

## **Planning Committee – 15 August 2007**

### **Report of the Chief Solicitor**

#### **Miscellaneous Item**

#### **30/2007/017 Formation of new vehicular access, erection of oak framed cart shed for boat storage and erection of garden room at Oakwood Cottage, Pitminster.**

1.0 The above application was considered by the Pitminster Parish Council under the terms of the Delegated Planning Agreement at its meeting in July. A similar application had been refused on appeal in 2006 but the re-submitted application sought to address concerns over highway safety and the Highway Authority had not raised objection to the proposal before the Parish Council in July.

2.0 There were no planning objections to the proposal and in view of the lack of objection from the Highway Authority the Planning Officer recommended to the Parish Council that they should grant the application. However, the Parish Council resolved to refuse the application on the following ground;

*The proposed access would be dangerous to all road users and to the applicant when using the entrance. This would be prejudicial to highway safety and would be contrary to Taunton Deane Local Plan Policy S1 and Somerset and Exmoor National Park Joint Structure Plan Review Policy 45.*

A refusal notice was accordingly issued.

3.0 The applicant subsequently advised that he intended to appeal and to seek costs on the basis that the refusal was unreasonable in the light of there being no objection from the Highway authority. The Highway Authority were contacted and indicated that they would not be prepared to give evidence at any appeal in support of the refusal reason.

4.0 Under the terms of the Delegated Agreement there is provision that where a Parish Council refusal reason is considered to be undefendable the Parish Council can be asked to re-consider its decision and in the event that it still wishes to refuse the application, and where it is considered the Council considers there is a significant risk of costs being awarded, the matter can be referred by the Development Manager to the Planning Committee for a decision.

5.0 In the light of this provision in the agreement, the applicant has resubmitted the application in the hope that an appeal can be avoided.

#### **Recommendation**

6.0 It is therefore recommended that the current application be referred back to the Parish Council with a request its decision be reviewed in the light of the Highway Authority's decision that it would not defend the refusal reason on appeal.

7.0 It is further recommended that the Parish Council be advised that in the event that it still recommends that the application be refused on highway grounds, the application will be referred to the Planning Committee for a decision.

**Chief Solicitor**

**Contact Officer Judith Jackson 01823 356409 e-mail**  
**[j.jackson@tauntondeane.gov.uk](mailto:j.jackson@tauntondeane.gov.uk)**