

49/12/0073

GADD PROPERTIES LTD

ERECTION OF 2 NO. SINGLE STOREY DWELLINGS WITH ASSOCIATED GARAGES, PARKING AND ACCESS ON GARDEN LAND ATTACHED TO SPRING GARDENS, WIVELISCOMBE (RESUBMISSION OF APPLICATION 49/12/0055)

Grid Reference: 307931.128031

Full Planning Permission

RECOMMENDATION AND REASON(S)

Conditional Approval subject to the receipt of an amended layout plan by January 8 2012, providing for visibility splays as set out by the Transport Development Group

The proposal, for residential development, is located within defined settlement limits where the principle of new housing is considered acceptable. The proposed access would be satisfactory and would not harm the safety of highway users or pedestrians within the vicinity of the site. The development would not have a detrimental impact on surrounding visual or residential amenity and is considered to be acceptable with regard to the design, scale, form and layout of the proposals. The development is therefore in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policies STR1, STR3 and 49 (Transport Requirements of New Development), Policies DM1 (General Requirements) and SP1 (Sustainable Development Locations) and CP4 (Housing) of the Taunton Deane Core Strategy and retained Policy M4 (Residential Parking Provision) of the Taunton Deane Local Plan.

RECOMMENDED CONDITION(S) (if applicable)

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

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

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

(A3) DrNo A2012 505 Site Survey
(A3) DrNo A2012 504 Elevations
(A3) DrNo A2012 503 Ground Floor Plans
(A3) DrNo A2012 502 Site Layout Plan
(A3) DrNo A2012 501 Site and Location Plan

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

3. 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 and thereafter retained as such, in accordance with the approved details as above, unless otherwise agreed in writing by the Local Planning Authority.

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

4.
 - (i) Prior to implementation a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority.
 - (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority.
 - (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

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

5. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority details of the design, materials and type of boundary treatment to be erected within the site. The agreed boundary treatment shall be completed before the dwellings are occupied and thereafter so maintained.

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

6. The access, driveway, parking and turnings areas shall be hard surfaced before any dwelling hereby permitted is first occupied, in accordance with drawing number A2012/502. The hard surfacing shall be made of porous material, or alternatively provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the development site.

Reason: In the interests of highway safety in accordance with Policy 49 of the

Somerset and Exmoor National Park Joint Structure Plan Review.

7. Details of the size, position and materials of any meter boxes installed in connection with the development shall be submitted to and approved by the Local Planning Authority before development commences and thereafter installed and maintained in accordance with the approved details.

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

8. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 ("the 1995 Order") (or any order revoking and re-enacting the 1995 Order with or without modification), there shall be no extension, addition or other alteration (including dormer windows) to the dwellings hereby permitted without the further grant of planning permission.

Reason: To ensure the development does not harm the amenity of neighbouring dwellings located within a close proximity to the proposed development, in accordance with Taunton Deane Core Strategy Policy DM1.

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

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

10. The development hereby permitted shall not commence until surface water drainage details have first been submitted to and approved in writing by the Local Planning Authority. The means of surface water disposal shall be implemented and thereafter maintained in accordance with the approved details.

Reason: To prevent the risk of flooding to property and land outside of the site in accordance with Taunton Deane Core Strategy Policy CP1.

11. The garages hereby permitted shall remain available in perpetuity for the parking of vehicles and the storage of bicycles only.

Reason: In order to ensure that satisfactory space remains available within the site for the parking and turning of motor vehicles without prejudice to neighbouring properties and highway safety, in accordance with retained Taunton Deane Local Plan Policy M4 and Policy CP6 of the Taunton Deane Core Strategy.

12. There shall be no obstruction to visibility greater than 600mm above adjoining ground surface level in advance of lines drawn 2.0m back from the shared driveway edge on the centre line of the footpath extending to points on the nearside shared driveway edge 2m either side of the footpath. Such visibility shall be fully provided before any dwelling hereby permitted is first occupied and thereafter shall be maintained in perpetuity.

Reason: To preserve sight lines at the junction between the new access driveway, the adopted highway and pedestrian footpath, in the interests of highway safety in accordance with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.

13. The development hereby permitted shall not commence before details of the proposed crossing of the Public Right of Way (footway) have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved details and crossing have been fully provided in accordance with the approved details.

Reason: To ensure the development enables the continued convenient use of the Public Right of Way by members of the public without undue harm to either public safety, in accordance with Policy DM1 of the Taunton Deane Core Strategy and Structure Plan Policy 42.

Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and entered into pre-application discussions to enable the grant of planning permission.
2. The developer should be aware of the importance of checking with Wessex Water to ascertain whether there may be any uncharted sewers or water mains within (or very near to) the site. If any such apparatus exists, applicants should plot the exact position on the design layout to assess the implications. The grant of planning permission does not, where apparatus will be affected, change Wessex Water's ability to seek agreement as to the carrying out of diversionary and/or conditioned protection works at the applicant's expense or, in default of such agreement, the right to prevent the carrying out of any such development proposals that may affect its apparatus.
3. The developer is advised of the need to protect the integrity of Wessex Water systems and agree prior to the commencement of works on site, any arrangements for the protection of infrastructure crossing the site with Wessex Water.
4. New water supply and waste water connections will be required from Wessex Water to serve this development. Application forms and guidance information is available from the Developer Services web-page at www.wessexwater.co.uk/developerservices. As from 1st October 2011, all sewer connections serving more than a single dwelling will require a signed

adoption agreement with Wessex Water before the connection can be made. Further information can be obtained from our New Connections Team by telephoning 01225 526222 for Water Supply and 01225 526333 for Waste Water.

5. You are advised to contact Wessex Water in respect of infrastructure charges which may be payable in respect of the development.
6. Your attention is drawn to the needs of the disabled in respect of new housing and the requirements under Part M of the Building Regulations.
7. If the development would result in any of the outcomes listed below, then authorisation must be sought from Somerset County Council Rights of Way Group:
 - A PROW being made less convenient for continued public use;
 - New furniture being needed along a PROW;
 - Changes to the surface of a PROW being needed;
 - Changes to the existing drainage arrangements associated with the PROW.

If the works involved in carrying out this development would:

- Make a PROW less convenient for continued public use; or
- Create a hazard to users of a PROW

Then a temporary closure order may be necessary and a suitable alternative route must be provided.

8. The applicant should be aware that it is likely that the internal layout of the site will result in the laying out of a private street, and as such, under Sections 219 to 225 of the Highway Act 1980, will be subject to the Advance Payment Code (APC). Given the constraints of the existing access, it will not be possible to construct an estate road to a standard suitable for adoption. Therefore, in order to qualify for an exemption under the APC, the road should be built and maintained to a level that the Highway Authority considers will be of sufficient integrity to ensure that it does not deteriorate to such a condition as to warrant the use of the powers under the Private Streetworks Code.
9. Please note that due to the combination of works to the carriageway and footway, it is likely that a S278 Agreement will be required by the Highway Authority to secure the works. Having regard to powers of the Highway Authority under the Highways Act 1980, the applicant is advised that the alteration of an existing access will require a Section 171 Permit. This must be obtained from the Highway Service Manager, Taunton Deane Area Highway Office, Burton Place, Tel No. 0845 3459155. Application for such a permit should be made at least four weeks before access works are intended to commence.

PROPOSAL

The application seeks planning permission for the erection of a two detached two-bedroom bungalows with attached garages on land at Spring Gardens, Wiveliscombe. The proposals have an amended layout with Plot B now positioned to the North of Plot A. Plot A will have a garage attached to the North elevation and Plot

B to the South. The dwellings will be served by private gardens to the West and South and an indicative planting scheme has been provided. The site will be subdivided by close boarded fencing 1.8m in height. At the point of access a section of timber post and rail fencing will replace the existing close boarded enclosure.

The dwellings will be finished externally in facing brickwork under concrete roof tiles. Windows will be white uPVC and the doors painted softwood. The proposed access, parking and turning areas will be surfaced with permeable block paving. All materials are indicated as being for approval by condition.

Access will be formed off Market Place to the South; the new access driveway will run between two existing properties, cross a public footpath and enter the site through the southern boundary. The driveway will run along a North-South axis adjacent to the Eastern boundary of the site; it will lead to a combined parking and turning area to the front of the proposed dwellings. Four parking spaces are proposed.

SITE DESCRIPTION AND HISTORY

The application site currently forms part of the associated curtilage of the property known as Spring Gardens; the site is centrally located within the settlement of Wiveliscombe. The site is currently laid to grass and contains four fruit trees; the site is bound to the West by a terrace of dwellings along Stockers Close and to the East by detached properties along Spring Gardens. The application site slopes away to the East where it is evident that the rear gardens of the properties along Spring Gardens are set at a lower level to that of the application site. The southern boundary of the site is formed by a stone wall that abuts a pedestrian footpath linking Spring Gardens to North Street. As well as the abutting the application site the adjacent footpath runs along side two new build properties along Market Place to the East.

The site is served by two existing vehicular access points off North Street; that which directly serves the application site is along a narrow track from the south west, which is thought to be of insufficient width to allow its use by a modern motor vehicle. Public Right of Way (PROW) WG15/4 runs along the footpath that abuts the site to the south.

Planning permission has been refused previously at the site for a similar proposal to erect two dwelling houses with access and garaging. Planning application 49/12/0031 was refused planning permission under delegated powers virtue of:

- A poor design and layout;
- Detrimental impact upon light and outlook of neighbouring property;
- A lack of visibility along footpath for vehicles resulting in a danger to pedestrian safety; and
- Insufficient space for parking and turning within the site.

An amended scheme was then withdrawn, planning reference 49/12/0055 due to ongoing Officer concerns regarding the layout, design and scale of the proposed scheme. A subsequent meeting was held where these concerns were relayed to the applicant and agent.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

WIVELISCOMBE TOWN COUNCIL - Object to the proposals on health and safety grounds. The development will gain access over a regularly use public footpath and it is anticipated that this public right of way will be used more frequently in future as Wiveliscombe expands. The health and safety of footpath users is imperative and measures must be taken to protect them from traffic passing over it. Barriers should be erected to protect the public from the highway.

SCC - TRANSPORT DEVELOPMENT GROUP - Passing places are welcomed. Pedestrian visibility splays are not adequate. The splays should be developed from the points of intersection of the two ends of the severed path with the outsides of the proposed 3m wide driveway. The corner requiring most attention to this detail is the southernmost corner around the curtilage of number 16 Market Place. Recommend that part of the application site be dedicated to broaden the footpath as it approaches the proposed drive so that an adequate triangular splay of 2m by 2m can be provided at this corner. Either approximately 1.2m of the green area should be dedicated as public footpath to the corner of the path or slightly less if in addition some easement northeastwards of the shared access is made. This corner is particularly pertinent as any pedestrian pushing a pushchair or using a disability scooter may find it fractionally harder to stop than from the other direction of approach as the gradient for them at this point is downhill.

Concerned that there is insufficient parking/turning space for plot B especially if a vehicle is parked in front of the garage and within the turning head - may cause problems for reversing vehicles. This said parking provision accords with the Somerset Parking Strategy.

Conditions recommended to improve pedestrian and vehicular visibility splays; PROW vehicular crossing; details of hard surfacing for garage/parking; and submission of details for private streets.

HERITAGE - No comments.

SCC - DEVELOPMENT CONTROL ARCHAEOLOGIST - No comments received.

SCC - RIGHTS OF WAY - If permission is to be granted, it should be conditioned upon a satisfactory design of the footpath crossing being agreed with SCC RoW Team which we would refer to our Safety Audit Team for assessment.

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

If it is considered that the development would result in any of the outcomes listed below, then authorisation for these works must be sought from Somerset County

Council Rights of Way Group.

- A PROW being made less convenient for continued public use.
- New furniture being needed along a PROW.
- Changes to the surface of a PROW being needed.
- Changes to the existing drainage arrangements associated with the PROW.

If the work involved in carrying out this proposed development would

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

then a temporary closure order will be necessary and a suitable alternative route must be provided. A temporary closure can be obtained from Sarah Hooper on (01823) 483069.

WESSEX WATER - Advice provided regarding water supply and waste connections, protection of assets, building near to a public sewer and diversion of water mains and sewers.

Representations

2 letters of OBJECTION received raising the following planning related matters:

- No objection to the bungalows but object to the proposed access across a footpath without barriers;
- With building in Style Road the footpath will be used more by children, toddlers, mothers with pushchair's and the elderly going into town and the doctors surgery;
- Footpath is used by existing residents on a regular basis;
- Access via Market Place will be a problem with traffic, parking and extra vehicle movements;
- Emergency service vehicles will be unable to reach the site;
- This will be hazardous and an accident waiting to happen;
- Documents sent to the House of Commons regarding the Town Council or Borough Council exceeding their powers to grant a building access to land via a definitive public footpath with vehicles;
- Response to enquiry awaited; advised a response would take some time;
- It is imperative that the public have a right of way over the footpath and a planning officer with delegated powers is not the authority to give a decision on these matters;
- Should protect country walks for the public;
- The LPA should be conscious of their duty of care to the public and not builders.

52 identical and replicated letters received from members of the public raising the following OBJECTION

- "The public footpath in question is in constant use by people of all ages - from pushchair's to wheelchairs - and I feel it would be dangerous for pedestrians if vehicles were allowed to cross it. It will get busier as more housing is proposed on land East of the path to the centre of Wiveliscombe. The access to the proposed building site emerges onto Market Place which is very narrow and already has parking problems. Surely this could cause major difficulties for large delivery and collection vehicles including emergency services. I strongly object to this proposed access."

PLANNING POLICIES

S&ENPP42 - S&ENP - Walking,
M4 - TDBCLP - Residential Parking Provision,
STR1 - Sustainable Development,
STR3 - Rural Centres and Villages,
S&ENPP33 - S&ENP - Provision for Housing,
S&ENPP49 - S&ENP - Transport Requirements of New Development,
NPPF - National Planning Policy Framework,
SP1 - TD CORE STRATEGY SUSTAINABLE DEVELOPMENT LOCATIONS,
SP4 - TD CORE STRATEGY REALISING THE VISION FOR THE RURAL AREAS,
CP4 - TD CORE STRATEGY - HOUSING,
DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,

LOCAL FINANCE CONSIDERATIONS

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

1 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£2158
Somerset County Council (Upper Tier Authority)	£540

6 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£12949
Somerset County Council (Upper Tier Authority)	£3237

DETERMINING ISSUES AND CONSIDERATIONS

The pertinent issues to consider are the impact of the proposals upon highway and pedestrian safety; residential amenity and the character of the area having regard to the amended scale, form, design and layout.

Highway and pedestrian safety

The Highway Authority are satisfied that the site provides for an acceptable degree of parking with which to serve the proposed dwellings but are concerned that plot B may not have sufficient turning. In this regard I consider it a case of self management of parking to ensure that the proposed turning head is not used for parking vehicles so as to allow vehicles to turn easily within the site. This should not be an issue if the garage and parking space to the front are used for parking vehicles. I do not consider there to be a realistic risk of drivers reversing out of the site due to the length of access track between the parking area and adopted highway at Market Place. The previous application was refused in part due to concerns in this regard however this issue is now considered to have been satisfied, having regard to the size and number of parking spaces proposed as well as the space now provided for turning being of an acceptable standard.

Notwithstanding the above, there remains two issues to consider here. Firstly

whether the applicant has lawful authority to cross the public footpath with a motor vehicle, and secondly the impact of the proposed access road and its use upon highway and pedestrian safety. Comments have been received stating that the Council does not have the authority to grant permission to cross the footpath with a motor vehicle.

Having regard to lawful authority to cross the footpath with a motor vehicle, the applicant has previously demonstrated through the submission of a land registry title deed and plan that the footpath over which access will be derived is owned by the applicant. The crossing of the footpath with vehicles has been suggested to be an unlawful act by objectors. The submitted ownership details clearly indicate that the part of the footpath where vehicular access is proposed is owned by the applicant. Notwithstanding this matter, the fact that the applicant owns the section of footpath to be crossed is understood to satisfy their right to lawful authority for crossing the footpath with a motor vehicle. Therefore, were permission to be granted, the Council would not be encouraging an unlawful activity.

The second issue to consider is that of highway and pedestrian safety. The safety of pedestrians and the crossing of the footpath with motor vehicles is the largest concern raised by local residents in the objections received. The application has been amended since the previous refusal and additional information is now provided which has allowed inter-visibility between vehicle users and pedestrians moving along the footpath to be properly assessed. 2.4m 45 degree visibility splays onto the footpath where the proposed vehicular access will cross are now proposed and the same is proposed where the track derives access onto/off Market Place to the South East. The Highway Authority do not consider this to be acceptable and have requested that 2m x 2m splays be provided on either side of the access drive at the points where it meets the pedestrian footpath; 11 m splays are requested to the access with Market Place. It is acknowledged that the footpath is well used by local residents on a daily basis and at all times throughout the day/night. However, I am also aware that neither the Senior Rights of Way Technician or Highway Authority have raised formal objections to the proposals and it is felt that the concerns regarding visibility can be overcome with a slight redesign of the access.

With regard to access, the new road crossing the footpath will serve two small dwellings; therefore the number of vehicular movements over the footpath will be relatively low and sporadic throughout the day. Notwithstanding this matter, the access road is short and would not allow vehicles to reach dangerous speeds and the number of movements over the footpath by vehicles will be low and irregular in their frequency. In addition, the proximity of the site to the town centre is likely to result in a number of daily visits being made by foot or bicycle and such is will reduce the dependence of occupants upon their motor vehicles. It is considered that, subject to an improvement in visibility splays being demonstrated on an amended plan, the low frequency of vehicular movements over the access and footpath together with the low speed that vehicles will be moving at will ensure that drivers can see pedestrians and similarly, that pedestrians can see vehicles.

It is considered possible to provide the necessary visibility splays to satisfy the Highway Authority requirements and subject to the receipt of an amended plan providing these splays, the proposals are not considered to present a significant risk to the safety of pedestrians or other drivers within the area.

Residential amenity

The proposed development now positions the two dwelling houses approximately 9.5 metres away from the Eastern boundary of the site. The properties along the terrace at Stockers Close to the West are raised well above the application site and the proposed dwellings will be set into the slope of the site.

The layout of the two units of accommodation would result in two bedroom windows facing towards properties to the East; the site is bound by timber fencing and although the floor level of the proposed dwellings will be slightly raised above that of neighbouring properties, the scheme is not considered to result in any significant loss of privacy to neighbouring residents/properties. Due to the separation between the proposed dwellings and existing properties, the amended proposals are not considered to result in any loss of light or outlook. The driveway will be within a close proximity of existing gardens but the level of vehicles movements associated to the two bedroom properties will be low and therefore any potential nuisance arising through noise, vibration or lights from vehicles is thought to be minimal.

There have been no objections to the development with regard to impact upon residential amenity and overall, the proposed development is not considered to significantly affect residential amenity within the area.

Design, form and layout

Previous applications here have proposed a pair of semi detached bungalows positioned side by side, from east to west across the site. Garaging was proposed within a detached building to the South. The amended scheme now proposes two detached properties within the site that are orientated from North to South. The National Planning Policy Framework amplifies the importance of providing good design; good design is considered to form an integral facet of sustainable development.

In terms of layout the amended scheme is considered to be more appropriate, reflecting the form and grain of the area. The dwellings are of a simple design and appearance and do not incorporate any elaborate features. The area lacks a definitive character and appearance, with the site being set between chalet style bungalows to the East and two storey terraced properties to the West. The somewhat neutral approach to the design will not enhance the immediate vicinity of the application site but neither is it considered to result in any harm to visual amenity or the character and appearance of the site and its surroundings.

The control of finished materials by condition and the implementation of an appropriate landscaping scheme will aid the proposals to make a more positive impact to the overall appearance of the area and on the basis of the above matters, the proposed development is considered to be acceptable having regard to the proposed design, scale, form and layout of the development.

Conclusions

The proposed development is considered to be within a sustainable location within existing serviced settlement limits where the principle of new housing is considered to be acceptable in principle. Subject to the receipt of amended plans, the proposals are not considered to result in a degree of harm to highway or pedestrian safety as to warrant refusal. The development is acceptable in design terms and will not

unduly harm residential amenity within the area.

Forth above reasons it is recommended that planning permission be granted subject to conditions.

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

CONTACT OFFICER: Mr R Williams Tel: 01823 356469