with two bedrooms on land rear of no 8 Heathfield Road. The access is shown to be from Crown Lane, which is a private road and not adopted public highway. The site is generally flat, although it appears slightly higher than Crown Lane itself. There are hedges on two sides of the site fronting Crown Lane. The proposal is in outline, but shows a single storey dwelling to the southwest of No 7, the neighbouring property. This juxtaposition is acceptable given the arrangement of habitable/non-habitable rooms in the dwelling. There would be parking to the east facing Crown Lane and garden adjacent to the garden of the existing property. It is considered that there is a reasonable amount of space around both the original property and the new dwelling.

Most concern has been expressed to the use by potential occupiers of the private road. If the owners and those persons whom have rights of access/rights of way over this road wish to prevent use of that road, then that is entirely possible. The granting of planning permission does not override the need to obtain permission under other statutes/regulations. If the applicant/developer cannot obtain the right of access, then the site is not accessible from Crown Lane, and an application with an alternative road access will have to be submitted, and however there appears to be little opportunity to achieve such access. Nonetheless, the Local Planning Authority has to consider the application as submitted.

### Traffic

The County Highway Authority has given its advice – above, and subject to amendments has no objection in principle. The red line issue has now been addressed and the agent has been asked to amend the parking/visibility aspects. Amended plans are expected. Traffic generation is not considered to be an issue by Highways. The state of the road is an issue for the adjacent occupiers and owners of the site. The fact that children use a particular area/road for play/cycling is not reason to refuse permission. The lane does have restricted turning space, no passing places and the surface does deteriorate further south; the County Highway Authority has requested a widened access to help overcome the first two points, the last point is the responsibility of the owners. The removal of the hedge could take place without planning permission and the whole of the eastern section would have to be removed to achieve access for construction. Some replacement planting would help minimise the visual impact, but initially the site will look stark. The fact that the lane is also a public footpath has not prevented 4 new dwellings in the last 10 years.

#### Amenity/siting

It is not considered that this will be a precedent as the other gardens are of a different shape and the majority would be too small to support an additional dwelling. This being the first dwelling in a rear garden in this area, fronting a different highway, does not mean that such proposals cannot be submitted or considered. This application is not considered to result in a detrimental increase in density or overdevelopment of the site. The Parish Council is concerned about any garage to the site. The site is limited in size and with the need for turning it would be unlikely that there would be scope for a separate garage. The proposed internal layout of the dwelling could be altered to include a garage; this would result in there being sufficient space for turning, but loss of a bedroom is considered unlikely.

#### Drainage

The Drainage Officer does not consider there are any adverse issues in this area.

#### Procedures

The application was originally submitted with Certificate A, but it was brought to the Local Planning Authority's attention that this was incorrect as the access road (Crown Lane) was privately owned. The owner stated that she did not know any of the owners and therefore had served Certificate D, which included a notice in the Gazette. The Legal section has looked at the application and the certificates and has advised that the application is valid and can be considered as now submitted.

The Local Planning Authority has to consider whether the application is acceptable in the light of the relevant policies and Central Government guidance. The site is within settlement boundaries of Creech Heathfield, and is within an area where new dwellings have been approved in the last 10 years.

The receipt of the Hew Homes Bonus is noted, however, your officers consider that this matter carries limited weight in this case.

Although the application is in outline, the layout submitted shows that the site is capable of accommodating a dwelling without detriment to the adjacent dwellings and the overall character of the area. It will alter the immediate area and with the loss of hedge there will be a loss of visual interest and amenity, but this could be carried out without planning permission at any time. The introduction of an additional dwelling in the area will not significantly alter the character of the area. None of the

objections raised are such as would warrant refusal. The Local Planning Authority can grant planning permission for a development, it is then for the developer to gain any other permissions/consents to enable the application to proceed. In conclusion, the application is recommended for approval.

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

**CONTACT OFFICER: Ms K Marlow Tel: 01823 356460**