

TAUNTON DEANE BOROUGH COUNCIL

PLANNING COMMITTEE - 28 JULY 2004

PLANNING APPEALS

Due to the long term absence, through ill-health, of the officer in the Member Services Unit who deals with planning appeals administration, and then a delay in recruiting her replacement, the reporting of the situation relating to planning appeals has, unfortunately, not occurred for some considerable time. Over the next meeting or two the opportunity will be taken to bring the Planning Committee right up to date.

In this report there is a complete list of the appeals lodged since July last year, and the first tranche of the 32 appeal decisions that have been received during the same period. In most cases a précis of the Planning Inspector's report is presented but, where the decision is particularly complex or of particular interest, a complete copy of the Inspector's decision is appended.

1. The following appeals have been lodged:-

(DD means a delegated decision by the Chief Planning Officer and PC means a decision taken by one of the Parish Councils in the current delegation scheme.)

Appellant	Date Application Considered	Proposal
J Hibbard (24/2003/008)	DD	Demolition of existing dwelling and erection of two dwellings on site of The Jays, Stoke Road, North Curry.
Mr D W Best and Mrs A Matthews (19/2002/028LB)	DD	Erection of single storey extension towards the road at Buttles Lodge, Hatch Beauchamp.
Call in by the First Secretary of State (46/2002/032 and 46/2003/016)	29/1/2003	Erection of Industrial Units, land adjacent to Chelston Manor, Chelston, Wellington.
Mr and Mrs R J Hendy (23/2003/018)	PC	Erection of single storey extensions and two storey extension to the rear of Ridge House, Parsonage Lane, Milverton.
Wellington Medical Centre (43/2000/134)	5/3/2003	Erection of Health Centre with car parking, 42 - 46 High Street

together with rear land between High Street and Scotts Lane, Wellington.

Somerset Care Trust and Redstone Trust
(42/2002/057 and 42/2002/058CA)

5/3/2003

42/2002/057 - Erection of 45 dwellings/apartments for the elderly and disabled, conversion of part existing house to provide support accommodation, together with rear extension accommodating health facilities at Gatchell House, Honiton Road, Trull;
42/2002/058CA - Demolition of former squash club buildings, outbuildings within walled gardens, together with other walls and enclosures, Gatchell House, Honiton Road, Trull.

BOTH GATCHELL APPEALS SINCE WITHDRAWN.

HSBC Holdings PLC
(38/2003/207 and 38/2003/208LB)

DD

38/2003/207 - Replacement of existing entrance door and additional window to the shop front, HSBC Bank, 17 North Street, Taunton;
38/2003/20LB - As above.

Gadd Homes Limited and Churchill Property Group Limited
(38/2003/420)

10/9/2003

Erection of eleven houses and three flats on site of former Whites Garage, South Street, Taunton.

Mr D Watson
(46/2003/024)

DD

Formation of vehicular access at 10 Crown Hill, West Buckland.

Mr and Mrs D Willis
(24/2003/014)

PC

Erection of extension to form granny annexe and conservatory at 10 Lodwells Orchard, North Curry.

Mr P Hyde
(38/2003/230)

18/6/2003

Change of use of former veterinary clinic to Class B1 industrial/office use at Acorn Veterinary Clinic, Pool Farm, Mountfields Road, Taunton.

APPEAL SINCE WITHDRAWN.

Green Croft Investments Ltd (38/2003/215LB)	DD	Retention of bay window at ground floor level, 3 Park Street, Taunton.
Mrs T Thompson (38/2003/176)	DD	Change of use of part of ground floor living accommodation to hairdressing salon, 15 Greenway Crescent, Taunton.
Lidl UK GMBH (38/2003/497A)	DD	Erection of a free standing 48 sheet advertisement board 3.39m (h) x 6.45m (l) at Lidl Car Park, off Wood Street, Taunton.
Mrs S Skelton (46/2003/019)	DD	Erection of replacement dwelling and detached garage with converted loft, Church Drive, West Buckland.
Countryside Construction Ltd (38/2003/515)	DD	Erection of two houses and garages at the garden of 4 Rydon Lane, off Crowcombe Road, Taunton.
Mr P Godwin (38/2003/448)	DD	Erection of two storey rear extension, single storey side extension, rear conservatory and detached store building, 5 Ilminster Road, Taunton.
Mr A A Burrow (10/2003/022)	DD	Use of land for siting of agricultural workers mobile home at Triangle Farm, Churchstanton.
Mr G Thomas (38/2003/390)	DD	New vehicle entrance at 37 Holford Road, Taunton.
Wickes Building Supplies (38/2003/525A)	DD	Display of various non-illuminated signs in connection with Wickes, Priory Fields Retail Park, Taunton.
Mrs L Mellor (48/2003/057)	DD	Conversion of barn to dwelling at Yalway Farm, Broomfield, West Monkton.

APPEAL SINCE WITHDRAWN.

Mrs D Matthews (14/2003/046)	DD	Demolition of existing double garage and erection of bungalow and two double garages on land at 18 Homefield Close, Creech St. Michael.
Mr J P West (14/2003/045LB)	DD	Replacement windows at 1 Heathfield Farmhouse, Creech Heathfield.
Sandhill Park Limited (06/2003/046LB)	DD	Application of paint to exterior render of east and west wings at North Lodge, Sandhill Park, Bishops Lydeard.
Mr and Mrs G W Gunstone (04/2002/004)	-	Appeal against Enforcement Notice – Unauthorised garage/shed on land at Fordbridge, Dairy House Lane, Bickenhall.
Mrs B A Martin-Vigor (25/2003/026)	DD	Erection of new dwelling adjoining Allerford Cottages, Allerford, Oake.
Mr P McKeown (38/2003/447)	5/11/2003	Erection of two storey extension at 9 Rosebery Street, Taunton.
Mr G Higgins (38/2003/446)	5/11/2003	Erection of two storey rear extension at 8 Rosebery Street, Taunton.
Mrs P Bailey (06/2003/052)	DD	Retention of 1.85m fence to rear and side of 99 Burge Crescent, Cotford St. Luke.
Mr J White and Mrs Underhill (14/2003/043)	DD	Erection of two dwellings and two garages at the former car park of the Crown Inn, Creech Heathfield.

APPEAL SINCE WITHDRAWN.

Mr. S. Walters (38/2003/640A)	DD	Retention of graphics/vinyl applied to first floor windows at Virgin Megastore, 27-27A Fore Street, Taunton.
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Mr R Turk (46/2003/035)	DD	Change of use from ancillary accommodation to separate dwelling unit, Bussells Farm, Blackmoor, West Buckland.
Mr J Isaacs (44/2003/019)	15/10/2003	Siting of two mobile homes and two touring caravans for single gypsy family, Two Acres, Ford Street, Wellington.
Miss S Durrant (36/2004/002)	DD	Erection of two storey rear extension at 9 Willey Road, Stoke St. Gregory.
Carpetright plc (38/2004/065A)	DD	Display of internally illuminated signs at Carpetright, Priory Fields, Taunton.
Mr J Baker (38/2003/650)	28/1/2004	Erection of dwelling for use as a unit of multiple occupation (6 bedrooms) at land adjacent to 14 Greenway Road, Taunton.
Miss J Read (52/2003/062)	DD	Erection of two storey side extension at 2 Hine Road, Taunton.
P Hurst (38/2004/051)	DD	Erection of new dwelling in the rear garden of 2 Clifford Avenue, Taunton.
W H Developments Limited (38/2003/627 and 38/2003/628LB)	18/2/2004	Change of use and conversion of building to form nine flats and one maisonette, Hunts Court, Corporation Street, Taunton.
Mrs M P Morris (04/2004/002)	DD	Erection of triple garage at Seaforde Grange, Dairy House Lane, Bickenhall.
Call in by the First Secretary of State (38/2003/505)	17/12/2003	Extension to retail store, cladding of existing building and revision to parking layout at ASDA Store, Creechbarrow Road, Taunton.
Quantic Properties Limited (12/2004/001)	DD	Erection of house and garage and formation of access together with provision of new access and garage to existing

		dwelling at Meadows Edge, Corfe.
Mr M Millett (22/2004/001)	DD	Conversion of barn to dwelling and change of use of land to form residential curtilage at barn to east of Higher Chapel Leigh Farm, north of Sandings Lane, Chapel Leigh, Lydeard St. Lawrence.
Mr B Thomas (14/2004/011)	DD	Demolition of bungalow and erection of two dwellings, Sundown, Curvalion Road, Creech St. Michael.
Ms J Smith (52/2004/005)	DD	Formation of hardstanding and vehicular access at the front of 79 Queensway, Galmington, Taunton.
Mr P J Elliott (43/2004/034)	19/5/2004	Retention of first floor windows, 4 Highland Place, High Street, Wellington.
Mr D Kearney (06/2004/011)	DD	Relocation and extension of boundary wall to enclose side access to property, 36 Venn Close, Cofford St. Luke.
Gadd Homes Limited (38/2004/139)	16/6/2004	Erection of part two, part three and part four storey building accommodating 24 flats and provision of garages at County Garage, Priory Avenue, Taunton.

2. The following appeal decisions have been received:-

(a) **Erection of 2 non-illuminated signs, 23-29 Silver Street, Taunton (38/2002/201A)**

The Inspector considered the main issue was the visual impact of the proposed signs on the appeal premises and the surrounding area.

The Inspector felt that the proposed signs would be out of scale with the buildings and, as a number of signs were already in the area, the new additions would create a cluttered appearance to the street scene in general.

He was of the view that this part of Silver Street had retained a traditional appearance, and concluded that the proposed signs would be unsympathetic to the character of the listed building and would dominate the side elevations to the detriment of the visual amenity of the host buildings and the street scene.

The appeal was dismissed.

(b) **Call in by the First Secretary of State – Extension to existing five screen multiplex cinema to provide eight screens with associated highway works and parking, land at the Odeon Cinema, Heron Gate, Riverside Retail Park, Taunton (48/2001/028)**

Due to the complexity of the First Secretary of State's Decision Letter, a full copy is attached for the information of Members at Appendix A.

The First Secretary of State granted planning permission for the development subject to conditions.

(c) **Erection of dwelling on land adjacent to 8 Crimthorne Cottages, Hatch Beauchamp (19/2003/002)**

The Inspector considered the main issue to be the impact of the proposal on the character and appearance of its surroundings.

The Inspector noted that the village comprised a mix of dwelling types, scales and sizes. The immediate vicinity of the site was characterised by the pairs of dwellings which made up Crimthorne Cottages. These were quite small houses of simple design and relatively shallow depth and were set back from the road giving that part of the village a degree of spaciousness which provided a transition from the more densely built up part of the village to the open countryside beyond.

It was clear to the Inspector that the proposed dwelling would appear out of scale and character with that part of the village as the house would occupy almost the full width of the plot.

She noted that outline permission had already been granted for the erection of a dwelling on the plot. Although the plans indicated the dwelling would occupy the full width of the plot, the depth of the dwelling was shown to be more comparable with that of the adjacent property No. 8. The new proposal was sufficiently different to what had been previously approved to make the outline permission of no direct relevance to the decision in this case.

The Inspector concluded that the proposed dwelling would represent insensitive development on the edge of this attractive village.

The appeal was dismissed.

(d) **Erection of a 2 storey dwelling, 9 Willey Road, Stoke St Gregory (36/2003/004)**

The Inspector considered the main issue was the compatibility of the proposed development plan policies relating to housing developments in the area.

The Inspector felt that although the proposed dwelling would be contained within the curtilage of the existing dwelling, she was concerned that contrary to the development plan policies for the area and Government guidance in PPGs 1 and 7, the proposal would result in the erection of an additional dwelling in open countryside, outside the defined limits of the settlement of Stoke St Gregory.

She was also concerned that if allowed, it would set a precedent for further developments in similar countryside locations, which the Council would have difficulty in resisting, to the detriment of the rural character of the area. There was also no evidence of a demonstrable need for the dwelling on agricultural or other grounds to justify the development in this rural location.

With reference to the concerns regarding highway safety, she noted that the development would not dramatically increase traffic flow and did not consider this to be a sufficient reason on its own to refuse the development.

The appeal was dismissed.

(e) **Retention of two projecting banners, Nightingale House, East Reach, Taunton (38/2003/082A)**

The Inspector considered the main issue was the visual impact of the banners on the building and in views along East Reach.

The Inspector felt that because of their size, form and projection at high level, the banners were obtrusive on the building. They also detracted from the architectural integrity of the building and appeared as incongruous afterthoughts.

He also felt that they detracted from the setting of the adjacent listed building and appeared intrusive in views along the road.

The appeal was dismissed.

(f) **Demolition of existing building and redevelopment of land for residential use at The Jays, Stoke Road, North Curry (24/2003/008)**

The Inspector considered the main issue to be the impact of the proposal on the character and appearance of its surroundings.

The Inspector noted the relative spaciousness of the site and the neighbouring property to the east which helped to maintain the transition from the built up character of the village to the west to the open countryside to the north and east.

The outline application proposed the building of two 2-storey detached 3/4 bedroom cottage style homes with garaging. She felt that replacing the existing small bungalow, which was in poor structural condition, with the two 2-storey houses would markedly change the character of the area and lead to a greater sense of urbanisation

in this locality.

The Inspector noted that access into the site was very poor with severely restricted visibility and that the Highway Authority had advised the construction of a new shared access to serve the proposed new dwellings. However, this would necessitate the removal of the existing mature hedgerow which would have a harmful impact on the appearance of this rural area.

The Inspector concluded that the unfortunate circumstances which had led to the need to replace the dwelling did not warrant permitting development which would be contrary to good planning. There was no justification for allowing an additional house on the site.

The appeal was dismissed.

(g) Erection of a bungalow at Eldon, Silver Street, Wiveliscombe (49/2003/008)

The Inspector considered the main issue was the effect of increased use of the access to the site, arising from the proposed dwelling, upon the safety of users of Silver Street.

The site lay at the end of a lengthy and winding private drive leading off Silver Street which itself ran off The Square, Wiveliscombe.

The Inspector felt that a suitably designed bungalow on the open end of the site would not adversely impact upon the trees and would have an acceptable relationship with neighbouring development.

The narrow drive currently served four dwellings and a barn and vehicles travelling in opposite directions faced difficulty in passing each other. He acknowledged that the drive was not well suited to increased vehicular use and that any inconvenience to its users might not be critical. However, it was the drive's connection with Silver Street which was the material factor.

The Inspector explained his concerns regarding the extremely limited vision at the junction. The fact that the drive had been used over many years without incident did not alter his concern that the access onto Silver Street was inherently substandard and presented a risk to persons walking and driving along it.

He noted that the Council considered that the dwelling would lead to a 25% increase in traffic movements from around 32 to about 40 daily. Even if the increase was between these figures the Inspector considered that this greater usage of the access onto Silver Street would be prejudicial to safety to a degree which militated against the grant of permission because of the shortcomings of the drive.

The appeal was dismissed.

(h) Erection of a single storey extension - Buttles Lodge, Village Road, Hatch Beauchamp (19/2003/027 and 028LB)

The Inspector considered the main issue was the effect of the proposal on the listed building and its setting.

The Lodge was situated to the south of the main village core in an area where sporadic development was scattered loosely along both sides of the road. It was not situated in the Hatch Beauchamp Conservation Area.

The Inspector felt that the building was immediately recognisable as a largely unaltered former lodge. The proposed single storey extension would be situated between the listed building and the roadside boundary.

In the Inspector's view the extension would harm the balanced composition of the listed building and would make it appear as a sprawling, incoherent built form. Even though the design and detailing of the proposed extension took cues from the listed building she considered that some features would appear out of scale when used on the modest extension.

She also felt that the extension would appear as an incongruous addition that would undermine the building's elegant, simple form and would harm its distinctive, compact appearance which was characteristic of its original use as a lodge. The construction of an extension between the listed building and its boundary with the road would create a sense of clutter which would harm the building's spacious setting.

The Inspector concluded that the proposal would harm the special architectural and historic interest of the listed building and its setting.

The appeal was dismissed.

(i) **Demolition of an outbuilding and erection of a private dwelling at Lodge Barton, Wood Street, Milverton (23/2003/037)**

Due to the complexity of the Inspector's decision letter, a full copy is attached for the information of Members at Appendix B.

The appeal was allowed and planning permission granted subject to conditions.

(j) **Appeal against Enforcement Notice - Erection of a 15m high telecommunications mast with 4 No antennae and equipment, including a generator, in a fenced compound on land at the rear of Hele Manor Farm, Hele**

Due to the complexity of the Inspector's decision letter, a full copy is attached for the information of Members at Appendix C.

The appeal was dismissed and the enforcement notice was upheld.

(k) **Extension to form a granny annex and conservatory at 10 Lodwells Orchard, North Curry (24/2003/014)**

The Inspector considered that the main issue was the effect of the proposal on the living conditions of adjoining occupiers, with particular reference to visual impact.

The Inspector had considered the revised scheme that had been submitted during the processing of the application and did not feel that the proposal would result in any material increase in visual domination of the adjoining houses, or loss of light to their gardens. Similarly, the site was elevated above Knapp Lane to the south-west, but the boundary fences and the distance between the proposed extension and the houses in Knapp Lane would effectively prevent any adverse effect.

The Inspector considered that a previous two-storey extension and small, lean-to shed that had been added on to the property some years ago related well to the original house and the two structures which were the subject of the appeal proposal were both modest in scale and had very limited visibility from any public place.

Some local residents had raised concern that the addition of further accommodation would result in parking problems in the vicinity. However, it was noted that the property would retain a garage, a car-port and two hard surfaced, off street parking places, as well as a gravelled area in front of the house. It was therefore considered that the proposal would not result in any additional hazard or inconvenience to drivers or pedestrians.

The Inspector agreed with the Council's suggestion that a condition be imposed so that the extension could only be used as part of a single family unit.

The appeal was allowed and planning permission granted subject to conditions.

(l) **Development of a new vehicular access at 10 Crown Hill, West Buckland (46/2003/024)**

The Inspector considered the main issue to be the effect of the proposed development in terms of highway safety on Crown Hill.

The property fronted onto Crown Hill and was set at a significantly higher level than the road. There was no vehicular access to the dwelling and pedestrian access from Crown Hill was obtained over a set of steps and a footpath.

The Inspector considered that the banks on either side of the proposed access and any retaining wall would constitute a significant obstruction to visibility for vehicles manoeuvring out from the proposed access. Such restricted levels of visibility would fall substantially below the minimum figures recommended in government guidance.

He felt that the dimensions of the proposed development would not appear to be adequate to accommodate a suitable off street turning area for vehicles. In his view the restricted visibility and proximity of the brow of the hill would make reversing in or out of the appeal site a hazardous manoeuvre and would jeopardise highway safety.

The appeal was therefore dismissed.

(m) **Development of Health Centre with associated car parking, 42- 46 High Street, together with land at rear between High Street and Scott's Lane, Wellington (43/2003/134)**

Due to the complexity of the Inspector's decision letter, a full copy is attached for the information of Members at Appendix D.

The appeal was dismissed.

(n) **Erection of a 48 sheet panel advertisement in the car park, Lidl Store, off Wood Street, Taunton (38/2003/497A)**

The Inspector considered the main issue to be whether the display of the panel would be in keeping with its surroundings.

He felt that although the site was commercial it was a sensitive area with the proximity of houses and the need to protect the character and appearance of the river and features, such as Goodland Gardens on the opposite bank.

Although the proposed position of the panel would have very little visual impact on Goodland Gardens because of the substantial distance between them, in an area generally devoid of signs and obvious commercial features, its display in isolation would be particularly prominent.

The Inspector considered that the promotional display panel, which would also be used for general advertising, would be unduly obtrusive and would be counter to the improvements to the amenity of the Wood Street Area.

He noted that planning permission had also been given to develop the area opposite the road entrance to the store with residential flats. If these were built they would be overlooked by the proposed panel, further increasing the objections to its display. For these reasons he felt that the size and exposed siting of the panel would not respect the setting and outlook of the neighbouring residential area.

The appeal was dismissed.

3. Forthcoming hearings:-

- (a) Two Acres, Ford Street, Wellington – Committee Room No.1 – 19 January 2005;
- (b) Bussells Farm, Blackmoor, West Buckland – Committee Room No.1 – 20 January 2005.

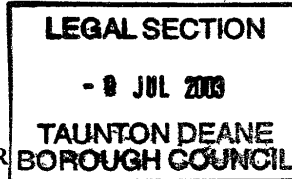
4. Forthcoming public inquiries:-

- (a) ASDA Call In – Principal Committee Room – 1 March 2005 (for three days);
- (b) Hunts Court, Corporation Street, Taunton – Principal Committee Room - 8 March 2005 (one day).

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OFFICE OF THE
DEPUTY PRIME MINISTER



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APPENDIX

A.

Mr Graham Murdoch
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Our Ref: APP/D3315/V/02/1099921

8 July 2003

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
LAND AT ODEON CINEMA, HERON GATE, RIVERSIDE RETAIL PARK, TAUNTON,
SOMERSET
APPLICATION BY ODEON LIMITED
APPLICATION NO. 48/2001/028**

1. I am directed by the First Secretary of State to say that consideration has been given to the report of the Inspector, Mr P R Burden, BSc, CEng, MICE, who held a public local inquiry on 18 and 19 March 2003 into your client's application for planning permission for an extension to existing 5 screen multiplex cinema to provide 8 screens with associated highway works and parking.
2. The Secretary of State directed on 18 September 2002, in pursuance of section 77 of the Town and Country Planning Act 1990, that the application be referred to him instead of being dealt with by the local planning authority, Taunton Deane Borough Council.
3. The Inspector, whose conclusions are reproduced in the annex to this letter, recommended that planning permission be granted subject to conditions. A copy of the Inspector's report is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report. For the reasons given below the Secretary of State agrees with the Inspector's conclusions and recommendation that planning permission be granted.

Policy Considerations

4. Section 54A of the Town and Country Planning Act 1990 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan is the Somerset and Exmoor National Park Structure Plan Review (2000) and the Taunton Local Plan (1986) (as amended by the First Alteration in 1990). The emerging Taunton Deane Local Plan has passed through second deposit stage and has recently been the subject of a public local inquiry. Although it is a material consideration, at this stage in its progress towards adoption its policies can be given comparatively limited weight. The Secretary of State agrees that the relevant development plan policies are those set out by the Inspector in paragraphs IR 1.12-1.14.
5. Other material considerations include Planning Policy Guidance Note (PPG)1: General Policy and Principles, PPG6 Town Centres and Retail Developments, and PPG13 Transport.

6. Since the close of the inquiry a Parliamentary Statement ("the statement") on the Government's policy on town centres and retail developments as set out in PPG 6 was issued on 10 April 2003. This statement has been taken into account. The statement clarified the Secretary of State's policy on town centres, including policy tests such as the demonstration of need and the sequential approach and insofar as they are relevant to this planning application they are considered further below. The Secretary of State considers that the Inspector addressed these issues at the inquiry and that the statement would not have materially altered his conclusions. He has not, therefore, considered it necessary to refer back to the inquiry parties, either under Rule 17 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000, or in the interests of natural justice, prior to making his decision.

Main Issues

7. Having regard to the matters on which he wished to be informed for the purpose of his consideration of the application, the Secretary of State considers that the main issues in this case are:

(i) the relationship of the proposed development to regional planning guidance for the South West (RPG10) including the guidance contained in Policy SS14 on the town's role as Principal Urban Area;

(ii) the relationship of the proposed development to the relevant policies and provisions of the Somerset and Exmoor National Park Joint Structure Plan Review and the emerging Taunton Deane Local Plan;

(iii) the relationship of the proposed development to national policy guidance in PPG6 including:

- a) whether a need for the proposed development has been demonstrated;
- b) if a need exists, whether more central sites exist in accordance with the guidance on preferred locations and the sequential approach; and
- c) the long-term and cumulative effect on existing centres.

(iv) the relationship of the proposed development to national policy guidance in PPG13, including the key aims to reduce the need to travel, especially by car and promoting accessibility to leisure facilities;

(v) whether any permission granted should be subject to conditions, and if so, the form these should take; and,

(vi) whether there are any other material planning considerations.

The relationship of the proposed development to regional planning guidance for the South West (RPG10) including the guidance contained in Policy SS14 on the town's role as Principal Urban Area

8. The Secretary of State agrees with the Inspector's reasoning and conclusions on the relationship of the proposed development to regional planning guidance for the South West (RPG10) including the guidance contained in Policy SS14 on the town's role as Principal Urban Area (PUA) as set out in IR 7.21-7.23. He agrees with the Inspector (IR

7.22) that a town centre location for this development would be preferable, and he would be concerned were there to be evidence that the proposal would cause long term detriment to the town centre's vitality and viability, or Taunton's role as a PUA. However, in the absence of alternative more locationally suitable sites becoming available within a reasonable period of time, or evidence to suggest that the application proposal would prejudice investment in the town centre (IR 7.18) he does not think, on balance, that the proposal would conflict with the overall strategic objectives of the town.

The relationship of the proposed development to the relevant policies and provisions of the Somerset and Exmoor National Park Joint Structure Plan Review and the emerging Taunton Deane Local Plan

9. The Secretary of State agrees with the Inspector's reasoning and conclusions on the relationship of the proposed development to the relevant policies and provisions of the Somerset and Exmoor National Park Joint Structure Plan Review and the emerging Taunton Deane Local Plan as set out in IR 7.24-7.26.

The relationship of the proposed development to national policy guidance in PPG6

10. The Secretary of State notes (IR 3.12) that the emerging Taunton Deane Local Plan states that the Crescent Car Park site provides an ideal opportunity to accommodate a new multiplex cinema. It also states that with regard to the Firepool site parts of the Livestock Market and the Priory Bridge Road Car Park could be suitable for commercial/leisure operations such as a cinema. However, the Secretary of State agrees with the Inspector that in the case of the Firepool site it is optimistic to expect this site to be available much before 2007 (IR7.9) and in the case of the Crescent Car Park site it cannot be regarded as realistically available for a town centre cinema for the reasons set out in IR 7.4-7.5. The Secretary of State agrees with the Inspector's reasoning and conclusions on the relationship of the proposed development to national policy guidance in PPG6 as set out in IR 7.2-7.16 and 7.17-7.19.

The relationship of the proposed development to national policy guidance in PPG13, including the key aims to reduce the need to travel, especially by car and promoting accessibility to leisure facilities

11. The Secretary of State agrees with the Inspector's reasoning and conclusions on the relationship of the proposed development to national policy guidance in PPG13, including the key aims to reduce the need to travel, especially by car and promoting accessibility to leisure facilities as set out in IR 7.20.

Whether any permission granted should be subject to conditions, and if so, the form these should take

12. The Secretary of State agrees with the Inspector's conclusions on conditions as set out in IR 6.1-6.4.

Whether there are any other material planning considerations

13. The Secretary of State has had regard to the Section 106 agreement submitted and agrees with the Inspector's conclusions at IR 6.4. He does not consider that there are any other significant material planning conditions in determining this proposal.

Overall Conclusion

14. After considering all of the above issues, the Secretary of State concludes that the proposal is in line with relevant approved development plan policies or consistent with policies in PPG6. The Secretary of State therefore considers that there are no material considerations of sufficient weight to indicate that he should determine the application other than in accordance with the development plan and those national policies.

Formal Decision

15. Accordingly, for the reasons given above, the Secretary of State accepts the Inspector's recommendation. He hereby grants planning permission for the extension to the existing 5 screen multiplex cinema to provide 8 screens with associated highway works and parking, in accordance with application no. 48/2001/028 dated 5 April 2001, subject to the following conditions:

1. The development hereby permitted shall be begun within five years of the date of this permission.
 2. The external surfaces of the extension hereby permitted shall be of materials to match those of the existing building. Before any works are commenced details or samples shall be submitted and approved in writing by the Local Planning Authority (LPA).
 3.
 - (i) Before any of the permitted development is commenced, a scheme of planting of trees and shrubs, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the LPA.
 - (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 LPA.
 - (iii) If, within a period of five years from the date of the planting of any tree, that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.
 4. Before any part of the development hereby permitted is commenced, a scheme of hard landscaping showing the layout of the area with stones, paving, walls, cobbles or other materials, shall be submitted and approved in writing by the LPA. Such a scheme shall be completely implemented before the development hereby permitted is occupied.
 5. The area allocated for parking on the approved plan shall be properly consolidated, surfaced, drained, and marked out before the use commences or the building is occupied and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.
-

6. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any subsequent Order amending or revoking and re-enacting that Order), no gate, fence, wall or other means of enclosure shall be erected on the site unless an application for planning permission in that behalf is first submitted to and approved in writing by the LPA

7. The proposed storage area for refuse bins shall be screened in accordance with details to be submitted for prior approval in writing by the LPA.

8. Details of any external lighting arrangements within the curtilage of the site shall be submitted for approval in writing by the LPA prior to such lighting being erected or brought into operation.

9. Any proposed storage of any chemicals or oils on any part of the site shall be subject to the submission of detailed plans of storage facilities for approval in writing by the LPA prior to any such development being commenced. Any above ground oil/chemical storage tanks must be fully bunded, with a bund capacity of 110% of the largest tank or inter-connected tank within the bund. All working connections to the tank must be within the bunded area.

10. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the LPA. The drainage works shall be completed in accordance with the details and timetable agreed.

11. The finished floor level of the new extension shall be set no lower than that of the existing building.

16. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

17. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than in section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

18. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court.

19. A copy of this letter has been sent to Taunton Deane Borough Council and to all those who appeared at the Inquiry.

Yours faithfully,



Miss A. Gerry

Authorised by the First Secretary of State to sign in that behalf



Appeal Decision

Hearing held on 25 November 2003

Site visit made on 25 November 2003

by **G M Hollington MA, BPhil, MRTPI**

an Inspector appointed by the First Secretary of State

**APPENDIX
B.**

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Date 10 DEC 2003

Appeal Ref: APP/D3315/A/03/1114772

Lodge Barton, Wood Street, Milverton, Taunton, Somerset

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr S Redwood against the decision of Taunton Deane Borough Council.
- The application (Ref. 23/2002/037), dated 4 December 2002, was refused by notice dated 28 January 2003.
- The development proposed is to demolish an outbuilding and erect a private dwelling.
- The application is in outline, with the matters of siting, design, external appearance, means of access and landscaping reserved for subsequent approval.

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.

Main Issues

1. I consider the main issues in this appeal to be:
 - (a) the effect of the proposed development on the character and appearance of the surrounding area; and
 - (b) the effect of the proposed development on the living conditions of the occupiers of adjacent dwellings, with particular reference to noise and disturbance and privacy.

Planning Policy

2. The development plan includes the Somerset and Exmoor National Park Joint Structure Plan Review 1991 – 2011 (2000) and the West Deane Local Plan (1997), the most relevant policies of which I consider to be as follows.
3. In the Structure Plan, Policy STR1 encourages sustainable development and Policy STR5 allows for development in Rural Centres and Villages which will sustain and enhance their role, be commensurate with their size and accessibility and appropriate to their character and physical identity. Milverton is defined by Policy 8 as an Outstanding Heritage Settlement, the special character of which should be protected. Policy 9 addresses the built historic environment and seeks to preserve or enhance the character or appearance of conservation areas.
4. In the Local Plan, Milverton is a designated Rural Centre and Policy WD/HO/3 normally permits new housing within the identified limits of settlements provided that they meet a number of criteria. These include that proposals satisfactorily respect the form, character and setting of the settlement and the integrity of the street scene, and that there is no material effect on neighbouring properties. The appeal site lies within the defined limits of

Milverton, where Policy WD/MV/3 generally limits new housing to infilling; this is defined by Policy WD/HO/5 as the development of a small vacant plot in an otherwise built up frontage. The site is also within the Milverton Conservation Area, where Policy WD/EC/23 applies various general principles; they include that development should be of a standard of design which preserves or enhances the particular character of such an area.

5. There is an emerging local plan, the Taunton Deane Local Plan, the Revised Deposit version of which was published in 2000. The Inspector's report following the public local inquiry into objections has been received by the Council and, as the relevant policies are expected to remain unaltered, I shall give them considerable weight.
6. In this plan, the general requirements set out in Policy S1 include that the appearance and character of settlements should not be harmed by development. Policy S7 defines Milverton as a village where development will be limited to small scale proposals which, among other requirements, enhance its environmental quality. Policy H1 permits housing within defined development limits subject to criteria which include that they do not erode residential areas' character or residential amenity and that existing and proposed dwellings will enjoy adequate privacy and sunlight. Development in or affecting a conservation area is permitted by Policy EN15 only where it would preserve or enhance the area's appearance or character.
7. As the appeal site is in a conservation area, I shall, as required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, pay special attention to the desirability of preserving or enhancing the character or appearance of this area.

Reasons

8. The appeal site lies to the side and rear of Lodge Barton and includes approximately half of the outbuildings attached to the rear of this 2-storey house and its single-storey annexe. This part of the outbuildings would be demolished, leaving the part adjoining the dwelling. The outbuildings and adjoining land are the subject of an implemented planning permission for a change of use to a builder's yard. As the appeal site is within Milverton's existing and emerging development limit, the main parties do not dispute that development is generally acceptable in principle, but the Council is concerned about the effects of the appeal proposal.

(a) Effect on Character and Appearance

9. Lodge Barton is a substantial house, part brick faced and part rendered, and its annexe has stone walls. The outbuildings slope down from a 2-storey part adjoining the dwelling and are formed of various materials but clad mainly in corrugated metal sheeting. Agricultural land lies to the north, whereas the site is bordered to either side by residential development along the north side of Wood Street. This development comprises a variety of ages and designs of dwellings. Some are closely spaced and stand at the edge of the carriageway, while others are in spacious grounds and set well back from the road. The latter include 2 modern dwellings to the north-west, albeit outside the conservation area, which lack any direct access to Wood Street.
10. The conservation area is extensive and embraces most of the older-established parts of the village, with a wide variety of types, styles, and designs of buildings, predominantly residential. It includes tightknit development and some dwellings located to the rear of

others, as well as significant open spaces in the vicinity of St Michael's Church and The Old House.

11. Although no details of the proposed development are known at this stage, the shape of the appeal site indicates that the dwelling would be likely to be located towards the rear, as the illustrative plan suggests. I appreciate that this sort of relationship to existing houses is not found elsewhere on the north side of Wood Street, but the Council accepts that there is no one building form (in terms of types of houses or their relationship to the road) in the locality. Furthermore, the northern edge of the site's curtilage is of a depth from the road which is similar to others to the south-east and north-west. While the proposal does not accord with the definition of infilling, that does not cater for the relatively unusual arrangement of existing buildings found at the appeal site or for the situation where a building is to be demolished.
12. In my view, therefore, there is not a regular, geometric pattern of development which would be disrupted by the proposal and so I regard its location as acceptable in principle. At least the upper parts of any dwelling would be likely to be visible across the hillside from Mill Lane, to the north, but they would be seen in the context of other roofs and walls and so they would not harm the area's appearance.
13. I concur with the main parties that the existing outbuildings are not particularly attractive. In my opinion they detract from the conservation area's appearance, even though I saw that public views of them from Wood Street are limited. I therefore regard as enhancements of the area's appearance their partial demolition and the opportunity to ensure the external surfaces of the remaining part are appropriately treated. This reinforces my view on the principle of redevelopment, even though the benefit would be fairly modest.
14. The main parties agree that the appeal site is previously developed land, and so in principle it is a location where Government advice, such as that in Planning Policy Guidance note 3: *Housing*, encourages making the best use of land. However, this is subject to caveats including that more efficient land use should not compromise the quality of the environment, and that considerations of design and layout must be informed by the wider context. In this instance, my view is that the quality of the environment and the pattern of development would not be harmed.
15. Local residents are concerned that the proposed development would set an undesirable precedent for other development to the rear of Wood Street properties, and I saw that a substantial bungalow already protrudes beyond the conservation area, with access from Mill Lane. However, this dwelling was permitted and built prior to the existing policy framework and, as circumstances vary from site to site, each proposal needs to be considered on its own merits. I do not, therefore, consider that the appeal proposal would set a precedent for other developments.
16. My conclusion on this issue, therefore, is that the proposed development would at least preserve the conservation area's character or appearance and it would not cause harm to the character and appearance of the surrounding area. It would, consequently, accord with the aims of Structure Plan policies STR1, STR5, 8 and 9, West Deane Local Plan policies WD/HO/3, WD/MV/3 and WD/EC/23, and their emerging successors

(b) Effect on Living Conditions

- 17 Access to the proposed dwelling would pass between Lodge Barton/its annexe and the neighbouring dwelling to the west, Sharlands. While such an arrangement might in general cause difficulties in terms of noise and disturbance from the normal comings and goings of people and vehicles, I do not consider it would result in harm in this case. This is primarily because of the permitted use as a builder's yard which, though not currently active, could be revived and would itself generate activity via the access. The builder's yard could also be a source of noise through the use of machinery, which has led to complaints in the past, although I note there are conditions to minimise this possibility
18. The Council is concerned that harm would arise from losses of privacy in the gardens of Lodge Barton, its annexe and Quaker Cottage and, to a lesser extent, at The Dutch House and Sharlands. Although the proposal would result in sub-division of the existing curtilage and possible intensification of use of the garden, I do not consider that users of neighbouring gardens would suffer any loss of privacy. In common with most other gardens within built-up areas, there is a certain amount of inter-visibility between gardens, and the new dwelling would not result in any significant change to this. Nor do I consider there need be any loss of privacy within adjacent dwellings, as the siting and design of the proposed dwelling would be addressed as part of the reserved matters.
19. On this issue, therefore, I conclude that the proposed development would not harm the living conditions of the occupiers of neighbouring dwellings, with particular reference to noise and disturbance and privacy. It would not conflict with the aims of the adopted Local Plan Policy WD/HO/3 and emerging Local Plan Policy H1.

Other Matters

20. I have also taken into account all the other matters raised at the Hearing and in written representations, including local residents' concerns about highway safety, outlook and sunlight. Visibility along Wood Street from the proposed access is aided by its position on the outside of a slight bend but impaired by planting within the raised bed to its west. I also saw that parked vehicles tend to force passing traffic to use the side of the carriageway nearer the site. I have no data on traffic speeds, but the road has a 20 mph limit and does not normally appear to be heavily used. Furthermore, I would not expect use of the access to be greater than that which could arise from the builder's yard, and I note that the highway authority has no objection in principle.
21. Although details of the proposed dwelling are unknown, there is no right to a view and, provided that it were not positioned close to the boundary of an adjoining garden, I do not consider that the proposal would have an unduly overbearing impact on neighbours' outlook. Any loss of sunlight to The Dutch House would, in my opinion, not be significant because of the distance of the appeal site from this property and the presence in its garden of a large garage building.
22. Neither these nor any of the other matters are, therefore, of such significance as to outweigh the considerations that have led to my conclusions on the main issues.

Conditions

23. I have considered the need for conditions in the light of the advice in Circular 11/95: *The Use of Conditions in Planning Permissions*. I agree with the need for conditions regarding

materials, landscaping and boundary treatment to supplement the standard outline conditions, because of the site's location within a conservation area and on the edge of the settlement. In the interest of highway safety, I accept the necessity for a condition regarding parking and access, although to require a garage seems an excessive constraint on the development's future design and layout. As the site lies within a defined Area of High Archaeological Potential, I agree with the need for a condition regarding archaeological monitoring. I also consider it necessary to require details of demolition works and of the appearance of the surviving part of the outbuildings, so that the area's character and appearance are not harmed.

24. On the other hand, I do not consider conditions in respect of entrance gates and surface water drainage to be necessary, given that it is an existing access that would be used. For the same reason and because it could harm the appearance of the conservation area, I do not consider it appropriate to require the visibility splays sought by the highway authority.
25. Although care would be needed in the design and layout of the proposed development, in order to avoid harm to the area's character and appearance and to neighbours' living conditions, my view is that restriction of the proposed dwelling to a single storey is not necessary at this stage. The prevention of future development on the appellant's land to the north of The Dutch House would not meet the Circular's tests of being reasonable and relevant to the development to be permitted.
26. Some re-wording of the suggested conditions is also necessary in order to clarify their wording and to reflect Circular advice, while not altering their aims.

Conclusions

27. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Formal Decision

28. In exercise of the powers transferred to me, I allow the appeal and grant planning permission to demolish an outbuilding and erect a private dwelling at Lodge Barton, Wood Street, Milverton, Taunton, Somerset in accordance with the terms of the application Ref. 23/2002/037 dated 4 December 2002, and the plans submitted therewith, subject to the following conditions:

- 1) Approval of the details of the siting, design and external appearance of the building, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced
- 2) Plans and particulars of the reserved matters referred to in condition 1 above, relating to the siting, design and external appearance of any buildings to be erected, the means of access to the site and the landscaping of the site, shall be submitted in writing to the local planning authority and shall be carried out as approved.
- 3) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
- 4) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the

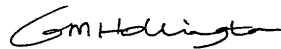
date of approval of the last of the reserved matters to be approved, whichever is the later

- 5) Details of the landscaping of the site shall include details of the species, siting and numbers of trees and shrubs to be planted. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
- 6) 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 boundary treatment shall be completed before the dwelling is occupied. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) The dwelling shall not be occupied until space has been provided for the dwelling within the site for 2 cars to be parked and for vehicular access thereto, in accordance with details submitted to and approved by the local planning authority, and those areas shall not thereafter be used for any purpose other than parking and access for vehicles.
- 9) No development shall take place until the applicant, or his agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 10) No development shall take place until a schedule of demolition works has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 11) No development shall take place until details of the external appearance of the part of the outbuilding remaining after demolition have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

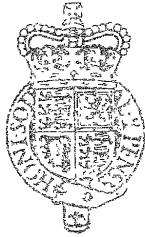
Information

29. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.
30. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

31. An applicant for any approval required by a condition attached to this permission has a statutory right of appeal to the Secretary of State if that approval is refused or granted conditionally or if the authority fails to give notice of its decision within the prescribed period.
32. Attention is drawn to the provisions of section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires consent to be obtained prior to the demolition of buildings in a conservation area
- 33 Attention is drawn to the requirements of section 76 of the Town and Country Planning Act 1990 concerning provisions for the benefit of the disabled.



INSPECTOR



Appeal Decision **APPENDIX**

Site visit made on 29 September 2003

by **Miss E C A Parkhill BA LLB DipTP MRTPI**

an Inspector appointed by the First Secretary of State

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Date
09 OCT 2003

Appeal Ref: APP/D3315/C/03/1118274

Land at the rear of Hele Manor Farm, Hele

- The appeal is made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Airwave MMO2 Ltd against an enforcement notice issued by Taunton Deane Borough Council.
- The Council's reference is 07/2003/003.
- The notice was issued on 11 April 2003.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a 15 m high telecommunications mast with 4 No antennae and equipment, including a generator, in a fenced compound on the above land.
- The requirements of the notice are:
 - (i) Dismantle and remove the telecommunications mast and all associated equipment, including any fencing, from the land at the rear of Hele Manor Farm, Hele.
 - (ii) Restore the land at the rear of Hele Manor Farm, Hele to the condition it was in prior to the breach of planning control.
- The time for compliance with the requirements is 2 weeks.
- The appeal is proceeding on the grounds set out in Section 174(2) (a) and (c) of the 1990 Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and variation.

Ground (c)

1. The appellant contends that the temporary development installed at Hele Manor Farm is not as described in the breach of planning control alleged in the notice. It is situated adjacent to and against the backdrop of existing 9-20 m high trees but is not enclosed within a fenced compound as alleged. Security fencing was not erected around the scheme because it was felt that this would increase the visibility of the temporary development. As the description of the development is incorrect, the alleged adverse visual impact of the temporary scheme is subsequently inaccurate. Therefore, as the alleged adverse visual impact of the temporary installation is flawed, the enforcement notice should not have been issued.
2. I find as a matter of fact from my site visit that the telecommunications mast is not enclosed within a fenced compound. I find also that the generator, referred to in the notice, has been relocated to a point at the bottom of the large field in which the telecommunications mast is situated. However, I conclude from the Council's evidence that at the time the enforcement notice was issued the generator was sited adjacent to the mast on the hill-top. I will exercise my powers under Section 176 (1) of the 1990 Act to correct the description of the breach of planning control alleged in section 3 of the notice by deleting the reference made to a fenced compound and vary requirement (i) in section 5 by deleting the reference made

to any fencing. I consider that this correction and variation are within my powers and can be made without injustice to any party. The visual impact of the development described in the notice as corrected and varied remains to be considered under the ground (a) appeal.

3. The main issue under an appeal on ground (c) is whether there has not been a breach of planning control, for example, because permission has already been granted, or it is "permitted development". No claim has been made that the development has planning permission or that it is permitted development under the provisions of Schedule 2 Part 24 of the Town and Country Planning (General Permitted Development Order) (GPDO) 1995. In the case of the latter, the development is not permitted under the terms of the GPDO as the apparatus exceeds a height of 15 m above ground level. As the development has taken place without planning permission it constitutes a breach of planning control. The appeal on ground (c) therefore fails.

Ground (a)

4. The **main issues** are first, the effect of the development described in the enforcement notice, as corrected, upon the visual amenities of the surrounding area; and secondly, the effect of the development upon the amenities of the occupants of nearby dwellings, in terms of visual intrusion, noise and smell.
5. The **development plan** for the area comprises the adopted Somerset and Exmoor National Park Joint Structure Plan Review (2000) and the adopted West Deane Local Plan (1997). The Local Plan is currently under review. Its replacement, the Taunton Deane Local Plan, has been through the stage of a public inquiry and the Inspector's report is awaited. Having regard to the advanced stage reached by the emerging plan, I accord considerable weight to the relevant policies insofar as they reflect current Government guidance.
6. Structure Plan Policy 62 states that provision should be made for the establishment of telecommunications facilities in new development and the development of existing and new systems with priority given to the protection of nationally designated areas. The site lies within a Landscape Character Area defined in the existing West Deane Local Plan and the emerging Taunton Deane Local Plan. Policy S1 of the emerging Local Plan sets out the general criteria to be met by development proposals. These include requirements that the appearance and character of any affected landscape would not be harmed as a result of the development; and potential noise and other forms of pollution or nuisance which could arise as a result of the development will not harm the amenity of individual dwellings. Policy C13 of the emerging Taunton Deane Local Plan states that applications for the installation of telecommunications masts will be permitted provided that their siting and appearance would minimise harm to the landscape; there are no alternative sites or solutions with less environmental impact, which could be used, and there is satisfactory evidence that existing masts or other structures cannot be used. This policy largely reflects the guidance in the revised version of PPG 8 (August 2001).
7. **Government policy** on telecommunications in the revised version of PPG 8 is to facilitate the growth of new and existing telecommunications systems whilst keeping the environmental impact to a minimum. In order to limit visual intrusion, the Government attaches considerable importance to keeping the numbers of radio and telecommunications masts and of the sites for such installations, to the minimum consistent with the efficient operation of the network. The sharing of masts and sites is strongly encouraged where that represents the optimum environmental solution in a particular case. Use should also be

made of existing buildings and other structures, such as electricity pylons, to site new antennas.

8. The appeal site is situated in a hill-top location towards the corner of a large field to the rear of residential properties at Hele, south-west of Hele Manor Farm. The surrounding area is attractive rolling countryside of fields and woodland. Dominating the landscape in the immediate vicinity of the site are national grid electricity pylons linked to an electricity sub-station at Upcott, a short distance north-east of Hele.
9. On the first issue, I saw on my visit that the 15 m high telecommunications mast, with its associated antenna extending over 17 m above ground level, is clearly visible from the public highway on the approach to Hele from Bradford-on-Tone south of the site and from the road to Allerford north of the site. I consider that because of its prominent location and visibility, the telecommunications mast would add to the existing clutter of pylons, poles and overhead electricity wires in the vicinity, detracting unacceptably from the appearance and character of the surrounding landscape.
10. On the second issue, I saw on my visit that the mast and its associated equipment is substantially screened to view from the nearby dwelling of "Syles Orchard" by conifer trees on the eastern boundary of the site. I conclude from my site visit that the dwelling most affected by the development would be "The Haven", the dwelling situated on the south side of the mast. Although located to the rear of an existing barn, the actual position of the mast is to the rear of a lean-to structure attached to the east side of the barn. Because of the low height of the lean-to relative to that of the telecommunications mast, I consider that the barn provides minimal relief to the visual impact of the mast when viewed from "The Haven". I conclude that because of its closeness to this residential property and the absence of any substantial natural screening between this dwelling and the appeal site, the mast appears as an alien feature in the openness of the area to the rear of "The Haven", harming unacceptably the visual amenities of the occupants of that dwelling.
11. I noted on my visit the noise made by the generator, presently located at the bottom of the field, some distance away from the nearest residential properties. I conclude that because of the relatively short distance separating the appeal site from the residential properties fronting the public highway south and south-east of the site, that the noise made by the generator when positioned adjacent to the mast at the time the enforcement notice was issued, was intrusive, detracting from the amenities of the occupants of these dwellings, particularly during the quiet night-time hours. However, while I noticed some odour arising from the diesel exhaust of the generator, I found this to be barely noticeable and not such as to cause an unacceptable degree of harm to the amenities of the occupants of the dwellings.
12. I see that the mast is required as a temporary installation pending the installation of permanent antennas on an existing electricity pylon a short distance away, towards the electricity sub-station at Upcott. I am satisfied from the technical information submitted by the appellant that such an installation is required to provide a new Airwave Service for the police in the Avon and Somerset Police Area and I note from the Council's evidence that there is no dispute between the Council and the appellant on the need for such an installation. I further note that discussions have taken place between the Council and the appellant on a suitable location for the permanent siting of a telecommunications installation and that the nearby electricity sub-station at Upcott was agreed as a suitable location. In this regard my attention was drawn on the site visit to the digital antennas

under test on the electricity pylon proposed for the telecommunications installation. Such a location would be compatible with the guidance in PPG 8.

13. In reaching my conclusions, I note that the application for planning permission submitted for the development in February 2003 and subsequently refused in April 2003, stated that the planning permission sought was for a temporary period of no longer than 6 months. This time period has virtually expired. Weighing in the balance the undisputed need for the development against my conclusions on its impact upon the visual amenities of the area and of the occupants of nearby residential properties in terms of visual intrusion and noise, I conclude that the serious harm that would be caused by the development outweighs the need for it to be located on the appeal site.
14. As a material consideration I have considered the concerns raised by local residents at possible health risks from the development. The appellant has confirmed that the telecommunications installation has been certified as compliant with the International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines for electromagnetic field emissions (EMF), recommended by the Stewart Group's report on a precautionary basis. In the circumstances, as stated in PPG 8, it is the Government's view that it should not be necessary for a local planning authority, in processing an application for planning permission, to consider further the health aspects and concerns about them. Having regard to the evidence that the EMF emissions associated with the development would be a small fraction of the ICNIRP guidelines, I conclude that there would be no general risk to the health of people living in the vicinity of the development.
15. For the above reasons, I conclude that the development would be contrary to the relevant policies in the development plan and emerging Local Plan for the area and Government guidance in PPG 8. The appeal on ground (a) therefore fails.

Conclusions

16. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should not succeed. I shall uphold the notice with a correction and variation and refuse to grant planning permission on the deemed application.

Formal Decision

17. In exercise of the powers transferred to me, I direct that the enforcement notice be corrected by deleting the words "in a fenced compound" in section 3 and varied by deleting the words "including any fencing," in section 5 (i).
18. Subject to this correction and variation I dismiss the appeal, uphold the notice and refuse planning permission on the application deemed to have been made under Section 177(5) of the Act as amended.

Information

19. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.

E. C. Anne Parkhill
INSPECTOR



Appeal Decision **APPENDIX D.**

Site visit made on 17 November 2003

by **Gyllian D Grindey** MSc MRTPI Tech.Cert.Arb

an Inspector appointed by the First Secretary of State

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Date 21 NOV 2003

Appeal Ref: APP/D3315/A/03/1124857

42 - 46 High Street, together with land at rear between High Street and Scott's Lane, Wellington, TA21 8PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Wellington Medical Centre against the decision of Taunton Deane Borough Council.
- The application (Ref.43/2000/134), dated 14 December 2000, was refused by notice dated 6 March 2003.
- The development proposed is a health centre with associated car parking.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. Various site location plans have been submitted to the Council. However, later plans sent with the appellants' letter of 24 October 2002, indicated a considerably larger application site than originally submitted. The Council declined to accept this as an amendment to the original application¹. I therefore deal with the appeal on the basis of the smaller application site edged red, as this was the plan given formal consideration by the Council. Additionally, I note that siting was initially marked for consideration at this outline stage. However, by letter of 12 January 2001, the appellants withdrew this. Accordingly I shall treat all the other plans submitted as merely a helpful indication of one way in which the site could be developed.

Main Issue

2. From the representations made and my inspection of the site and surroundings, I consider that the decision in this appeal revolves around a single main issue. This is whether permission for the use proposed would be likely to prejudice the comprehensive planning of the area, bearing in mind planning policy aims for the locality.

Planning Policy

3. Section 54A of the Town and Country Planning Act (as amended) requires that I decide this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan consists of the Somerset & Exmoor National Park Joint Structure Plan Review of 2000 and the West Deane Local Plan of 1997. The Council considers that there are no policies relevant to the proposals in the Local Plan. The Structure Plan has a raft of policies to express the general strategy. All development should

¹ See comment on last page of report to committee 5 March 2003

result in a pattern of land use and transport which minimises the need to travel and maximises the potential for the use of non car transport modes. In policy STR2 Wellington is identified as a town (among others) which will function as a location for employment, shopping, cultural, community, educational and residential uses. New development should be focused on the identified towns. Priority should be given to the re-use of previously developed land and to mixed use development. Policy 21 focuses uses which need to be accessible to a wide range of the population into town centres, using a sequential approach to identify sites, with priority to the town centre first.

4. The Council is preparing a District wide Local Plan which has reached an advanced stage of preparation, when the Local Plan Inspector's report has been received. Policy W18b of the Revised Deposit Draft Plan concerns a site of 0.9ha at the High Street which includes the appeal site. The Local Plan Inspector recommends that this, and another site specific policy, be deleted and replaced with a single policy for 'Town Centre Uses'. Reference is made to mixed use development to include retail, food and drink, offices, leisure, entertainment, community and residential facilities. A net retail floor space maximum is set, while existing rear servicing should be retained and enhanced. Adequate provision should be made for access, servicing and car parking, including short stay town centre car parking and pedestrian access to the High Street. There is a requirement that an archaeology survey be undertaken. Policy S4 is permissive of proposals incorporating a mix of uses provided that 'the scheme is designed as a unified whole', among other criteria.

Reasons

5. The appellants agree that the Council's policies do 'not preclude development by different landowners/developers/users just that they should form a cohesive whole...'². I agree. However there must, it seems to me, be enough information presented to demonstrate that compliance with policy is assured and that 'a cohesive whole' will result. It is clear that this part of Wellington requires a comprehensive strategy to ensure a good quality re-development. At present the Kwik Save building is utilitarian in design and the back land behind is used for car parking. Crucially, however, there is a large area of waste land adjacent to the south-west which should not be sterilised by piecemeal development around it, including on the appeal site.
6. Examining what the Local Plan Inspector recommends: the town centre site should facilitate a mixed use development. A community use such as a health centre could clearly be a part of this, but the submitted scheme does not show how other identified uses could be incorporated to result in a mixed use. And without evidence, it is impossible to know whether approval of a health centre, in isolation, would jeopardise the proper and efficient use of the adjacent vacant land or whether the desired mixed use would ever materialise. In addition, I cannot think of any condition, which could be attached to a permission, that would ensure this.
7. Moving on next to the Local Plan requirements for the retention of rear servicing and improvements thereto. It is clear from the turning circles and other manoeuvres illustrated in *Design Bulletin 32*³ that even refuse vehicles need a clear area of around 20m across to turn and lorries servicing retail units require a larger one. The impact of such a swathe of land dedicated to vehicle manoeuvring should not be underestimated. It would be wasteful

² Letter of 24 October 2003.

³ Published 1992

of this town centre resource of land for each landowner to tackle this individually. Adequate and safe arrangements must be made, but how is this to be achieved in isolation? A resolution of this element is most likely to require a comprehensive strategy involving more than just the appeal site. The proper planning of this area deserves this approach.

8. Moving on to car parking, it appeared to me that the appeal site at present accommodates a well used car park of around 70 or so spaces. Even mid morning on a rainy Monday at the time of my site inspection most spaces were full and there was a constant coming and going. I have no idea why the application site edged red includes the rear 17m or so of the Supermarket building on the High Street frontage. Whether the shop could/would continue to function in this truncated building is also unclear, although letters from Somerfield of 22 December 2000 and 8 February 2001 and from Comprehensive Design Architects of 9 January 2001 all suggest that it would not. However, the appeal before me leaves this unresolved. If the Supermarket continues to trade in its smaller building then the appeal scheme would result in a loss of dedicated parking associated with this Supermarket. Where would this displaced parking go and how would it be accommodated? Failure to plan this would, in all likelihood, merely decant the car parking out into the surrounding streets and servicing areas with consequent inconvenience, congestion and possible danger.
9. If the Supermarket closes then how would the partial demolition of the rear be managed? What would the visual outcome be? The High Street frontage is within a highly attractive Conservation Area, although the Kwik Save building does not enhance it. The application site edged red does not extend as far as the High Street but demolition of part of the building would clearly have implications for the frontage. *Planning Policy Guidance 15: Planning and the Historic Environment* notes that, for proposals which are outside a Conservation Area but which would affect its setting, or views into or out of the area, local authorities should consider the desirability of preserving or enhancing the Area⁴. It also states that local authorities may well need detailed plans before considering an application⁵. The current appeal application before me is silent as to the visual repercussions flowing from partial demolition and does not consist of any detailed plans.
10. Overall, it seems to me that approval, in the terms as sought by the appellant, would put at risk the strategy set out for the town centre being progressed in the emerging Local Plan. A piecemeal approval on this site would have far wider repercussions than on this site alone. The Local Plan is nearing adoption and contains a highly relevant policy. Although the Local Plan has not yet been formally adopted and therefore cannot carry full weight, in Section 54A terms⁶, it must carry considerable weight at this stage, in accordance with the advice in *Planning Policy Guidance 1: General Policy and Principles*⁷. I have seen no evidence that leads me to the view that I should determine the appeal other than in accord with the emerging Local Plan.
11. A critical failing of the submitted application is the lack of sufficient details to facilitate the decision making process. The lack of information as to the precise nature of the scheme flows mostly from the fact that the appellants want to 'simply establish the principle of a health centre use on the site'⁸. I am left, however, with so little information that it is

⁴ PPG 15 paragraph 4.14

⁵ PPG 15 paragraph 4.18

⁶ See my earlier paragraph 3

⁷ Paragraph 48

⁸ Letter from Narracott Oxford Mills Architects of 17 October 2001

impossible to state with any certainty that there would not be harm caused by these proposals.

12. I find that an outline planning permission for the use proposed would be likely to prejudice the comprehensive planning of the area. It is my view that the objectives of emerging Local Plan policies S4 and W18b (as recommended to be amended) would not be met by the scheme. In addition, without further information of how a mixed-use scheme would evolve here, it is difficult to state with any certainty that Structure Plan policies STR1 and STR4 would be furthered to create mixed use developments which minimise the need to travel. I cannot think of any conditions that would overcome the problems I have outlined.

Conclusions

13. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed. In particular, the importance of quality health care in the town is a factor to which I have given serious thought and with which I have sympathy. However my decision does not close the door to a health centre here. My decision should merely be a prompt for further information as to how such a use could be satisfactorily woven into the fabric of the town centre and this important site and the adjacent land. An outline application with no details as to how this can be achieved just does not illustrate this successfully. I am aware that the appellants have carried out an archaeology survey, but this is not the only criterion set out in the Local Plan Inspector's recommendation.

Formal Decision

14. In exercise of the powers transferred to me, I dismiss the appeal.

Information

15. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.



Inspector