

52/10/0013

MR T JAMES

**ERECTION OF TWO DWELLINGS IN THE GARDEN OF HIGH GREEN, COMEYTROWE LANE, COMEYTROWE (REVISED ACCESS ARRANGEMENTS TO 52/09/0048) AS AMENDED**

Grid Reference: 320431.123572

Full Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

The proposal, for residential development, is located within defined settlement limits where the principle of new housing is considered acceptable. The proposed development by reason of its siting, scale and design would not adversely affect the residential amenity of surrounding properties or the character or appearance of the area. The revised siting of the access is considered to be acceptable and would not adversely affect highway safety or the appearance of the street scene, in lieu of the previously approved access under planning consent 52/09/0048. The revised access will ensure the protected tree within the roadside hedgerow will not be disturbed. The proposal therefore does not conflict with Somerset and Exmoor National Park Joint Structure Plan Review Policies STR4 and 49 and Taunton Deane Local Plan Policies S1 (General Requirements), S2 (Design), and M4 (Residential Parking Provision).

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

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

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

Location Plan – Drawing No. 02 Rev C September 2009.

Block Plan – Drawing No. 03 Rev C September 2009.

Proposed Site Layout Plots 1 & 2 – Drawing No. 19 Rev C March 2010.

Proposed Ground Floor Plan & Elevations of Garage Plot 2 – Drawing No. 29 June 2010.

Existing Site Survey – Drawing No. 01 Rev B May 2009.

Existing & Proposed Elevational Sections, Plots 1 & 2 – Drawing No. 25 March 2010.

Sectional Elevation – Drawing No. 10 July 2009.

Proposed Plans & Elevations, Plot 2 – Drawing No. 21 March 2010.

Proposed Elevations (Option D), Plot 1 – Drawing 11 Rev A July 2009.

Tree Survey – Drawing No. SPP/1516/1 August 2009.

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

3. The development to which this planning permission relates shall not be implemented if any part of the development for which planning permission was granted by the Local Planning Authority reference 52/09/0048 is begun. In the event that works are undertaken for the development referred to in the permission already granted, this permission (reference 52/10/0013) shall forthwith lapse and be of no effect.

Reason – To ensure that only one scheme is implemented on the site in order to ensure one access only is authorized and an acceptable layout is safeguarded in accordance with Taunton Deane Local Plan Policies S1 and S2.

4. Prior to installation samples of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out and thereafter retained as such, in accordance with the approved details as above, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the existing building in accordance with Policy S2 of the Taunton Deane Local Plan.

5. No demolition or clearance works or other operations likely to disturb nesting birds shall take place during the nesting season between 1st March and 31st August unless any variance is agreed in writing by the Local Planning Authority.

Reason: All birds, their nests and eggs are protected under the Wildlife & Countryside Act 1981 (as amended). This condition is imposed to ensure the protection of nesting birds during the nesting season in accordance with the relevant guidance in PPS9.

6. Prior to the occupation of the dwellings hereby permitted a properly consolidated and surfaced access together with parking and turning space for vehicles shall be constructed (not loose stone or gravel) details of which shall previously have been submitted to and approved in writing by the Local Planning Authority. The turning space and parking area shall be kept clear of obstruction at all times. Development shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety in accordance with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review and relevant guidance in PPG13.

7. Prior to commencement of the development details of the method for the disposal of surface water, so as to prevent its discharge onto the public highway, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details prior to the occupation of the dwelling.

Reason: In the interests of highway safety and to accord with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review 2000.

8. At the proposed access there shall be no obstruction to visibility greater than 900mm above the adjoining road level within the visibility splays shown on the submitted Proposed Site Layout Plan, Drawing No. 19 Rev C. Such visibility splays shall be constructed prior to the commencement of the development hereby permitted and shall thereafter be maintained at all times.

Reason: In the interests of highway safety and to accord with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review 2000.

9. (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 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 Policy S2.

10. Prior to the occupation of the dwelling a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The agreed boundary treatment shall be completed before the dwellings(s) are occupied or in accordance with a timetable agreed in writing with the Local Planning Authority and thereafter maintained as such, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the proposed development makes a satisfactory contribution to the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policy S2.

11. All existing trees on site shall be protected in accordance with BS5837:2005 Trees in relation to construction.

Reason: In the interests of the visual amenity of the area in accordance with Taunton Deane Local Plan Policy EN8.

#### Notes for compliance

1. Having regard to the powers of the Highway Authority under the Highways Act 1980 the applicant is advised that the creation of the new access will require a Section 184 Permit. This must be obtained from the Highway Service Manager, Taunton Deane Area Office, Burton Place, Tel No. 0845 3459155. Application for such a permit should be made at least four weeks before access works are intended to commence.
2. The illustrative master plan for the future expansion of the site, submitted for information, is noted. The Local Planning Authority considers that any further residential development should be part of a wider comprehensive development through the LDF process and would not support piecemeal development.
3. All nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) and if discovered should not be disturbed.

It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the applicant should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation.

4. The applicant is advised to contact the Council's Landscape Officer to discuss the requirements of the landscaping scheme. The proposed landscape scheme should include reinforcing the roadside hedgerow with a double staggered row of Hazel, Hawthorn, Field Maple and Holly to reinforce the rural character of the Lane.

#### **PROPOSAL**

Planning permission is sought for the erection of two dwellings within the curtilage of High Green, Comeytrove. Permission was previously granted, reference 52/09/0048, for the same development with an alternative access off Comeytrove Lane resulting in the loss of a section of hedgerow along the road frontage. Permission is now sought for the re-siting of the access further south of the site which would loop back around to serve the development. The revised scheme also includes the re-siting of the garaging to serve plot 2, to accommodate the access into the site. The agent has also submitted, for indicative purposes, a layout plan

indicating the position of an additional three dwellings for a future application which would be served from the proposed access. Revised plans have been submitted amending the design and detailing of the access to only that required to serve the two dwellings. The plans indicate a retaining wall at the site entrance and adjoining the access track into the site to take account of the changes in levels, the bank would be terraced at this point.

The design and access statement refers to a palette of materials for the proposed dwellings that are commonly utilised within the surrounding buildings, notably brick and render walls, clay roof tiles and UPVC windows.

## **SITE DESCRIPTION AND HISTORY**

The application site comprises a substantial dwelling known as 'High Green' set in an extensive curtilage, laid to grass with a mixture of mature trees and shrubs. The dwelling is set in an elevated position, with the land rising from south to north. The existing dwelling is located in the furthest north west corner of the site. The siting of the proposed two dwellings is located within the settlement limits, but the access off Comeytrowe lane is outside. There is a Sycamore tree protected by a TPO on the eastern boundary of the site, along the road frontage. To the north and east is residential development with open countryside to the west. To the south of the site is a public footpath which crosses diagonally across the field.

Permission was granted for the erection of two dwellings accessed off Comeytrowe Lane, reference 52/09/0048, to the north of the now proposed access.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*PARISH COUNCIL* - The Council oppose the application on the grounds that the proposed revised access is outside the present Taunton Deane Settlement Limit. The Council are also concerned that the proposed access is being changed to serve the existing two dwellings that have already received planning permission, but the plans with the application show an additional three dwellings that would also be outside the Settlement Limit, where no planning application has been submitted to date. The Council feel that the present application for the revised access should also seek planning permission for the other three dwellings at the same time.

*HIGHWAY AUTHORITY* – I refer to revised Plan No. 19 B for two residential units on land to the south of High Green, Comeytrowe Lane.

The access will provide visibility splays of 2.4m x 43.0m to the south and 2.4m x 34m to the north. These splays have been designed in accordance with Manual for Streets. Although the splay to the north cannot reach the suitable distance required I am satisfied that the nature of the road and the speed of the traffic a splay of 2.4m x 34m will be acceptable.

At the point where the access joins the adopted highway it will provide a width of 5.2m this narrows to 4.5m which was requested under previous planning application 52/09/0048. I am satisfied that two-way vehicle flow can be provided for the entire length of the drive.

Both dwellings will provide sufficient parking for two vehicles which is in keeping with the standards of the Local Transport Plan Parking Strategy and also the policies of the Taunton Deane Local Plan. Both dwellings will have independent turning off the private drive.

No objection subject to the imposition of conditions.

*LANDSCAPE OFFICER* – The proposed revised access will have an impact on the character of the existing country lane. It is not clear if additional engineering works will be required to meet highway visibility splay requirements.

Revised comments to Plan No. 19 Rev B - Slightly improved access point otherwise please see previous comments.

*NATURAL ENGLAND* – No comments to make.

*NATURE CONSERVATION & RESERVES OFFICER* – Previous comments apply equally.

The proposal is to build two houses within the existing garden of High Green, Comeytrove on the western outskirts of Taunton. The gardens are neat and well kept with short mown grass, managed hedges, some mature fruit trees and two small ponds. Greena Ecological Consultancy carried out a Protected Species Survey of the site in November 2009.

Bats – Bat droppings, probably from long eared bats and a single pipistrelle were found in the main house. As the house roof will remain untouched the bats roost will not be disturbed.

There were no features for bats to roost found in the garden but bats are likely to forage along the garden hedges. I am concerned that the removal of hedging will impact on the foraging bats using the hedge line to access the wider landscape from the main house. Removal of native hedge should be kept to a minimum.

Dormice / Badgers/Amphibians/Reptiles/Birds – no evidence found. However due to the timing of the report the officer recommends a timing condition be imposed regarding site clearance works in order to protect wild birds.

*DRAINAGE OFFICER* – No observations.

*WESSEX WATER* - The development is located within a sewered area, with foul and surface water sewers. The developer has proposed to dispose of surface water to a soakaway.

It will be necessary, if required, for the developer to agree points of connection onto our systems, for the satisfactory disposal of foul flows and surface water flows generated by the proposal. The connection point can be agreed at the detailed design stage.

With regards to water supply, there is water mains within the vicinity of the proposal. Again, connection can be agreed at the design stage.

The developer should be aware of the importance of checking with Wessex Water to ascertain whether there may be any uncharted sewers or water mains within (or very near to) the site.

## **Representations**

8 letters of OBJECTION have been received. Summary of objections: -

- Highway Safety - the access would involve a relatively steep slope to reach the narrowest section of Comeytrove Lane, almost opposite Comeytrove Rise, which has poor visibility downhill;
- The road is increasingly heavily used - buses, heavy commercial vehicles and as a cut through from Wellington New Road;
- Concern that the well-used footpath across this field be kept accessible and safe to walk at all times during the current building work;
- The trees specified in the roadside hedgerow, only the sycamore seems to be noted, therefore not an accurate representation of the hedgerow;
- Revised PPS3 (Housing) issued on the 9th June 2010 immediately changed the policy that land within the curtilage of a dwelling was considered brownfield land whereas now the policy is even if it is still classified as brownfield land then there is no presumption that land that is previously-developed is necessarily suitable for housing development nor that the whole of the curtilage should be developed;
- Further three dwellings would set a precedent outside settlement limit;
- The two properties are sited hard against the top of the bank in Comeytrove Lane, so they will loom over the road, at the top of a high and precipitously steep slope;
- Loss of privacy;
- Access drive is outside of the defined settlement limits;
- The drive provides potential access for further properties in this zone in the future as shown on the indicative plan, this negates the thrust of the consultation for wider development as presented which was to stream access traffic back to the A38 directly, not into Comeytrove Lane;
- Poor highway visibility;
- No footpath along this section of Comeytrove Lane;
- No mention of right of way across field;
- Sycamore tree used for justification to re-site the access there is nothing unique about it; site discounted in Core Strategy and Small Sites Consultation document of January 2010 as only suitable as part of an urban extension, which would necessitate a full traffic assessment and road scheme to serve the area.

5 letters of SUPPORT have been received. Summary of Support: -

- The repositioning of the drive ensures that the existing sycamore tree (subject to a Tree Preservation Order) is unaffected;
- Hedgerow in the location of the proposed drive is significantly less and its loss reduces the impact on Comeytrove Lane;
- Increased visibility;
- Design and siting of the two dwellings remains unaltered.

## **PLANNING POLICIES**

PPS1 - Delivering Sustainable Development,

PPS3 - Housing,  
PPS7 - Sustainable Development in Rural Areas,  
PPG13 - Transport,  
VIS2 - Principles for Future Development,  
TRAN1 - RPG 10 TRAN 1 - Reducing the need to Travel,  
STR1 - Sustainable Development,  
S&ENPP33 - S&ENP - Provision for Housing,  
S&ENPP48 - S&ENP - Access and Parking,  
S1 - TDBCLP - General Requirements,  
S2 - TDBCLP - Design,  
S7 - TDBCLP - Outside Settlement,  
M4 - TDBCLP - Residential Parking Provision,  
EN12 - TDBCLP - Landscape Character Areas,  
EN8 - TDBCLP - Trees in and around Settlements,

## **DETERMINING ISSUES AND CONSIDERATIONS**

The main issues in the determination of this application area are considered to be (a) whether the scheme is an over-development of the site resulting in harm to the character and appearance of the area; (b) whether the scheme would harm the living conditions of nearby occupiers, in terms of any significant loss of privacy or any overbearing effect; and, (c) any effect on highway safety.

### Character and appearance

The site is presently part of the garden area of High Green, and takes the form of a rectangular plot. There has been reference made by local residents to the omission of garden areas as brownfield land following revised guidance from central government incorporated into PPS3 - Housing. Nevertheless, the siting of the development is located within the built-up area boundary of Comeytrove where the principle of residential development is acceptable subject to normal planning considerations. The existence of a concurrent approval for two dwellings on this site is a material consideration. In terms of the design detailing, the dwellings are considered to be acceptable and the proposed materials would draw upon the mixture of materials used locally.

During the determination of the previous scheme protracted negotiations were undertaken with the agent and the landscape officer to clarify and mitigate the impact of the access works on the protected tree. Whilst it was ultimately agreed that the access could be achieved without harming the root system of the protected tree the current proposal will ensure that tree is not affected in anyway, whilst providing an acceptable layout within the site. The revised access would be positioned further to the south of the previously approved access, outside of the defined settlement limits, and its impact on the street scene needs to be given due consideration. The access has been amended to take account of officers' concerns to the design and specification of the access which had been designed not only to serve the proposed two dwellings but also an additional three dwellings in the future as shown on an indicative master plan. The area to the west of the site has been earmarked as part of the Comeytrove urban expansion. However, any development in this location, currently outside of the settlement boundary, should form part of the overall master plan for the area and not on the basis of piecemeal development. The agent has subsequently amended the access to address the concern that the access was over engineered and has now been designed to serve the proposed two dwellings only.



Whilst it is accepted that the access is located outside of the settlement boundary, the access does straddle the boundary and would reduce the potential impact upon the protected tree along the road frontage. There is a footpath to the south of the site and as such a landscaping condition is recommended to be imposed in order to help screen the development from public view. The proposal would not interfere with the right of way.

### Amenity

The siting of the dwellings has previously been considered acceptable by reason of the proposed siting of the dwellings and separation distances between elevations. The northern most proposed dwelling, Plot 1, takes the form of a chalet bungalow style property and has been designed to reduce any impact on the property to the north and features fenestration at ground floor level on the north elevation. The existing landscaping along the boundary would ensure there is no loss of privacy and by reason of its scale is not considered to appear dominating on the outlook of the occupiers.

### Highway Safety

The concerns of local residents to highway safety are noted, however, the Highway Authority is satisfied that the access position and technical details are acceptable and therefore it is not considered a refusal could be substantiated on such grounds.

### Conclusion

The principle of residential development on this site is accepted by virtue of planning consent 52/09/0048. It is considered that the re-siting of the access would not adversely affect the appearance of the street scene and would ensure the protected tree remains undisturbed. The landscape officer considers that the tree is of good health and has a high amenity value within the street scene. It is therefore considered that whilst the access is technically outside the settlement limit it would not constitute any built form and the benefits of retaining the protected tree would outweigh the conflict with local plan policy. The changes to the internal layout with a double garage sited to the north of Plot 2 would have no adverse impact and as such it is recommended that the application be approved subject to the imposition of conditions set out.

**In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1988.**

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