

25/12/0017

MRS E BARNEY

**OUTLINE PLANNING APPLICATION FOR THE ERECTION OF SIX DWELLINGS AT LITTLE ACRE, STATION ROAD, NORTON FITZWARREN**

Location: LITTLE ACRE, STATION ROAD, NORTON FITZWARREN,  
TAUNTON, TA2 6RG

Grid Reference: 319441.125546

Outline Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

**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. A scheme for the attenuation of noise shall be submitted with any application for approval of reserved matters. The scheme shall be based on the findings of Ian Sharland Ltd's submitted report dated 14<sup>th</sup> June 2012. The approved scheme shall be fully implemented prior to the occupation of the dwelling to which it relates and thereafter maintained as such.

Reason: To ensure that external noise disturbance does not create unacceptable living conditions for the future occupiers of the site.

3. A scheme for the protection of the protected poplar tree on the southern boundary shall be submitted with any application for approval of reserved matters. The scheme shall include measures required to protect the tree together with the timings for erection of any protective fencing. The approved

scheme shall be fully implemented and carried out in accordance with the approved details and timings.

Reason: To ensure the ongoing protection of the protected tree.

4. Prior to the commencement of the development hereby permitted, a scheme for the means of disposal of foul and surface water shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be based upon a full survey/analysis of existing sewers in the locality and their ability to accommodate the likely discharge from the site. The scheme shall ensure that surface water run-off rates from the developed site do not exceed run-off rates from the pre-developed site for all storm periods up to and including for the 1 in 100 year plus climate change event. The scheme shall also include details of maintenance requirements and responsibilities and a timetable for construction. The development shall be carried out in accordance with the details hereby approved. The scheme shall be implemented in accordance with the approved timetable and shall thereafter be maintained as such.

Reason: To ensure the satisfactory disposal of surface and foul water.

5. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to an unacceptable risk of water pollution and to ensure that any land contamination is appropriately remediated.

6. The poplar tree on the southern boundary subject of a Tree Preservation Order is not permitted to be felled by this grant of planning permission.

Reason: For the avoidance of doubt.

7. Finished floor levels of the new dwellings shall be raised a minimum of 300mm above existing ground levels.

Reason: To ensure that the development is appropriately resistant and resilient to flooding.

8. No more than 6 dwellings shall be erected on the site.

Reason: The number of dwellings is justified by the planning history of the

site and additional dwellings would be contrary to settlement policy and may fail the flood risk sequential test.

9. There shall be no ground-raising or stockpiling of material at any time on any part of the site.

Reason: To ensure that flood risk is not increased

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking and re-enacting that Order with or without modification), no extensions, outbuildings, fences, gates or walls shall be erected within the curtilage of any dwellinghouse other than those that may be approved pursuant to a reserved matters approval without the further grant of planning permission.

To ensure that the development is appropriately resistant and resilient to flooding and to ensure that flood risk is not increased

#### Notes for compliance

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. There is a possibility that a future relief road for Norton Fitzwarren will be constructed to the north of the site so it may be prudent to consider whether noise attenuation measures should also be installed in the north elevation.
3. This is an outline planning permission with all matters reserved for subsequent consideration. You are advised that, despite indications on the illustrative plans, the Local Planning Authority is concerned that dwellings greater than 2 storeys in height are unlikely to be acceptable on this site.
4. Any application for reserved matters approval must be influenced by the presence of the protected poplar tree and other trees around the site boundary. Any reserved matters application must be accompanied by a tree survey, clearly identifying the root protection areas, carried out in accordance with BS5837.
5. It is expected that the details for landscaping submitted with any reserved matters application will show the retention of planting on the northern boundary and the provision of a new hedgerow to the west.

#### **PROPOSAL**

This application seeks outline planning permission for the erection of 6 dwellings.

An indicative plan suggests that 6 dwellings, a mix of 2 and 3 storeys, could be built on the site in a single terrace, with parking provided to the front in a courtyard arrangement and to the side of the dwellings. Approval for all matters (scale, appearance, access, layout and landscaping) is reserved for subsequent consideration.

## **SITE DESCRIPTION AND HISTORY**

The site is a former caravan site for permanent residential use. Various planning permission's over the years have granted permission for that use as detailed below. The site at present does not have any caravans stationed upon it and is overgrown in places. It is generally flat, however, evidence of hardstandings and steps/raised footways to caravan doors can still be seen on site.

The site is accessed from the southern end of Station Road past the remains of a fire damaged building. To the south of the site, timber fences and a mature (TPO protected) poplar tree separates the site from the railway line. To the north and west, hedges and trees separate the site from open countryside – the fields known as 'Ford Farm'. To the east is the dilapidated building, which directly adjoins the site at the southern end of the boundary, the remainder of the eastern boundary being formed by a dilapidated fence that delineated the garden area of the former building.

The detailed planning history for the site is as follows:

1961 – planning permission (36776/a) granted for the use of the land as a site for 5 caravans.

1989 – temporary planning permission (25/88/0040) granted for the replacement of one caravan with two caravans and the construction of car parking.

1990 – planning permission (25/89/0043) granted for one additional caravan and formation of car parking.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*SCC - TRANSPORT DEVELOPMENT GROUP* – No comments received.

*NORTON FITZWARREN PARISH COUNCIL* – Objects for the following reasons:

- There are many references to a replacement of existing dwellings but the site has been empty for some time. The 5 caravans which were on the site were only single occupancy, not family homes, therefore comparison is not valid. The proposal is a considerable overdevelopment of the site.
- The vehicle access and turning are inadequate.
- Confirmation of the ground level is required – the relief road will be built up behind the site by 1m.

- There has been no account taken of the noise from the proposed relief road.
- The design does not take into consideration the immediate proximity of the proposed relief road.
- There is no provision for traffic or pedestrians to gain access onto the relief road or exit from it. This will be the only route available as Station Road will be cut off.
- This is the only application that places dwellings between the railway line and the relief road. The site is more suited to employment land, not residential.
- Before considering the application, Taunton Deane should establish the current sewer service to this site as new sewers were installed for the existing houses in Station Road and were re-routed to connect with the Cider Factory site development. The Parish Council believes that the original sewer for the Little Acre site was destroyed as part of the Cider Factory development.

*LANDSCAPE* – My main concerns are:

- Removal of the TPO Native Species Poplar Tree –TD449 – not incorrectly labelled as suggested. This is one of the UKs rarest tree species.
- There is no detailed landscape of tree survey or assessment.
- The landscape proposed will remove the boundary hedgerows which are a feature of the area.

The proposals would be contrary to CP8.

*WESSEX WATER* – None received.

*ENVIRONMENT AGENCY* – Having previously objected to the application, now confirm that they have NO OBJECTION, subject to conditions requiring floor levels a minimum of 300mm above the existing ground levels, No ground-raising or stockpiling of material, no fences, gates or walls to be erected without prior approval, submission of a surface water drainage scheme, and investigation of any unexpected contamination; and make the following comments:

The access road is subject to flooding so you should consult your Contingencies Officer (John Lewis) who can advise on whether the principle of additional dwellings is acceptable and if any contingencies measures are required in the event of a flood.

Whilst we would not expect to find significant land contamination at this site, the ambiguities over its previous uses would suggest that the above recommended condition is reasonable, particularly given the site's proximity to the Halse Water which is a sensitive controlled waters receptor.

Any works within 8m of the Halse Water will require Flood Defence Consent from the Environment Agency.

*COMMUNITY LEISURE* – If [the caravans can be occupied permanently] then I don't [consider that] the above application for 6 dwellings will count for S106 contribution purposes as there will not be a net gain. If mobile homes can only be

occupied for a number of months per year then I would like to ask for S106 contributions.

*DRAINAGE ENGINEER* – Previously objected to the proposal but is now satisfied on the basis of the conditions recommended by the Environment Agency and an additional condition that a surface water drainage scheme is approved prior to the commencement of the development.

*ENVIRONMENTAL HEALTH - NOISE & POLLUTION* - The site is adjacent to the railway line and there is the potential for noise to affect future residents. The report includes details of noise monitoring carried out on site and predicts the noise levels at the proposed properties. The levels are compared to criteria given in Planning Police Guidance 24 which indicates that noise should be taken into account when determining a planning application and, where appropriate, conditions imposed to ensure an adequate level of protection against noise.

The noise monitoring and calculation do show that a reasonable level of internal noise can be achieved in the properties at the proposed development using a certain standard of glazing and ventilation.

I note that the calculations in the report aim to achieve a “reasonable” level of noise within the properties. Taunton Deane BC would normally require a developer to achieve a “good” standard of internal noise. However, the report highlights that the main source of noise that needs to be attenuated is the peak noise levels from passing trains, and by doing this the amount of attenuation provided should result in the “good” standard being met.

The developer should ensure that they provide glazing and attenuation to the standard outlined in the report.

I understand that there are proposals for a new road on land adjacent to the north of the site which is not considered in the noise report. If this road is built it may increase noise levels at the rear of the properties. Therefore, I would recommend that the developer considers noise from the proposed road in addition to the railway and whether a higher standard of glazing/ventilation may be required on the northern facades.

If the new road is built after the houses on this development the Noise Insulation Regulations may provide for grants to carry out additional work to properties if necessary. However, it would be better to avoid this as it would not look good to have to upgrade windows in properties that have only recently been built. These regulations are under the remit of the highway authority (Somerset County Council or the Highways Agency) who may wish to comment.

Recommends condition that a sound reduction scheme is submitted and approved prior to the commencement of development.

## **Representations**

8 letters of OBJECTION have been received making the following comments:

- Recent new development has made parking impossible. Access for emergency services and larger vehicles would be restricted.
- The area is now hugely overcrowded and more dwellings in Norton Fitzwarren, especially Station Road are not wanted.
- The proposal will lead to increased traffic on Station Road which is narrow and has no footways.
- 3 storey houses would be too high for this part of the road and could set a precedent for future development. 2 storey would be sufficient.
- There would not be sufficient parking without an overspill onto Station Road.
- There would be no legal access to the site as the relief road has not been built and there is no access available to Station Road. Access will not be permitted along Station Road south of plot 7 [on the Cider Factory site].
- If the relief road is built, the site would be sandwiched between it and the railway, which would be totally undesirable.
- There have not been caravans on the site for some time.
- Development should not be allowed on the floodplain. Development in the Tone catchment puts Taunton and the Moors at risk of flooding and pollution.
  
- There would be increased flooding to Station Road as some of the Little Acre land holds surplus water from surrounding fields. The site will be difficult to drain.
- Sewage may be difficult to dispose of.
- The site is too close to the railway.
- 6 dwellings is too many.

## **PLANNING POLICIES**

DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,  
DM2 - TD CORE STRATEGY - DEV,  
CP8 - CP 8 ENVIRONMENT,  
CP6 - TD CORE STRATEGY - TRANSPORT AND ACCESSIBILITY,

## **DETERMINING ISSUES AND CONSIDERATIONS**

The main issues in the consideration of this application are the principle of the development, flood risk, the impact on neighbouring property, the impact on the visual amenities of the area and noise and highways.

### Principle

The site is outside the identified settlement limit for Norton Fitzwarren. There is, therefore, a presumption against new residential development unless material considerations otherwise indicate that the development may be acceptable. The assessment of the principle of development in this case requires regard to the site history, consideration of the flooding related sequential and exceptions tests, the provision of affordable housing and contributions to community leisure facilities.

The 1961 and 1989 planning permissions together permit 6 caravans to be stationed on the site. The 1988 permission is of less relevance because it was for a temporary period only. It is fair to say that there is currently no active use of the site, and there are no caravans currently stationed thereon. However, aerial photographs available through the internet clearly show at least two caravans located on the site in a photograph which also shows the completed Silk Mills railway bridge – placing it later than 2005; and a single caravan on site in a picture that shows the Cider Factory redevelopment well underway – placing it at around 2009/10. It is not clear when the last caravan was removed from the site, but there does not appear to have been any intervening land use and, although it is overgrown, the hardstandings, access steps and drainage connections for a number of caravans are still visible on the site. With regard to the above, your officers are satisfied that there are extant permissions that would allow 6 caravans to be stationed on the site and that the use has not been abandoned in planning terms.

In this case, the planning history of the site is considered to be a weighty material consideration. Although the site is outside the settlement limit, it is considered that in terms of the overall principle of the development, given that 6 caravans for permanent residential occupation could be stationed on the site, the principle of 6 'permanently constructed' dwellings can also be considered acceptable on the site.

In accepting the principle of the development based on the planning history and, therefore, a fall-back position that would allow such a use to continue, it is considered that it is not necessary for the development to pass the flooding related sequential test. It is fair to say that permanently constructed dwellings would be preferable in flood-risk terms to caravans and, subject to the detailed technical considerations relating to flood risk detailed below, the development is considered to be acceptable in principle on these grounds also.

The fall-back position is also important when assessing the need to make contributions to affordable housing and leisure and recreation. Although the type of dwelling on the site would change, there would be no net-increase in total dwelling numbers as a consequence of the development. It would, therefore, place no greater strain on existing community facilities than the existing use of the site and it is not considered reasonable to require affordable housing and other community leisure based contributions. The Parish Council have suggested that the caravans that were previously on the site were 'single occupancy' only and should not be compared to the proposed dwellings. However, the definition of a caravan is wide and could theoretically lead to much larger accommodation without any need to vary the planning permission. The precise nature of the previous caravans, therefore, is not considered to reduce the weight that can be given to the planning history.

With regard to the above, and subject to the detailed considerations below, the development is considered to be acceptable in principle.

### Flood risk

Whilst the principle of development is accepted for the reasons given above, it is still necessary to demonstrate that the development itself is safe from flood risk and will not cause an increase in flood risk elsewhere. On this matter, the applicant has been in protracted negotiation with the Environment Agency for the last 12 months



or so.

The submitted flood risk assessment information indicates that in a 1 in 100 year (+ climate change) event, only the periphery of the site will flood and the actual developed area in the centre of the site would not. It is, therefore, argued and accepted by the EA that the site need not provide flood storage compensation in order to prevent down-stream flooding provided that ground levels are not raised in the flood risk areas.

It is noted that parts of the site could flood up to 0.4m in extreme events and this could present a danger to some people, particularly if flow velocities are significant. Flooding of 0.2-0.3m depth could occur at the site access and, therefore, anybody on the site at the time of flood would not be able to leave safely. In some cases, such might render the site unacceptable for development, but once again regard must be given to the history. Given that the site can lawfully accommodate 6 residential caravans, it is not considered reasonable to refuse planning permission on this basis. Furthermore, permanently constructed dwellings would provide a better standard of protection than caravans and are, therefore, considered to provide a betterment over the existing situation.

The Council's Civil Contingencies Manager agrees with this position and has also suggested (verbally) that Environmental Searches would reveal the flood risk to prospective purchasers. Given that they should move to the site in the knowledge that it would flood periodically, the situation is considered to be acceptable and future owners will have to ensure that they have prepared themselves for the prospect of flooding.

The EA has recommended various conditions to ensure that flood risk is not increased, such as preventing any ground raising, requiring the floor levels of the proposed dwellings to be above the flood level and requiring prior approval of any fences or other means of enclosure. Your officers also consider that permitted development rights for extensions should be removed to prevent any potential development encroaching into the flood zone and restricting flood flows.

### Neighbouring property

Other than the dilapidated building immediately adjoining the site to the east, the site is otherwise surrounded by an agricultural field. To the north is a narrow section of field that forms an access to the Ford Farm land and dwellings on Station Road sit on the opposite side of this, orientated broadly perpendicular to the northern site boundary. The side garden of the closest dwelling to the north is between 16 and 20m from the site boundary and it is considered that with this separation, new dwellings would be able to be constructed without any unacceptable loss of privacy to the neighbouring properties.

### Visual amenity

The site is generally related to the existing and future residential development in Norton Fitzwarren (the closest corner of the Old Cider Factory site to the east has yet to be built out). Given the existing dwellings on the western side of Station

Road, it is considered that when viewed from the west, the dwellings would appear reasonably part of the village and not appear as isolated or sporadic.

The application suggests that the dwellings may be between 2 and 3 storeys in height, although scale and appearance are both reserved for subsequent consideration in a future application. Given that other dwellings at the southern end of the west side of Station Road are only 2 storey in height, your officers have some concerns over the potential for higher dwellings on this site, which will likely always be the southern edge of the settlement due to the railway line. It is recommended that an advisory note is placed on any grant of planning permission that greater than two-storey dwellings are unlikely to be viewed favourably on this site.

There is a large poplar tree on the southern site boundary, which is considered to be a relatively rare native tree. The application originally proposed to fell this tree, but following objection from your Landscape Lead, this has been withdrawn from the scheme. A condition should be imposed for the avoidance of doubt to confirm that the felling of the tree is not allowed by any permission granted. It is considered that it will still be possible to carry out a development of 6 dwellings whilst satisfactorily retaining the tree. The western site boundary is exposed to the open countryside. If Ford Farm is developed in the future, it would no longer be an urban/rural edge, but in the event that such is never forthcoming, it is considered reasonable to require a landscaping scheme and hedgerow planting along the western site boundary.

### Noise

The site adjoins the railway line. A noise survey has been prepared that indicates that it would be possible to reduce noise disturbance from passing trains to an acceptable level. This would require a 'heavy' fence or brick wall along the southern boundary and the use of enhanced double glazing and 'acoustic' trickle vents to the upper floor windows. The details of such should be submitted with any reserved matters application and required by condition.

The Parish Council have suggested that the future Norton Fitzwarren relief road would run to the north of the site and that noise from this should be considered. Given that there is currently no planning permission for such a road or an adopted planning policy to that effect, it is not considered reasonable to impose a condition requiring attenuation of noise from this potential future source. However, an informative note should be attached to advise the developer to consider this also.

### Highways

The Local Highway Authority have never commented on the proposal. They have been asked for comment, which is expected in advance of the committee meeting. However, your officers consider that given the fall-back position that 6 caravans could be stationed on the site, it is not considered that an objection on highway reasons would be justified.

### Conclusions

The application site is outside the settlement limit for Norton Fitzwarren. However, the planning history indicates that 6 caravans for permanent residential use could be stationed on the site without the need for any further grant of planning permission. In light of this, it is considered that the fall-back position carries such weight as to establish the principle of the development and outweigh the conflict with the development plan. Such is also considered to waive any requirement for affordable housing, contributions to recreation facilities and the need to pass the flood risk sequential test.

The site is at risk of flooding. However, the construction of dwellings on the site will not increase the risk of flood risk elsewhere, subject to conditions to prevent additional future works occurring on the site. The dwellings themselves can be made resilient to flooding and would in any event provide safer accommodation than that provided by any caravans that may be sited pursuant to the existing permission. The site can be developed without harm to neighbouring amenity or the visual amenities of the area and there will be no significant increase in traffic attracted to the site.

With regard to the above, the proposal is considered to be acceptable and it is, therefore, recommended that planning permission is granted.

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

**CONTACT OFFICER: Mr M Bale Tel: 01823 356454**