

22/2005/017

TAUNTON DEANE BOROUGH COUNCIL

**ERECTION OF DWELLING HOUSE AT LAND AT THE CAUSEWAY, LYDEARD ST LAWRENCE.**

12792/32440

FULL

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**PROPOSAL**

The proposal provides for the erection of a detached dwelling on an area of vacant land within the village limits and Conservation Area. Three bedroom accommodation is proposed, with the building materials to be of rendered walls and slate roof. Because of the nature of the site and constraints with the site being within the Conservation Area, no on site parking is proposed. A previous identical application was submitted last year but withdrawn prior to determination at the 2nd March, 2005 Committee.

**CONSULTATIONS AND REPRESENTATIONS**

COUNTY HIGHWAY AUTHORITY the lack of on-site parking is a concern, however it may be unreasonable to object in this instance considering that the proposal is in the middle of the village and there are other dwellings adjoining and nearby that do not benefit from off street parking. In the event of planning permission being granted would recommend conditions re disposal of surface water to prevent its discharge onto the highway and no overhanging or obstruction of adjoining footway. COUNTY ARCHAEOLOGIST as far as we are aware there are limited or no archaeological implications to the proposal and therefore have no objections on archaeological grounds. WESSEX WATER the site is not located within a Wessex Water sewered area. Points of connection for water supply need to be agreed. RIGHTS OF WAY TEAM the County Council has accepted an application to add a footpath to the definitive map and statement over the land. The County Council is under a duty to investigate this application and to publish an order amending the Definitive Map if evidence is found that shows a footpath exists over this route. The consequence of a public footpath being established over this route would be that any development on the site would constitute an obstruction to the public right of way and action might have to be taken to remove the structure.

LANDSCAPE OFFICER subject to protection of the remaining trees to the rear of the property during and post construction the scheme should have limited landscape impact. The trees proposed to be felled for construction are of limited size and amenity and not worthy of tree preservation. CONSERVATION OFFICER type of development proposed is sympathetic to this part of the Conservation Area. No objection subject to conditions covering sample panel of render to be erected on site for approval, sample slate, no bell casts to render and timber windows. NATURE CONSERVATION OFFICER the site does not provide the typical habitat expected for slow worms and other reptiles. Do not believe it is reasonable to ask for a survey in this case. Suggest that a note is made to alert developers to the possible

presence of nesting birds. DRAINAGE OFFICER soakaways should be constructed in accordance with Building Research Digest 365 and made a condition of any approval. Note that a sewage treatment package plant is to be used to dispose of foul sewage. Percolation tests should be carried out to ascertain the required lengths of sub surface irrigation drainage. The Environment Agency's consent to discharge to an underground strata would be required. LEISURE DEVELOPMENT MANAGER

The site of this application for planning permission is used by the community as a public open space. The parish of Lydeard St Lawrence has half the average recreational space per head of the other parishes in the Borough. The parish has 1.91 hectares of open space according to our records, which is 4.55 hectares per thousand population compared to the average of 9.10 hectares per thousand across all parishes. The 1.91 hectares of open space is made up of the children's play area, the church yard and the playing field. The Parish Council omitted to record the space at the Causeway when this information on open space in the village was last collected 3 years ago. The site is being used as a public open space and has a recreational value to residents including children who do not respond to consultation on planning applications. In view of the low level of open space in the parish, I do not support this application. If the Committee decides to grant planning permission on this site, there should be some compensation to the local community for its loss by funding improvements to facilities on the playing field. This sum would be spent in consultation with the management committee of the playing field as to its needs, and should be in the order of £2,562 which is the sum the Council normally requires from developers in lieu of on-site leisure provision.

PARISH COUNCIL object. Lack of vehicular access and parking. The site is on a blind bend in a narrow village street and the suggestion that a parking place be allocated in the car park at Cridlands was not felt to be a solution. Proposals for the disposal of foul sewage were not shown on the site plan, the siting of this was felt to be important on a sloping site close to other dwellings. The presence of a footpath, at present under scrutiny by SCC Rights of Way Group. The presence of memorial trees. Urges TDBC to ensure that no action is taken regarding any trees on this site until such time as planning permission is approved.

THREE LETTERS OF OBJECTION have been received raising the following issues:- contrary to both local and national policy, would detrimentally affect the residential and visual amenity of the surrounding properties and area and would obstruct a public right of way; consider Council's handling of the application to be procedurally flawed; do not consider that a decision should be made by the Committee on this application until certain disputed facts are determined by an independent and impartial body from the Council; determination by a Council of its own application is a breach of Human Rights legislation where there is a dispute of fact, as the Council is not an independent and impartial tribunal in such circumstances and the decision might not be subject to sufficient control by the Court to ensure compliance with Article 6; do not consider that any application should be ) considered on this site until the issue as to whether this is an area of public open space or whether a public right of way crosses the site has been investigated by an independent and impartial tribunal; application has been made to Somerset County Council for the footpath to be marked on the definitive map for the area and the current application should not be determined until this has been decided; concern that the Council is not treating the application as it would an application from a

private individual; no pre-application consultation with adjoining occupiers, contrary to the procedures set out in the consultation draft Statement of Community Involvement; proposal not following Council's own guidelines for distances to trees and the impact of drainage pipes; commemorative trees should have a TPO placed on them; consider that the application departs from the provisions of the adopted Local Plan in a number of respects, including C6 (public rights of way) and should be treated as a departure application; application form contains a number of inaccuracies e.g. by stating that there is mains drainage in the village, does not involve felling of trees and that development does not affect a public right of way; many villagers cross the site and use it as open space; the development is unsustainable and contrary to the strategy set out in the Local Plan for development to be focussed on rural centres and towns; the support that this house will provide to the social and economic viability of the village is negligible in comparison with the detrimental effect that it will have on the environmental quality arising from the loss of the open space and trees; because of limited facilities in the village, the occupiers of the proposed house will be dependent on their own transport to get to work or go shopping, making the development unsustainable on the basis that it will lead to an increase in car travel; contrary to TDLP Policy H1 which requires a safe and convenient access by bus or on foot from any housing development to facilities and employment; the development will detrimentally affect the residential amenity and privacy of the neighbouring and nearby properties; the application site is cramped and surrounded on all sides by residential properties and slopes steeply upwards from front to rear; due to the proximity of the proposed house to the neighbouring properties and the topography of the site, the building and the garden will directly overlook adjacent properties with resultant loss of privacy; harm will be caused to the residential amenity of the area and the appearance and character of the landscape and adjacent buildings; no consideration has been given to the design of the building so as to minimise the adverse impact on the existing land uses; windows directly overlook adjacent properties; proposed building will prevent maintenance of adjacent wall and obstruct a private right of access; no details of deflection of rainwater; foundations of the adjacent property will be exposed and damaged during construction, no investigations have been carried out by the Council to show that the foundations for the new property can be constructed in the space available and without damaging the foundations of the adjacent property; will block light to ground floor kitchen window and interfere with right to light; the development would result in the loss of public open space and important trees, thereby banning the residential amenity and landscape; the site which is grassed and planted with trees has provided a public open space enjoyed by the villagers since the 1950s; many of the trees have been planted to commemorate various events; area is particularly attractive in the Spring when several of the trees are in blossom and the site provides a safe haven for local wildlife; the Council itself planted a number of trees on the site in conjunction with the resurfacing of the nearby car park a couple of years ago; up until December 2005 when the Council erected a padlocked gate adjacent to No. 1 Cridlands a number of the villagers crossed the site each day as a short cut through the village avoiding the road and the grassed area is also popular with dog walkers and children; TDLP recognises the importance of retaining open spaces and green wedges and states that trees and open spaces will be protected; in addition to the two trees which need to be felled, many others will be damaged due to the proximity of the house, the extensive levelling and construction machinery working within this confined site; PPG17 recognises green spaces between houses

as amenity green spaces and taking the relevant criteria into account there can be no justification for allowing this open space to be developed; the proposed development will detrimentally affect the character and appearance of the Conservation Area, as the proposal will result in the loss of trees and amenity greenspace and result in an increase in vehicular traffic and on-street parking; the absence of any off-road parking is contrary to TDLP Policy M4d which requires that all residential developments provide at least one parking space for each three bedroom house and the on road parking that will arise as a result will create road safety problems; the car parking spaces at the nearby Cridlands parking area are either allocated to properties or are already full to capacity in the evenings and weekends; residents will therefore park their cars on the Causeway, thereby exacerbating the hazard that already exists due to cars being parked on the approach to the blind bend in the road; the site is not served by utility services necessary for the proposed development; septic tank drainage not possible and the sewage system serving Cridlands may not have the capacity and developer would need to reach agreement; proposed development unacceptably close to septic tank of adjacent property; the development would obstruct a public right of way, there is evidence to show that this right of way has been exercised openly by the public at large for in excess of 20 years, thereby establishing a public right of way, when the Council previously offered to sell the site some years ago to an adjoining owner one of the conditions of sale was that the purchaser would fence off a strip of land sufficient to accommodate this right of way; the legal right to use the path exists whether or not it is recorded on the definitive map for the area, dismissal of this issue on the basis that 'a formal right of way does not exist' is misguided; TDLP Policy C6 states that a proposal which would require the diversion or closure of a public right of way will not be permitted unless a suitable alternative route is proposed which would not reduce the amenity or unduly inconvenience users - the development would completely obstruct the right of way and there is no suitable alternative route that would not reduce the amenity or unduly inconvenience users; the development site is located within an area of high archaeological potential and a satisfactory evaluation of the archaeological value of the site should be provided before the application is determined; proposed dwelling will be shoehorned into the site; adjacent properties would be devalued.

TWO LETTERS OF SUPPORT have been received commenting as follows:- aware of the dire need of housing and feel this is an appropriate use of the land; it would stop the local children using the slope as a bike run, a very dangerous practice; best way to ease the housing shortage is where possible to use land previously used for dwellings; this is the only safe use for this land as it is too steep to be used as a play area and would cost the public purse too much to make it safe as a right of way.

## **POLICY CONTEXT**

Policy STR1 of the County Structure Plan contains criteria for sustainable development, including ones that (a) development should develop a pattern of land use and transport which minimises the length of journeys and the need to travel and maximises the potential for the use of public transport, cycling and walking; and (b) give priority to the continued use of previously developed land and buildings. Policy STR5 of the same plan states that development in rural centres and villages should be such as will sustain and enhance their role and will be commensurate with their

size and accessibility, and appropriate to "their character and physical identity. Policy 49 covers transport requirements of new developments and in particular requires that developments should provide safe access to roads of adequate standard within the route hierarchy.

Policy S1 of the Taunton Deane Local Plan includes general requirements for new developments. Policy S2 of the same plan provides guidelines for the design of new developments. Policy S5 states that development in villages will be limited to small scale proposals which support their social and economic viability, maintain or enhance their environmental quality and are unlikely to lead to a significant increase in car travel. Policy H1 states that housing development will be permitted within defined limits of settlements provided certain criteria are met. It is considered that these criteria are met with the current proposal. Policy M4 indicates residential parking requirements of 1-2 spaces for cars. Policy EN14 of the same plan states that development within or affecting a Conservation Area will only be permitted where it would preserve or enhance the appearance or character of the Conservation Area. I consider that the proposal will meet with these criteria. Policy C6 states that proposals which would require the closure or diversion of a public right of way will not be permitted unless a suitable alternative route is proposed which would not reduce the amenity of or unduly inconvenience users.

## **ASSESSMENT**

The site is located within the settlement limits of Lydeard St Lawrence, which has a range of local facilities - shop, school and village hall. The site is housing land within the Council. The applicant indicates that both Tone Leisure and the Parish Council have declined to purchase the site for use as public open space. The applicant accepts that there is no mains drainage in the village and that drainage will need to be dealt with on site, possibly by a treatment package system. The details for this issue are covered by a recommended condition. The County Highway Authority does not raise objection to the principle of the development. Although no off-road parking is provided, most of the other properties in the general area do not have such facilities and in view of this, the County Highway Authority does not have any objection to the lack of parking or the fact that residents' vehicles will be parked on the village street. Whilst there will be some adverse impact on the neighbouring residential properties, I do not consider that this would be serious enough to justify refusal of the application. The Conservation Officer does not raise any objection to the proposal and I consider that the proposed dwelling is acceptable in the street scene at this point and will not adversely affect the character and appearance of the Conservation Area. Although there is no formal public right of way across the site, an application has been received by the County Council for a modification to the definitive map. A condition is recommended such that no development should commence until such time as that application has been determined and rejected. The County Archaeologist does not raise any objection to the proposal.

## **RECOMMENDATION**

Subject to the applicants entering into a Section 106 Unilateral Undertaking to provide for an off site contribution towards improvements to local recreation facilities in lieu of the loss of public open space, to be paid prior to occupation of the proposed

dwelling, the Development Control Manager in consultation with the Chair/Vice Chair be authorised to determine and permission be GRANTED subject to conditions of time limit, foul and surface water drainage, materials, rainwater goods, landscaping, retention and protection of trees, no felling, no service trenches beneath canopy spread of trees, levels, means of enclosure, disposal of surface water to prevent its discharge onto the highway, no overhanging or obstruction of adjoining footway, meter boxes, no bell casts, timber doors and windows, underground services, removal of GPDO rights for extensions and windows and fixed and obscure glazing to certain side windows and no development to commence until such time as the application for a Modification Order to the Definitive Footpaths Map has been determined and rejected by the County Council. Notes re disabled access, energy and water conservation, meter boxes, soakaways, nesting birds, soakaways, consent to discharge and CDM Regulations.

**REASON(S) FOR RECOMMENDATION:-** The proposal satisfactorily respects the form, character and setting of the settlement and the integrity of the street scene and has no material effect on neighbouring properties. The proposal is, therefore, in compliance with the requirements contained in Taunton Deane Local Plan Policies S1, S2, H1 and EN14 and C6. The lack of off road parking is not considered to be likely to materially affect highway safety.

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

**CONTACT OFFICER: 356461 MR J HAMER**

NOTES: