

## SWT Planning Committee

Thursday, 14th May, 2020,  
1.00 pm



Somerset West  
and Taunton

[SWT VIRTUAL MEETING WEBCAST LINK](#)

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**Members:** Simon Coles (Chair), Roger Habgood (Vice-Chair), Ian Aldridge, Sue Buller, Marcia Hill, Martin Hill, Mark Lithgow, Chris Morgan, Simon Nicholls, Craig Palmer, Andrew Sully, Ray Tully, Brenda Weston, Loretta Whetlor and Gwil Wren

### Agenda

**1. Apologies**

To receive any apologies for absence.

**2. Minutes of the previous meeting of the Planning Committee**

To approve the minutes of the previous meeting of the Committee.

**3. Declarations of Interest or Lobbying**

To receive and note any declarations of disclosable pecuniary or prejudicial or personal interests or lobbying in respect of any matters included on the agenda for consideration at this meeting.

(The personal interests of Councillors and Clerks of Somerset County Council, Town or Parish Councils and other Local Authorities will automatically be recorded in the minutes.)

**4. Public Participation**

The Chair to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public who have requested to speak, please note, a three minute time limit applies to each speaker and you will be asked to speak before Councillors debate the issue.

(Pages 5 - 10)

### **Temporary measures during the Coronavirus Pandemic**

Due to the Government guidance on measures to reduce the transmission of coronavirus (COVID-19), we will holding meetings in a virtual manner which will be live webcast on our website. Members of the public will still be able to register to speak and ask questions, which will then be read out by the Governance and Democracy Case Manager during Public Question Time and will either be answered by the Chair of the Committee, or the relevant Portfolio Holder, or be followed up with a written response.

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|---|------------------------|
| <p><b>5. 24/18/0039</b></p> <p>Change of use of land from agricultural to equestrian with formation of a riding manege and erection of a stable block, improvements to access with formation of associated parking and hardstanding on land at 2 Borough Post, North Curry as amended by plans received on 12 November 2018</p> | <p>(Pages 11 - 18)</p> |
| <p><b>6. 49/19/0059</b></p> <p>Formation of helipad on land located south of New Road, (B3227), Wiveliscombe (retention of works already undertaken)</p>  | <p>(Pages 19 - 26)</p> |
| <p><b>7. 3/21/20/013</b></p> <p>Demolition of flat roof extension and erection of a painted metal veranda with associated railings at Avondale, Martlett Road, Minehead, TA24 5QD</p>   | <p>(Pages 27 - 32)</p> |
| <p><b>8. Appeals Lodged and Decisions received</b></p> <p>Latest Appeals and Decisions received</p>   | <p>(Pages 33 - 58)</p> |



**JAMES HASSETT**  
**CHIEF EXECUTIVE**

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If you would like to ask a question or speak at a meeting, you will need to submit your request to a member of the Governance Team in advance of the meeting. You can request to speak at a Council meeting by emailing your full name, the agenda item and your question to the Governance Team using [governance@somersetwestandtaunton.gov.uk](mailto:governance@somersetwestandtaunton.gov.uk)

Any requests need to be received by 4pm on the day that provides 2 clear working days before the meeting (excluding the day of the meeting itself). For example, if the meeting is due to take place on a Tuesday, requests need to be received by 4pm on the Thursday prior to the meeting.

The Governance and Democracy Case Manager will take the details of your question or speech and will distribute them to the Committee prior to the meeting. The Chair will then invite you to speak at the beginning of the meeting under the agenda item Public Question Time, but speaking is limited to three minutes per person in an overall period of 15 minutes and you can only speak to the Committee once. If there are a group of people attending to speak about a particular item then a representative should be chosen to speak on behalf of the group.

Please see below for Temporary Measures during Coronavirus Pandemic and the changes we are making to public participation:-

Due to the Government guidance on measures to reduce the transmission of coronavirus (COVID-19), we will holding meetings in a virtual manner which will be live webcast on our website. Members of the public will still be able to register to speak and ask questions, which will then be read out by the Governance and Democracy Case Manager during Public Question Time and will be answered by the Portfolio Holder or followed up with a written response.

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For further information about the meeting, please contact the Governance and Democracy Team via email: [governance@somersetwestandtaunton.gov.uk](mailto:governance@somersetwestandtaunton.gov.uk)

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**SWT Planning Committee - 12 March 2020**

Present: Councillor Simon Coles (Chair)

Councillors Roger Habgood, Sue Buller, Marcia Hill, Mark Lithgow, Simon Nicholls, Craig Palmer, Andrew Sully, Ray Tully, Brenda Weston, Loretta Whetlor and Gwil Wren

Officers: Martin Evans (Shape Legal Partnership), Tracey Meadows (Democracy and Governance), Rebecca Miller (Principal Planning Specialist), Alex Lawrey, Jo O'Hara, Ursula Fay and Abigail James

Also Present: Councillors

(The meeting commenced at 1.00 pm)

137. **Apologies**

Apologies were received from Councillors Aldridge and Morgan

138. **Minutes of the previous meeting of the Planning Committee**

(Minutes of the meeting of the Planning Committee held on the 20<sup>th</sup> February 2020 circulated with the agenda)

**Resolved** that the minutes of the Planning Committee held on 20<sup>th</sup> February be confirmed as a correct record.

Proposed by Councillor Habgood, seconded by Councillor Marcia Hill

The **Motion** was carried.

139. **Declarations of Interest or Lobbying**

Members present at the meeting declared the following personal interests in their capacity as a Councillor or Clerk of a County, Town or Parish Council or any other Local Authority:-

Name	Application No	Description of Interest	Reason	Action Taken
Cllr R Habgood	42/19/0053	Tack Member	Personal	Did not take part in the vote
Cllr Marcia Hill	42/19/0053	One of the speakers was known to Cllr Hill	Personal	Spoke and Voted
Cllr S Nicholls	42/19/0053	Ward Member for Comeytrowe	Personal	Spoke and did not take part in the debate or vote
Cllr C Palmer	3/26/19/0024	Is known to the	Personal	Did not take part in

		applicant		the debate or vote
Cllr L Whetlor	42/19/0053	One of the speakers was known to Cllr Whetlor	Personal	Spoke and Voted

140. **Public Participation**

Application No.	Name	Position	Stance
42/19/0053	Cllr J Hunt Cllr S Nicholls Cllr H Farbahi Cllr A Wedderkopp Cllr S Wakefield	Ward Member Ward Member Ward Member	
	Mr A Kent	On Behalf of Trull PC	
	Mrs S Grant	Local Resident	
	Mr A Sawyer	Local Resident	
	Mr M Ginger	On behalf of the Taunton Area Cycling Campaign	
	Ms C Warburton	Local Resident	
	Ms J Wooldridge	On behalf of Trull PC	
	Mr T Smith	On behalf of Trull PC	
	Mr B Larcombe	Chair of Comeytrowe PC Local Resident	
	Tessa Dean		
3/26/19/016	Mr A Paul	On behalf of the applicant	Infavour Infavour
45/19/0024	Mr L Turner	Applicant Planning Agent	
	Mr M Thomas Ms R Randell		Objection Objection
	Mr C Richie	Local Resident	Infavour
	Mr M January	Local Resident	Infavour
	Mr D Nurcombe	Local Resident	Infavour
	Mr I Hayter	Local Resident	Infavour
	Mr P Harwood	Local Resident	Infavour
	Mr H Gresswell	Local Resident	Infavour

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141. **42/19/0053**

**Application for approval of reserved matters following outline application 42/14/0069 for construction of the strategic partnership infrastructure associated with the Western Neighbourhood, including the spine road and infrastructure roads; green infrastructure and ecological mitigation; strategic drainage, earth re-modelling works and associated retaining walls on land at Comeytrove/Trull**

**Comments by members of the public included;**

- Flooding issues and run off on site;
- The application was not yet ready to be approved;
- Concerns with the negative impact on neighbouring properties;
- Green buffer zone was needed to mitigate impact;
- Concerns with the road layout;
- Bio diversity issues;
- Concerns with the loss of habitat;
- Concerns with the loss of hedgerows;
- Concerns that there had not being a mitigation statement since 2013;
- Concerns for the Dormice on site;
- Concerns that the application would increase car dependency and cause gridlock on a main arterial road;
- How will the design integrate with the new road network;
- Concerns with the cycling and walking infrastructure;
- A good suds scheme was needed on the site;
- A Masterplan was needed;
- No mention of the Neighbourhood Plan, Community Involvement or Secondary School;
- This application would double the population of Trull/Comeytrove;
- Concerns that Affordable Housing allocation had been reduced to 17%;
- No climate change was taken into account;
- Concerns with the Bus Lane;
- Onsite water storage;
- Concerns that Dipford Road would become a rat run;
- Concerns that this application has not been updated since 2014;

**Comments by members included;**

- Flooding issues;
- Ecological mitigation issues;
- Concerns that the Spine Road will not be implemented until a later date;
- A cycle path was needed on the A38;
- Concerns with the relocation of Dormice on site;

- Removal of Hedgerows;
- The application was in Flood Zone 1;
- Concerns with the discharge of surface water on the site;
- Bat mitigation;
- Concerns with the loss of Social Housing;
- No involvement with the community;
- This application complies with the NPPF;

At this point in the meeting a 5 minute break was called for

- Concerns with the layout and appearance;

Councillor Coles proposed and Councillor Habgood seconded a motion for the application to be APPROVED with amended conditions as per update sheet.

Noted that Cllr Marcia Hill abstained and Cllr Habgood did not take part in the vote.

The **motion** was carried

142. **3/26/19/016**

**Erection of 9 No. dwellings with associated access, landscaping, public open space, drainage and footpath works. Former Nursery Site, A39, Washford, Watchet**

**Comments from members of the public included;**

- There was a positive response from consultees;
- Provisions for Wildlife had been made;
- Local contractors were to be used for the application;
- A new footpath would be created to link into the town;
- The development would provide 3 additional homes for Washford;
- The hedgerows along with the Oak Tree would be protected;
- The new footpath would provide a safe route for cyclists;

At this point in the meeting a half hour extension was called for.

**Comments from members included;**

- The development was sympathetic to the surrounding buildings;
- Concerns with the access onto and from the site;
- Flooding issues;
- Concerns with who will maintain the wildlife buffer after 5 years;
- Pleased to see that a brown field site is being used for this development;
- Concerns with the speed limit on the road;
- Concerns with the wildlife on the site;
- Concerns with the lighting and surface on the footpath;
- Would the footpath be of a sufficient width to allow wheelchair use;

Councillor Coles proposed and Councillor Sully seconded a motion for the application to be **Approved** subject to legal agreement delegating powers to chief planning specialist; and discussions with the ecologist to ensure that all necessary planning conditions in relation to ecology are imposed.

The **motion** was carried

Noted that Cllr Palmer abstained from the vote

143. **45/19/0024**

**Demolition of stables and erection of 2 No. detached dwellings with garages, parking and associated works at Bashford Stables, West Bagborough Road, West Bagborough (resubmission of 45/18/0019)**

**Comments made by members of the public included;**

- The development was out of keeping with existing properties;
- The site was not suitable due to its size;
- The development would cause harm to the Conservation area;
- This would set a precedent for back land developments;
- This development would have no economic value for the village;
- There was no evidence that more housing was needed in the village;
- The village was changing in nature, extra housing was needed to encourage younger people back into the village;
- The Parish Council did not have any objections to this development;
- Younger children were needed in the village;

At this point in the meeting a 30 minute extension was called for.

- This development would be constructed in local stone;
- No impact on the village;
- The site was suitable to develop;
- The development did not impact on the Conservation area;
- This was a sustainable development;
- No objections from Somerset County Council;
- No access issues;

**Comments made by members included;**

- The development was badly located (wrong houses in the wrong place);
- The houses were too large for the existing plot;
- Over development of the site;

Councillor Marcia Hill propose and Councillor Sully seconded a motion for the application to be **REFUSED** as per officer recommendation;

The **Motion** was carried.

144. **Access to information - Exclusion of Press and Public**

145. **Tonedale Mills, Wellington**

**Tonedale Mills, Wellington**

**Comments from Members included;**

Councillor Whetlor left for this item

- This was a national site of interest and Members needed to be fully behind this;

Councillor Marcia Hill proposed and Councillor Habgood seconded a motion for the recommendation to be approved.

The **motion** was carried

(The Meeting ended at 5.24 pm)

24/18/0039

MR & MRS M HEUFF

**Change of use of land from agricultural to equestrian with formation of a riding manege and erection of a stable block, improvements to access with formation of associated parking and hardstanding on land at 2 Borough Post, North Curry as amended by plans received on 28 January 2020**

Location: LAND TO THE SIDE AND REAR OF 2 BOROUGH POST, NORTH CURRY, TAUNTON, TA3 6NB

Grid Reference: 330857.124561 Full Planning Permission

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## **Recommendation**

**Recommended decision: Conditional Approval**

### **Recommended Conditions (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 2586-PL-01 Location Plan  
(A3) DrNo 2586-PL-02 Rev A Site Plan  
(A3) DrNo 2586-PL-01 Location Plan  
(A2) DrNo 2586-DR-A-050-001 Rev A Proposed Site Plan & Location Plan  
(A1) DrNo 6212-01 Rev B Timber Stable Block

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

3. The applicant shall undertake all the recommendations made in Country Contracts wildlife Survey Report dated July 2018, and provide mitigation for bats as recommended. The works shall be implemented in accordance with the approved details and timing of the works, unless otherwise approved in writing by the Local Planning Authority. The development shall not be occupied until the scheme for the maintenance and provision of the new bat boxes and related accesses have been fully implemented. Thereafter the resting places and agreed accesses shall be permanently maintained

**Reason:** To protect and accommodate wildlife in accordance with the requirements of policy CP8 of the Core Strategy

4. The development hereby permitted shall only be used for private recreational purposes and shall not be used in connection with any commercial livery or other equestrian enterprise.

Reason: To protect the amenities of nearby residential properties.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, 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 9m behind the highway boundary and hung so as to open inwards only.

Reason: To allow a vehicle to wait off the highway while the gates are opened or closed and thus prevent an obstruction to other vehicles using the highway, in the interests of highway safety.

6. Prior to the stables hereby approved being brought into use, the alterations to the access shall be completed in accordance with the approved plan. The access shall thereafter be retained in the approved form.

Reason: In the interests of highway safety.

#### Notes to Applicant

- . It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the developer should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation.
- . In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.
- . Any proposed works must not encroach on to the width of the PROW. The health and safety of the public using the PROW must be taken into consideration during works to carry out the proposed development. Somerset County Council (SCC) has maintenance responsibilities for the surface of a PROW, but only to a standard suitable for the public use. SCC will not be responsible for putting right any damage occurring to the surface of a PROW

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 a public footpath, public bridle way or restricted byway 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. For more information, please visit Somerset County Council's Rights of Way pages to apply for a temporary closure:

<http://www.somerset.gov.uk/environment-and-planning/rightsof-way/apply-for-a-temporary-closure-of-a-right-of-way/> .

## Proposal

The application proposes the change of use of land from agricultural to equestrian, the erection of a single storey timber building of eight stables and ancillary accommodation, including a secure store, open fronted wash area, tack room and open fronted hay store in a U shaped formation. The building has a maximum dimension of 35.4m and an overall width of 13.48m, with open area between the two blocks of stables. The overall height is 3.35m to the ridge and 2.4m to the eaves. The application also proposes the construction of an access track to the stable building lined with a stockproof fence, a hardsurfaced area for parking of vehicles and a 40m x 40m arena area, constructed in a sand/rubber floor treatment and surrounded by a timber post and rail fence.

Alterations are proposed to the vehicular access to improve visibility and access and to provide two off-street car parking spaces for the applicants dwelling.

## Site Description

The site measuring 4.16 ha. lies to the north-west of Windmill Hill and is open agricultural land. Vehicular access is proposed via the existing driveway from Windmill Hill. The land is open agricultural land sloping down from the road towards the north-west. Three of the site boundaries are lined by existing hedgerows and trees. Residential properties along Windmill Hill run beyond the southern boundary.

There is an existing public right of way through the site through the vehicular access and running along the north-eastern boundary of the site.

## Relevant Planning History

None

## Consultation Responses

*NORTH CURRY PARISH COUNCIL* - Objects to the granting of planning permission for the following reasons:

- The Parish Council are happy with the concept of a stable in the field but the proposed location would be damaging to the visual amenity of the ridge and the near neighbours.

If Taunton Deane are minded to approve the application, the Parish Council ask that appropriate restrictions on the hours of use be put in place to avoid unnecessary light pollution and disturbance.

Comments on amended plans:

Objects to this application as they feel the stable building is too close to the North Curry ridge line. However if the building was further down the field away from the ridge line the PC would be minded to support the application.

*SCC - RIGHTS OF WAY* -

I can confirm that there is a public right of way (PROW) recorded on the Definitive Map that runs along the access to the site at the present time (**public footpath T 17/36**). I have attached a plan for your information.

We have no objections to the proposal, but the following should be noted:

### **1. Specific Comments:**

#### **SURFACING REQUIRED -**

Authorisation will be required for surface improvements on the path **T 17/36** from SCC Rights of Way Group. Associated infrastructure may also be required. I have attached a form that should be completed and returned to George Montague (Rights of Way Officer - [GMontague@somerset.gov.uk](mailto:GMontague@somerset.gov.uk)).

#### **In addition:**

The local planning authority needs to be confident that the applicant can demonstrate that they have an all-purpose vehicular right to the property along path T 17/36. If they are unable to and permission is granted, then the local planning authority could potentially be encouraging criminal activity through permitting driving on a public path without lawful authority.

### **2. General Comments**

Informative suggested.

*SCC - TRANSPORT DEVELOPMENT GROUP* - Standing advice applies

*BIODIVERSITY* - Country Contracts carried out wildlife surveys of the site dated July 2018.

Findings were as follows

#### **Bats**

There are no structures on site which provide roosting opportunities for bats. However bats are known to be active in the near vicinity and adjacent field boundaries would provide commuting routes and foraging for bats.

I support suggested enhancement for bats.

#### **Birds**

The removal of hedging to form a visibility splay may impact on nesting birds and so should be undertaken outside of the bird nesting season.

## **Reptiles**

No reptiles or amphibians were found on site. However the pile of discarded brash must be carefully removed under a supervised destructive search.

## **Badgers**

No setts were found on site but setts are known to be in the near vicinity

*LANDSCAPE OFFICER* - I have several concerns .

These are:

1. The impact of this development on the visual amenity of the area as the site is located on the North Curry ridge offering superb far reaching views to the north.
2. The large size of the development for domestic use.
3. The poor access to the field
4. Possible light pollution on this prominent ridge line
5. Impact on neighbouring properties

*TREE OFFICER* - Regarding this proposed development at 2 Borough Post, I think that the scheme on the revised drawing is much better, as the building and arena are further from the southern boundary trees. This should avoid damage to roots, but will also allow more light to the building, and avoid damage by any debris that might fall from the trees. The further from those trees, the better, obviously. The usual condition for protective fencing outside the Root Protection Areas along this boundary required.

On more of a landscape note, the views from the Backham Cottages, particularly 1 and 2, will be affected – perhaps the building should be further down the hill?

*LLFA* - It is not clear from the submitted documents the drainage arrangements for the proposed stable building and car parking /turning areas. As long as the applicant can confirm what is proposed, we would have no objection as the scale of the development is relatively small. The menage drainage appears to be dealt with.

*DRAINAGE ENGINEER* - No comments received

## **Representations Received**

Seven representations received objecting to the proposal on some or all of the following grounds:

- building too close to adjoining properties resulting in problems with smell, flies, noise and light pollution
- increased traffic would create unacceptable noise nuisance and hazard to highway users
- proposed entrance would be hazardous to highway users
- dust from surface of turning/parking area
- hardsurfaced area may impede run off from pumping station and stable block
- located within a special landscape area which should be protected
- use of floodlights from 6am to 9pm would be unacceptable
- loss of privacy and views
- details of the proposed hedge has not been submitted
- increased fire risk
- loss of prime agricultural road
- concern this could become a business enterprise given its scale

- size of building would be visually intrusive

Three representations in support of the scheme have been submitted

### Amended Plans

Representations objecting to the amended plans have been received from four submitters:

- impact on landscape including prominent ridge and area
- visible from surrounding properties and the road
- possible loss of trees and destruction of natural habitat
- should not become a business
- disturbance and disruption during construction
- poor access
- impact on neighbours
- access to the footpath

Two representations have been submitted in support of the proposal.

## **Planning Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for Taunton Deane comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015), and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below.

DM1 - General requirements,  
DM2 - Development in the countryside,  
CP8 - Environment,  
CP6 - Transport and accessibility,

This takes into account the recent adoption of the SADMP.

## **Local finance considerations**

### **Community Infrastructure Levy**

Not applicable

## **Determining issues and considerations**

The site lies outside a defined settlement boundary in the open countryside. Policy DM2 sets out the types of development normally permitted. Whilst not specifically

listed, it is considered that equestrian use is an appropriate use in the open countryside. A requirement of the policy is that the development would be of a scale, design and layout compatible with the rural character of the area and not harm the residential amenity of neighbouring properties and landscape of the local area.

The applicants require the development for the change of use of land for keeping and stabling of their own horses on a site in close proximity to their dwelling.

The amended plans have reduced the floor area of the proposed buildings from 825m<sup>2</sup> to 477m<sup>2</sup>. and the overall height from 5m to 3.3m. The location of the building has been moved away from the south-east field boundary, towards to the southern boundary and screened from outside the site by the existing mature tree line and hedgerow. The remainder of the site will be retained as open grazing land.

The applicants have confirmed the removal of the floodlights from the proposal and there will be no business use of the premises.

It is considered that the development is compatible with the rural character of the area in terms of its scale, siting and design.

A number of submissions have been received regarding the prominence of the building on the ridge. However, as can be seen from the plans submitted showing the contours of the land the building sits below the ridge by approximately 2m, with the existing dwellings along the south-eastern boundary at a higher level. The proposed building would be set against the backdrop of the existing built form and the established treeline along the southern boundary.

The building is located some distance from the nearest dwelling. Given the proposed use for personal use only it is considered that it is unlikely to give rise to a detrimental impact on residential amenity.

The surface water will drain to the ditch along the side of the property although this will be minimal as the surfaces are mainly porous. The roof water collected for drinking water for the horses.

The existing agricultural access is proposed to be widened to improve visibility in both directions for vehicles leaving the site. In addition the field gate is proposed to be set back 9m from the edge of the carriageway to enable vehicles to pull off the road before having to open the gate to enter the site. Two off-street car parking spaces are proposed to serve the existing dwelling, removing the need to park on the concrete apron outside the property. Given the existing and the proposed use associated with the access, it is considered that the development would have no greater impact in terms of highway safety.

The proposal complies with adopted policies and approval is recommended.

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

**Contact Officer: Denise Grandfield**



49/19/0059

MR J BALL

**Formation of helipad on land located south of New Road, (B3227), Wiveliscombe (retention of works already undertaken)**

Location: LAND AND AGRICULTURAL BUILDING LOCATED SOUTH OF NEW ROAD (B3227) WIVELISCOMBE

Grid Reference: 307592.127404 Retention of Building/Works etc.

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## **Recommendation**

**Recommended decision: Conditional Approval**

### **Recommended Conditions (if applicable)**

1. The helipad hereby permitted shall be used only in connection with the Bulland Shoot and shall not be used for this purpose except during the period 1 October to 1 February in any one year. The use of the helipad shall not exceed a maximum of 28 days in any one shooting season with take offs and landings occurring only between the hours of 07.00hrs and 19.00hrs. Exceptional emergency use by the Air Ambulance is permitted at any time.

Reason: To ensure that the use of the helipad remains appropriate to the countryside location.

2. The site operator or owner shall maintain an up to date register of the dates and times of all helicopter take offs and landings from the helipad hereby approved and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: To ensure that the use of the helipad remains appropriate to the countryside location.

### **Notes to Applicant**

1. In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

## **Proposal**

This application seeks retrospective consent for the formation of a helipad on land

located south of New Road (B3227), Wiviliscombe.

## Site Description

The site is located approximately 680 metres to the south west of the built up settlement area of Wiviliscombe and is therefore within the open countryside. Within the countryside in this location there are located a number of individual dwellings and farm buildings. Approximately 200 metres to the east of the application site is the shooting facility building that the helipad is to serve. The topography of this location is undulating with ground levels rising to the north and south of the site with general levels gradually increasing also in a westerly direction. The location of the helipad is raised above the level of the bottom of the valley and at a higher level than the adjacent settlement.

## Relevant Planning History

49/19/0062 Variation of condition no. 2 (approved plans) of application 49/18/0024 on land at former agricultural barn located south of New Road - Withdrawn

49/18/0024 Change of use and conversion of agricultural building to shoot facility for Bulford Estate on land south of New Road - Granted 30th July 2018

## Consultation Responses

*WIVELISCOMBE TOWN COUNCIL* - Resolved to object due to it being in an inappropriate location near a number of residential dwellings. It would also create noise and disturbance issues to the residents of Wiviliscombe. Helicopters are not a sustainable form of transport and would not fit well with the declaration of a climate emergency. Residents will suffer overlooking and loss of privacy as helicopters fly over.

Revised comments: Our previous comments stand for this application.

*SCC - TRANSPORT DEVELOPMENT GROUP* - No observations to make but the applicant will need to satisfy themselves that the helipad is located the appropriate distance from the highway and accords with current aviation rules and regulations.

*Environmental Health - all Areas including Housing Standards* - no objection has been raised subject to suitable conditions imposed limiting dates of operation to that of the shooting activity and times of use.

*LANDSCAPE* - No comments received

*SCC - ECOLOGY* - Potentially there is an effect on nesting birds in the locale of the helipad but as the helipad has been in operation for sometime and no breeding surveys have been undertaken it is not possible to determine the effects on these species. Somerset Environmental Records Department does not have any record of a priority bird species (listed on S41 of the Natural Environment & Rural Communities Act 2006 for which the LPA has a duty of regard for the conservation of carrying out its role) within 1km of the helipad. However that does not mean there aren't any. A barn owl was recorded in flight 220m to the north east. This species is active at dusk and into the night when helicopters are not flying. The habitat around the helipad is ecologically poor.

*Additional comments reflecting information provided by the applicant regarding the*

*clarified use of the helipad:*

The recommendations are generally acceptable as this avoids the bird nesting season and hence any disturbance generally in that period if Schedule 1 birds are present. However, there may be some disturbance arising for commuting and hunting bats, particularly in October when they are still fully active and as dusk is early evening would further restrict the time to 7 p.m.

**PLANNING ENFORCEMENT** - Application has been submitted as a result of a current enforcement case.

## **Representations Received**

23 letters of objection and 1 letter of support have been received in connection with the initial consultation undertaken in which the following comments were raised:

### Objection comments:

- A climate emergency has been declared and concern raised about encouraging helicopter flying given CO<sub>2</sub> emissions are many times higher than for other forms of transport
- Noise generation from low flying above both private properties as well as over public recreation amenities such as the recreation ground and swimming pool
- Disturbance to farm livestock from low flying
- Operator has made no contact with local residents to discuss plans or disturbance caused
- Little information about frequency of flights, direction of approach, timings, projected noise, landscape or ecological impact has been provided
- Use of helipad has been made throughout 2019 and flights have started at 6am and continued through the day
- Helicopters should be located away from the town
- The application is linked to the building on site and a single application regularizing both should be submitted and considered together
- The application appears to seek unrestricted use and operation of the helipad which is an alien form in an otherwise unspoilt landscape
- There are prominent buildings within the conservation area such as St Andrews Church (approx 1km distant) and also Abbotsfield House (approx 270m distant)
- Woodpeckers and other birds on the Red List for birds have been seen in the area and bats probably live in the myriad of barns, buildings and woodlands in proximity to the site

### Support comments:

- Helipad is adjacent to an accident hot spot where landing an air ambulance would otherwise be difficult. The pro's outweigh the cons.

In response to re-consultation a further 6 letters of objection were received in which the following concerns were raised:

### Objection comments:

- There are two helipads on site and not one as the application indicates and both are the result of significant earthworks, ground stabilization and lighting to facilitate helicopter landings on what would otherwise be saturated farmland
- Application indicated landings to take place during daylight hours but some have taken place after sunset
- Appearance and size of the structures is not in keeping with residential

- neighbours or surrounding area
- Loss of privacy due to the elevated nature of the helipad's
- Site is being used more than 28 days a year - should a helipad be operated so close to a major road
- Planning committee should either reject application or grant and impose restrictions on use
- Helicopters fly low over the town and other dwellings but nearby dwellings will suffer the greatest disturbance
- Increased noise and pollution

## **Planning Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for Taunton Deane comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015), and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below.

CP8 - Environment,  
SD1 - Presumption in favour of sustainable development,  
DM1 - General requirements,  
DM2 - Development in the countryside,  
ENV1 - Protection of trees, woodland, orchards and hedgerows,

## **Determining issues and considerations**

This application for the formation of a helipad on land located south of New Road (B3227), Wiveliscombe is for retention of works already undertaken. As part of the additional information provided by the applicant in support of their proposal they have confirmed that the use of the helipad would be in connection with the shoot activity that takes place in a former agricultural building (located approx. 250 metres to the east of the helipad) and that its operation would tie in with the restriction of that operation to be between 1st October and 1st February only. It is proposed also to limit the hours of operation of the helipad to be between 7am and 7pm.

In the assessment of this proposal the most relevant policies from the adopted development plan are: SD1 (Presumption in favour of sustainable development), CP8 (Environment), DM1 (General Requirements) and DM2 (Developments In the countryside) of the adopted Taunton Deane Core Strategy and policy ENV1 (Protection of trees, woodland, orchards and hedgerows) of the adopted Site Allocations and Development Management Plan.

By way of background consent was granted in 2018 for the conversion of an existing

agricultural building into a shooting facility as part of the establishment of a new employment use through farm diversification. This commercial enterprise consisted of a facility to include a store, kitchen area, two reception rooms, toilet and shower facilities, boot room and beaters room. The use of the building was restricted by planning condition to house the Bulland Shoot and only to operate between 1st October and 1st February in any one year. The conversion works undertaken to this building differ from those granted consent with respect to the floor layout and also the creation of a first floor level within the building and skylights in the roof slopes. An earlier planning application to consider these changes was submitted towards the end of last year. The type of application submitted (a Section 73) would allow only for the consideration of minor amendments to an existing approved scheme however the proposal, as revised, in adding a first floor was beyond the scope of this type of application and so it was subsequently withdrawn. The applicants have confirmed that a new application to cover the actual works undertaken and supporting information is in preparation and will be submitted shortly.

The proposal under consideration is a retrospective application for the creation of a helipad which is located 140 metres to the south east of the B3227 and consists of a 10 metre diameter circle surfaced with green painted tarmac with a walkway attached to it measuring 3 metres in width and 6 metres in length. In order to create the flat platform for this pad earthworks have been required with cut and fill being necessary over an area measuring approximately 23 metres in length with a maximum cut depth being employed of 0.20 metres and a maximum fill depth of 0.30 metres.

The current proposal for the helipad is intended to provide an additional facility for arriving guests in order to support the existing shoot facility. Policy DM2 of the Core Strategy acknowledges the importance of new enterprises within the countryside but requires that such provision must be balanced against protecting the local landscape. Although there is no specific provision under this policy for helipad provision I consider that the principle of such additional development would be acceptable under this policy where it is helping to support an existing local business, although it is important that its impact in all other terms is acceptable.

The location of the helipad is within the open countryside and whilst in an elevated position the alterations to the landscape which have been undertaken to create the platform are in my opinion unobtrusive when viewed within the wider undulating landscape context and do not result in an obtrusive alien landform. Within the level platform there has been created a green painted tarmaced hard surface which is flush with the surrounding ground levels with 10 small slightly raised solar powered lights fitted directly to the tarmac pad around its circumference to provide low level lighting. Given the way it has been constructed this does not appear visually obtrusive when viewed from either within the site or from surrounding land.

The ecologist considers the proposal to be acceptable as the proposed limit on the time of year the helipad can be used avoids the bird nesting season and any disturbance generally if any protected bird species are present. He also considers the proposed hours of operation proposed acceptable as this would prevent any conflict with commuting or hunting bats. It is considered that both of these aspects can satisfactorily be controlled by conditions attached to a consent.

Under the terms of Schedule 2, Part 4, Class B of the Town and Country Planning

(General Permitted Development)(England) Order it is permitted to use land for temporary purposes for up to 28 days per year without the requirement for planning permission. With this proposal the applicant has confirmed that it is not their intention to use the helipad in excess of this 28 day provision. However the creation of a level platform and formal helipad do require consent and this development will allow for the use of the site at a time of year when ground conditions may otherwise be unsuitable for the landing of a helicopter. The applicant has confirmed that they agree to conditions limiting the use of the helipad to the same time of the year as the associated shoot (ie 1st October to 1st February). There would also be a requirement under that condition for a log of flights to be made and retained for viewing by the local planning authority on request. The times of day that flights can land would also be limited to be between 7am and 7pm. There has been strong concern raised by local residents on noise matters, however the operation of this facility will be limited to a certain number of days per year and at a specific time of year both of which will help to mitigate the impact on residents in the surrounding locality. The environmental health officer does not raise objection to the proposal given such restrictions.

Consideration of this proposal must also be judged against the criteria of sustainable development for which the key policy within the development plan is SD1 of the Core Strategy. This highlights that the overall government direction of travel outlined by the National Planning Policy Framework relates to positive growth to make economic, environmental and social progress for present and future generations. It also indicates that these matters are all mutually dependant. Whilst helicopter travel is likely to be a less sustainable form of transport than other modes this must also be weighed up against both the frequency of proposed use as well as the impact that such provision has in helping to allow a local enterprise to thrive. Arrival to the site by helicopter will be self limiting due to matters of cost and the bulk of arrivals at the facility are likely to be by more conventional means. The ability of the business to attract the widest possible customer base however will help to make it successful resulting in economic benefit to the local community. Given these factors, I consider in the overall balance that this proposal would be unlikely to have a significant detrimental impact in terms of environmental matters and would help to facilitate benefits to the local community.

Whilst it is noted that concern has been raised regarding the route that helicopters take over this area this is not a matter that is within the control of the local planning authority as flight routes are the responsibility of the Civil Aviation Authority. Similarly there is no control or limit on the proximity of a helipad to a highway as landing sites and landing safety are at the discretion of the pilot. It should be noted however that the helipad which is the subject of this application is located 140 metres away from the nearest point of the public highway. Mention has also been made in responses received that two helipad's have been created with the site. Following a visit to the site and also discussion with the applicant it has been confirmed that there is only one helipad that has been constructed.

On the basis of the above the proposal is considered to satisfactorily accord with the requirements of the relevant policies of the development plan and as such conditional permission is recommended.

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

**Contact Officer: Richard Hawkey**



<b>Application No:</b>	<a href="#">3/21/20/013</a>
<b>Parish</b>	Minehead
<b>Application Type</b>	Full Planning Permission
<b>Case Officer:</b>	Sarah Wilsher
<b>Grid Ref</b>	Easting: 296925    Northing: 146410
<b>Applicant</b>	Mr Benet Allen
<b>Proposal</b>	Demolition of flat roof extension and erection of a painted metal verandah with associated railings
<b>Location</b>	Avondale, Martlett Road, Minehead, TA24 5QD
<b>Reason for referral to Committee</b>	

## Recommendation

Recommended decision: Grant

### Recommended Conditions

- 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 2064/200 Proposed Site Plans  
 (A1) DrNo 2064/202B Proposed Elevations

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

### Informative notes to applicant

#### 1 STATEMENT OF POSITIVE WORKING

In determining this application the Local Planning Authority considers it has complied with the requirements of paragraph 38 of the National Planning Policy Framework. Although the applicant did not seek to enter into

pre-application discussions/correspondence with the Local Planning Authority in advance of submitting the application, for the reasons given above and expanded upon in the planning officer's report, the application was considered acceptable and planning permission was granted.

## **Proposal**

It is proposed to remove the single storey flat roofed and rendered extension to the side (south-west) elevation of the dwelling and erect a verandah. This will have a lean-to canopy style roof which is framed in metal with photovoltaic glazed panels. The roof will be supported on decorative metal posts and there will be painted metal balustrading 1.1m high from ground level attached to the posts. The balustrading will be open to the front and will wrap around to close to the rear.

## **Site Description**

Avondale is a semi-detached rendered dwelling under plain clay tiled roofs with Tudor detailing within the apex of the gable on the front elevation and timber fenestration. It is believed to have been constructed in the early 20th Century in the Edwardian era. It is located close to the centre of Minehead within the Wellington Square Conservation Area.

## **Relevant Planning History**

None.

## **Consultation Responses**

*Minehead Town Council* - The Committee can see no material planning reason to refuse this application.

## **Representations Received**

None received.

## **Planning Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for the West Somerset planning area comprises the West Somerset Local Plan to 2032, retained saved policies of the West Somerset District Local Plan (2006) Somerset Minerals Local Plan (2015) and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below.

### **West Somerset Local Plan to 2032**

NH1	Historic Environment
NH2	Management of Heritage Assets
BD/3	Conversions, Alterations and, Extensions
CC1	Carbon reduction - small scale schemes

### **Retained saved polices of the West Somerset Local Plan (2006)**

NH1	Historic Environment
NH2	Management of Heritage Assets
BD/3	Conversions, Alterations and, Extensions
CC1	Carbon reduction - small scale schemes

## **Local finance considerations**

Not applicable.

## **Determining issues and considerations**

The determining issues are the affect on the amenities of neighbours, the appearance of the dwelling, the impact on the street scene and the Conservation Area.

The verandah will face towards the low roofed buildings of Blenheim Mews. There are rooflights in these roofs but it is not considered that the verandah will lead to any overlooking of these dwellings, particularly as there is a window in the flat roofed extension which already faces these roof slopes.

The decorative metal verandah will much improve the appearance of the south-west elevation. The scale is in proportion with the dwelling and the existing elements on the south-west elevation, whilst its style and materials will be in sympathy with the architectural qualities of the dwelling. The photovoltaic panels may have a slight coloured tinge to them, but this is not considered to have an adverse visual impact and the use of renewable energy is in accordance with policy CC1 of the West Somerset Local Plan to 2032 and is to be welcomed.

As Avondale is in Wellington Square Conservation Area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is of importance and special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area in determining the application. It is considered that the proposed verandah and balustrading will be an improvement on the existing extension in terms of the design and materials and will thus preserve the character and appearance of the Conservation Area.

The south-west elevation is visible within the street scene, however, as the verandah is in keeping with the dwelling it is considered that there will be no impact on the street scene. The adjoining property, Dalkeith is similar in design and materials to Avondale without the flat roofed extension on the side. As Avondale is the more prominent dwelling within the street scene and the corresponding elevation on Dalkeith is set down and screened by mature trees, it is considered that the proposal will not adversely affect the appearance of the pair.

The proposed development is thus acceptable and in accordance with policies CC1, NH1 and NH2 of the West Somerset Local Plan to 2032 and policy BD/3

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





## DECISIONS – 14 MAY 2020

**Site:** The Blade Mill, Woodford Road, Monksilver, Taunton, TA4 4HW

**Proposal:** As approved in 2014 difficult to refuse. Bi-folding doors are not in keeping. Too big. Prefer patio doors centrally placed under apex/first floor window. Remove PD rights.

**Application number:** 3/24/19/002

**Reason for refusal:** Dismissed



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### Appeal Decision

Site visit made on 10 March 2020

**by James Taylor BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 March 2020**

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### Appeal Ref: APP/W3330/D/19/3242832

**The Blade Mill, Woodford Road, Monksilver TA4 4HW**

- 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 Alex McTaggart against the decision of Somerset West and Taunton Council.
  - The application Ref 3/24/19/002, dated 8 September 2019, was refused by notice dated 29 October 2019.
  - The development proposed is the erection of a two storey side and rear extension and associated works.
- 

### Decision

1. The appeal is dismissed.

### Procedural matter

2. I have taken the description of the development from the appellant's appeal form because this more succinctly describes the proposal.

### Main issue

3. The effect of the proposal on the significance of The Blade Mill, a non-designated heritage asset, and the surrounding area, including the setting of Exmoor National Park.

## Reasons

4. The Blade Mill is a two-storey dwelling sited adjacent to a highway and a watercourse. It is a former waterpowered metal workshop, constructed from local stone under a slate roof. It has a simple and utilitarian form reflecting its former use and the local vernacular within this hamlet of dwellings. The property has been included on the Somerset Historic Environment Record since 2016 and is a non-designated heritage asset.
5. The significance of the heritage asset derives from its illustrative historical value and its aesthetic value. These values are evident in the character and appearance of the building, its scale, form and materials and also its relationship to the landscape including roads and rivers. These all relate to its historic use. This can still be clearly appreciated even though it is already converted to a dwelling. The National Planning Policy Framework (the Framework) sets out at paragraph 197 that a balanced judgement is required when assessing proposals that affect the significance of such assets. Regard should be had to the scale of any harm or loss and the significance of the asset.
6. T The proposed extension would substantially add to the overall mass and scale of this simple rectangular building. The extension would have eaves and ridge heights to match the host building and extend the footprint significantly beyond the existing elevations in two different directions. Consequently, the scale and form of the extensions do not respect the simple utilitarian form and scale of the building. Whilst the extension would be set back from the road and frontage, this element of subservience would not mitigate the harm.
7. Furthermore, the asymmetrical gable to the rear would fail to reflect the existing form, and the lack of corbel details at eaves would not respect the architectural details of the host building. The proposal would substantially increase the amount of fenestration and its visual prominence, particularly on approaches from the west. Whilst most of the openings would match the existing windows on the north-east elevation, they would appear domestic in their proportions, harmful to the character of the building. Consequently, the proposed additions would appear incongruous and fail to respect the form and design of the building and its significance as a non-designated heritage asset.
8. The host building is located on the opposite side of the road to the majority of the development within this small settlement. Therefore, it is distinct and visually prominent on approaches in either direction. The road is the boundary for Exmoor National Park (ENP). As such, the site lies outside, but adjacent to, an area whose landscape and cultural heritage value should be protected and afforded great weight in any planning decisions. This is set out at paragraph 172 of the Framework. Given the harm previously identified to this heritage asset of cultural significance, and the prominent siting and close relationship of the building to ENP, the proposals would also cause harm to the setting of the National Park. However, one additional rooflight would not result in any demonstrable light pollution.
9. In conclusion, the proposal would harm the significance of The Blade Mill, a non-designated heritage asset, and the surrounding area, including the setting of Exmoor National Park. As such the proposal would be contrary to Policies NH1, NH2 and NH14 of the West Somerset Local Plan to 2032, adopted November 2016 and paragraphs 172 and 197 of the Framework. These policies seek, amongst other aims to conserve and enhance the built and historic environment and achieve

high quality design so as to conserve and enhance the natural beauty and cultural heritage of ENP and its setting.

## Other matters

10. The appellant has drawn attention to the historic planning approval<sup>1</sup> at the site. Since that permission was granted, the value of the building as a heritage asset has been recognized through the Somerset Historic Environment Record. This occurred while the historic planning approval remained extant. Whilst material, this timing is not defining, and significantly no development had commenced on implementing the planning approval at that stage. Moreover, the current proposal is different in form, scale and detail compared to the historic planning approval. Furthermore, the permission has lapsed. As such, whilst the historic planning approval is material, it has limited weight.

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<sup>1</sup> LPA ref: 3/24/14/001

11. The appellant has raised concerns in regard to inconsistencies between the pre-application advice, the officer report and the Council's formal Decision Notice. However, these do not have any significant weight in the determination of this Appeal Decision. Furthermore, the appellant highlights that the dwelling is small, but there is no evidence that it is unsuitable for modern day living.

## Conclusion

12. In summary, the scale of harm to the non-designated heritage asset would be modest and the significance of the asset is equally modest. Furthermore, some modest harm would occur to the setting of the ENP, which the Framework establishes as having great weight. As such, the harm identified is not outweighed by the limited weight associated with elements in favour of the scheme including the historic planning approval.
13. For the reasons given above I conclude that the appeal should be dismissed.

*James Taylor*  
INSPECTOR

**Site:** LAND TO REAR OF 16 TOWN FARM, NORTH CURRY, TAUNTON

**Proposal:** Erection of bungalow on land to rear of 16 Town Farm, North Curry  
(resubmission of application 24/18/0012)

**Application number:** 24/19/0021

**Reason for refusal:** Approved



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## Appeal Decision

Site visit made on 27 January 2020

**by Adrian Hunter BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25<sup>th</sup> March 2020**

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**Appeal Ref: APP/W3330/19/3240938**

**Land to the rear of 16 Town Farm, North Curry TA3 6NP**

- 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 West of England Developments Ltd against the decision of Somerset West and Taunton Council.
  - The application Ref 24/19/0021, dated 5 June 2019, was refused by notice dated 6 September 2019.
  - The development proposed is for the erection of a bungalow.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of a bungalow on land to the rear of 16 Town Farm, North Curry TA3 6NP in accordance with the terms of the application, Ref 24/19/0021, dated 5 June 2019, subject to the conditions in the attached schedule.

### Preliminary Matters

2. The only reason for refusal relates to the inadequacy of the preliminary ecological report. I note that further survey work has now been undertaken and a supplementary report submitted with this appeal. The Council have confirmed they have considered this additional information and concluded that, subject to conditions, they now have no objections on ecological grounds. I am also satisfied that the ecology report does now adequately deal with ecology matters. On this basis, it is considered that the reason for refusal set out in the decision notice has been overcome.

### Main Issue

3. In light of the extent of agreement between the main parties, the main issue is whether there are any other considerations that might indicate that the appeal should be dismissed.

## Reasons

4. Notwithstanding the Council's position on the proposed development, concern has been expressed by other interested parties in respect to several other considerations. These included the effect of the proposal upon highway safety, the loss of trees and on the character and appearance of the area.
5. In terms of highway matters, in broad terms, concerns are raised that the development would harm highway safety, and in particular the inadequacy of the access and its junction with Knapp Lane. These matters were largely identified and considered within the Council Officer's report on the appeal development. I note that the Council's Highway Officer did not object to the proposals and the Council did not conclude that they would amount to reasons to justify withholding planning permission. I have been provided with further survey work undertaken on behalf of local residents. This assessment sought to measure the current visibility at the junction. I have reviewed this additional information and assessed the junction during my site visit. Whilst visibility would appear to be slightly constrained, this demands that users pay a greater degree of care and attention whilst positioning vehicles at the junction. I do not consider that the increased use of the junction to serve one additional dwelling would lead to any unacceptable impacts on highway safety. There is no substantiated evidence before which would lead me to disagree with the Council's conclusions on these matters.
6. In respect to character and appearance, these include concerns that the proposal would result in the loss of a green area and the loss of trees from the site. The design of the building would be for a single storey bungalow. Due to the location of the site, to the rear of existing properties, the building would not be readily visible within the street scene, with the exception of views from the entrance to the site. Whilst the removal of existing trees from the site is regrettable, I note that the Council's tree officer was consulted and did not raise any objection to the proposal. Furthermore, the proposed would involve the provision of replacement trees and the requirement for these can be controlled by the imposition of a planning condition. Any ecological impact from the loss of these trees has been addressed through the additional ecological information submitted with this appeal.
7. Concerns have also been raised with regards to the noise impact from construction and the effect of construction vehicles on surrounding roads. I acknowledge that construction would cause some disruption, but this would be temporary and would be mitigated by a Construction Method Statement which could be the subject of a condition.
8. Reference has also been made to the presence of a covenant on the land which would prevent the construction of the dwelling. This however is a legal issue, to be dealt with outside of the planning process. Accordingly, issues relating to the covenant have not had any material bearing on my assessment of the planning issues in this appeal.
9. In conclusion, I do not disagree with the Council's finding that the proposal accords with the development plan for the area when considered as a whole. On this basis, having regard to paragraph 11c of the National Planning Policy Framework 2019, the proposal should be approved without delay and amounts to a sustainable form of development.

## Conditions

10. The conditions suggested by the Council have been considered in light of the advice contained within the Framework and the National Planning Practice Guidance. Planning permission is granted subject to the standard three year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.
11. To ensure the safeguarding of the character and appearance of the area, a condition is necessary with regards to the provision of external materials. In the interests of protecting and recording any below ground features, a condition to allowing access for observation by an archaeologist is deemed appropriate.
12. In the interests of the character and appearance of the area, it is necessary to impose a condition to ensure replacement planting is provided. To ensure that the proposal would not have any unacceptable impacts upon highway safety, it is necessary to attach a condition requiring the submission of a Construction Management Plan.
13. The appellant's have suggested a potential condition to secure off-site ecology mitigation. Given the measures proposed in the Ecology Report, I do not consider that such a condition is necessary, but, in the interests of ensuring no harm to matters of bio-diversity, I have attached a condition to ensure that the on-site mitigation measures identified in the report are provided. Conditions relating to the provision of landscaping, erection of new bat boxes and appropriate levels of external lighting, are attached for similar reasons.

## Conclusion

14. I conclude, for the reasons outlined above, and having considered all matters, that the appeal should be allowed.

*Adrian Hunter*

INSPECTOR

## Schedule of Conditions

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
  - DrNo 16.16.101 Site Location Plan
  - DrNo 16.16.002 Existing Site Location Plan
  - DrNo 16.16.103 Block Plan
  - DrNo 16.16.104 Site Plan
  - DrNo 16.16.105 Bungalow Floor Plan
  - DrNo 16.16.106 Bungalow Elevations
  - DrNo 16.16.107 Garage Plans and Elevations
  - DrNo 16.16.110 Location Plan
  - DrNo 1795.102 Rev. B Extended Orchard Proposal
3. Prior to the construction of the building samples of the materials to be used in the construction of the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained as such.
  - (i) A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior such a scheme being implemented. The scheme shall include details of the species, siting and numbers to be planted. (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development. (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. Reason: To ensure that the proposed development does not harm the character and appearance of the area.
  - i) Before development commences (including site clearance and any other preparatory works) a scheme for the protection of trees to be retained shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location of the protective fencing, and shall specify the type of protective fencing, all in accordance with BS 5837:2012.
  - ii) Such fencing shall be erected prior to commencement of any other site operations and at least two working days' notice shall be given to the Local Planning Authority that it has been erected.
  - iii) It shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities whatsoever shall take place within the protected areas without the prior written

agreement of the Local Planning Authority.

4. No works shall be undertaken on site until the Local Planning Authority has first approved in writing details of a programme of access which will be afforded to a named archaeologist to observe and record all ground disturbance during construction (such works to include any geological trial pits, foundations and service trenches). The named archaeologist shall thereafter be allowed access in accordance with the details so approved. Reason: To enable the remains of archaeological interest which may exist within the site to be appropriately recorded.
5. All ecological measures and/or works in relation to reptiles shall be carried out in accordance with the details contained in section 4 of the Ecological Appraisal (Blackdown Environmental, dated October 2019) as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination. A letter confirming the operations will be submitted to the Local Planning Authority on completion of the translocation.
6. Prior to occupation, a "lighting design for bats" shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.
7. No removal of hedgerows, trees or shrubs or demolition of buildings or structures shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist.
8.
  - a) A Habitat 001 bat box or similar will be built into the structure at least four metres above ground level and away from windows on the southwest elevation
  - b) A cluster of five Schwegler 1a swift bricks or similar built into the wall at least 60cm apart, at least 5m above ground level on the northeast elevation
  - c) A bee brick built into the wall about 1 metre above ground level on the south or southeast elevation of the dwelling
  - d) Any new fencing must have accessible hedgehog holes, measuring 13cm x 13cm to allow the movement of hedgehogs into and out of the site. Photographs of the installed features will be submitted to the Local Planning Authority prior to the completion of construction works.
9. No development shall take place unless a site specific Construction Management Plan has been submitted to and been approved in writing by the local planning authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

i) Details on the delivery of all construction materials to the site; details of the contractor parking and material storage area; means to ensure that there shall be no emission of dust or deposit of mud or other debris on the highway;

ii) All works and ancillary operations which are audible at the site boundary, shall be carried out only between the following hours: 08.00 and 18.00 Mondays to Fridays and 08.00 and 13.00 on Saturdays and; at no time on Sundays and Bank Holidays.

iii) Measures for controlling the use of site lighting whether required for safe working or for security purposes;

The Plan shall be implemented in accordance with the approved details.

**Site:** ORCHARD HILL, KINGSTON ROAD, KINGSTON ST MARY, TAUNTON, TA2 8HW

**Proposal:** Erection of 1 No. detached dwelling with associated works in the garden to the side of Orchard Hill, Kingston Road, Kingston St Mar

**Application number:** 20/19/0012

**Reason for refusal:** Dismissed



The Planning Inspectorate

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## Appeal Decision

Site visit made on 10 March 2020

**by James Taylor BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 March 2020**

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**Appeal Ref: APP/W3330/W/19/3242421**

**Orchard Hill, Kingston Road, Kingston St Mary, Taunton TA2 8HW**

- 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 Brading against the decision of Somerset West and Taunton Council.
  - The application Ref 20/19/0012, dated 6 June 2019, was refused by notice dated 11 October 2019.
  - The development proposed is the erection of a dwelling and associated works.
-

## Decision

1. The appeal is dismissed.

## Procedural matter

2. I have amended the description of development to accurately reflect that the proposal is for a single dwelling.

## Main issues

3. The main issues with this proposal are:
  - i) The effect on the character and appearance of the area including the Quantock Hills Area of Outstanding Natural Beauty (AONB);
  - ii) The accessibility to services with particular regard to the use of the private motor vehicle; and
  - iii) The principle of development in locational terms having regard to the relevant policies of the development plan and the National Planning Policy Framework (the Framework).

## Reasons

### *Character and appearance of the area including the AONB*

4. Orchard Hill is a large detached dwelling located on the peripheries of Kingston St Mary, a village partially within the AONB. It is sited outside of the village settlement limits, but within the AONB. The dwelling is set within a spacious and open context, with a modest detached double garage. Furthermore, the property benefits from extant planning approval for a linked extension. The appellant sets this out as a material planning consideration and states that, if built, the extended dwelling could be subdivided to form a new dwelling akin to that proposed.
5. The proposed dwelling would, like the extant planning approval, have habitable space at the ground floor and first floor accommodation within the roof. However, there are notable differences between the two developments. The proposed dwelling would be physically and visibly detached from Orchard Hill. Furthermore, its elevations would appear as a separate self-contained dwelling, rather than an ancillary garden room to Orchard Hill. It would have a greater mass and scale, most notably with its gabled roof form and four additional dormer windows. The proposal would appear clearly as a separate dwelling given its siting, scale, mass and form. Furthermore, it would also result in associated domestic paraphernalia being a separate dwelling.
6. For matters to form a material fall-back position, it is necessary to consider how likely the proposition would be. No evidence has been provided to indicate that the appellant is likely to build out the extant planning approval. Even if it were, the material differences between the proposal and the extant planning permission are significant. Furthermore, the premise that this extension could be later sub-divided to create a dwelling appears to be far from a certain proposition despite the national policy set out at paragraph 79 d) of the Framework. As such, neither the extant planning approval, nor the subsequent potential subdivision of the extended dwelling, represent a precedent for this development, or a likely comparable fall-back position. Therefore, these considerations have limited weight.
7. As identified within the appellant's Landscape Constraints Plan, the appeal site is

well-screened by boundary planting on the adjoining land that is under the appellant's control. This provides some mitigation of the visual impact of the proposal from public views on Kingston Road and the nearby public right of way. However, views through the wide vehicular access, and up the existing and proposed driveways would be made clearer from the works. Furthermore, whilst landscaping can be conditioned, this cannot control such landscape provision in perpetuity, or even the lifetime of the development. Views are liable to change, and landscaping should not be used to justify otherwise unacceptable development.

8. The proposed dwelling would extend the built form into the open space on the edge of the village and intensify the residential activity at the site. The scale and bulk of the built form would be significant in both this open context and in the context of the existing dwelling. The additional dwelling would be in close proximity to an existing property that is currently set within its own generous grounds. This would be at odds with the spatial characteristics of the area and the rural character of the landscape. As such, the proposal would not conserve or enhance the landscape and scenic beauty of the AONB. The Framework sets out at paragraph 172 that the AONB should be afforded the highest protection and that the scale and extent of development within such designated areas should be limited. To this end, consideration should be had to factors such as the need for the development. There is no evidence that any overriding need for the development is relevant here.
9. Therefore, in conclusion on this main issue the proposal would harm the character and appearance of the area including the AONB. As such, the proposal would be contrary to Policies DM1 and CP8 of the Taunton Deane Borough Council Adopted Core Strategy 2011-2028 (CS) and paragraph 172 of the Framework. These policies seek, amongst other aims to ensure that development outside of settlement boundaries is of appropriate scale, siting and design; and that it protects, conserves and enhances the landscape.

#### *Accessibility to services*

10. The appeal site is located within a reasonable walking distance of the services and facilities of the village. However, the initial section of such a journey would be on rural lanes without the benefit of pavements or street lighting. This would be a disincentive for some users, such as those with young children attending the local village school, especially given that the road is well used by vehicular traffic. The appellant has provided a previous Inspector's decision stating that a lack of street lighting would not prevent walking during the day. However, some trips to local services will occur in the dark, especially during the shorter winter months.
11. Furthermore, the services and facilities within the village are limited. Regular travel beyond walking distances would be required to access wider services and facilities, including secondary education and employment. No evidence has been provided that the public transport facilities of the village are sufficient in frequency and destinations in order to provide a realistic alternative to private vehicle use for trips beyond the village. As such, the proposal is likely to be reliant on the private vehicle for a large portion of future occupiers' trips. The environmental impacts of this, with vehicle emissions contributing to climate change impacts, weighs against the scheme. Although, such effects would be modest when associated with one dwelling.
12. Furthermore, similar impacts could occur from housing development within the

settlement. However, such provision has been considered as part of a plan-led approach balancing the multi-faceted dimensions of sustainable development. Additionally, ad-hoc limited scale planning, reduces any opportunities to make the location more sustainable, for example, through enhancing pavements and street lighting. Moreover, a need for the proposal has not been evidenced.

13. Therefore, in conclusion on this main issue the proposal would not have adequate accessibility to services without reliance on the private motor vehicle. As such, the proposal would be contrary to Policy CP1 of the CS. This policy seeks, amongst other aims to ensure that development demonstrably addresses issues of climate change, reducing the need to travel through locational decisions.

#### *The principle of development*

14. The proposed dwelling would be located outside of the village's defined settlement limits. Policy SP1 of the CS sets out that whilst no further housing allocations will be made for Kingston St Mary in the plan period, some scope for small scale proposals within the settlement limits remains. However, outside of the settlement, proposals should be treated as being within the open countryside. Furthermore, policy SD1 of the CS sets out a presumption in favour of sustainable development.
15. Policy DM2 sets out a permissive approach to a range of developments in the open countryside, but these are not applicable in this case. Whilst it does not specifically discount the proposal, nor does the proposed dwelling comply with this policy. Moreover, Policy SB1 of the Taunton Deane Adopted Site Allocations and Development Management Plan, December 2016 (SADMP) seeks to maintain the quality of the rural environment, and ensure a sustainable approach to development, by ensuring proposals outside of the settlement boundaries comply with Policies CP1, CP8 and DM2 of the CS. There is no evidence to indicated that the two exceptions within Policy SB1 are applicable here. As set out above, the proposal would be in conflict with Policies CP1 and CP8.
16. In addition, the Framework sets out at paragraph 77 that in rural areas, decisions should respond to local circumstances and support housing developments that meet local needs. There is no evidence to suggest that the proposal meets an identified need. The proposed market dwelling would have some benefit in supporting the vitality of rural communities. But given that the proposal relates to a single dwelling this can be afforded very limited weight.
17. Therefore, in conclusion on the final main issue the principle of the development would not be acceptable in locational terms having regard to the relevant policies of the development plan and the Framework. As such, the proposal would be contrary to Policies SP1, CP1, and SD1 of the CS and Policy SB1 of the SADMP.

### **Other matters**

18. The appellant has highlighted a number of appeal examples in support of their various propositions aimed at justifying the proposal. Furthermore, they have referred to a development of four houses granted by the Council<sup>1</sup>. However, from the evidence provided the circumstances in these cases do not appear to be identical to the proposal here. As such, the examples are of limited weight.
19. The appellant has suggested that permitted development rights could be removed in order to assist mitigating the potential impact of the proposal. However, the Planning Practice Guidance is clear that the removal of permitted development

rights by condition is unlikely to meet the tests of reasonableness and necessity. In any event, such measures would provide negligible mitigation to the harm identified above.

20. Finally, the appellant states that the access works could be carried out under permitted development, and that the works would provide an enhancement to highway safety for the benefit of all users. However, the works to the entrance do not form a part of the issues raised by the Council in their Decision Notice. Furthermore, there is little evidence to support the alleged benefits, or that there is an existing highway safety issue. Even if an improvement to highway safety were realised this is likely to be of limited weight in any planning balance.

## **Conclusion**

21. For the reasons given above I conclude that the appeal should be dismissed.

*James Taylor*  
INSPECTOR

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<sup>1</sup> LPA ref: 48/18/0055

**Site:** Winters Farm, Winters Lane, Brompton Ralph, TA4 2SE

**Proposal:** Change of use of land for siting of shepherds hut on concrete base for holiday let

**Application number:** 3/02/19/001

**Reason for refusal:** Dismissed



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## Appeal Decision

Site visit made on 16 March 2020

**by Mrs H Nicholls MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 6 April 2020**

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### Appeal Ref: APP/W3330/W/19/3242416

**Winters Farm, Winters Lane, Brompton Ralph TA4 2SE**

- 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 Robert Stephens against the decision of Somerset West and Taunton Council.
  - The application Ref 3/02/19/001, dated 3 June 2019, was refused by notice dated 1 August 2019.
  - The development proposed is change of use of land to provide holiday let. To site a Shepherd's Hut (measuring 5.9m x 2.4m) on a concrete base (measuring approximately 28 square metres). The location is marked in red on the enclosed site map. The intention is to let the Shepherd's Hut as a holiday let.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. West Somerset and Taunton Deane Councils ceased to exist on 1 April 2019, following a merger to form the new Somerset West and Taunton Council. Provisions within the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 allow for any "*plan, scheme, statement, or strategy*" prepared by one of the merged authorities to be treated as if "*it had been prepared and, if so required, published by the single tier council for the whole or such part of its area as corresponds to the area to which the particular plan, scheme, statement or strategy relates*". The status of the West Somerset Local Plan to 2032 has not changed following the merger.

### Main Issue

3. The main issue is whether the use of land for tourism accommodation purposes accords with local and national policies with regards to the accessibility of local

services and minimising the need to travel by private car.

## Reasons

4. The appeal site is in a pleasant rural and peaceful location which is a short driving distance from the small dispersed settlement of Brompton Ralph. The site itself is located at the end of a long, uneven and unlit track. The intended base for the shepherds hut is on an area of agricultural land laid to pasture which is surrounded by woodland with a river and pond nearby.
5. The Development Plan for the area includes the West Somerset Local Plan to 2032 (Local Plan) which was adopted in 2016. The site is outside of the secondary settlement of Brompton Ralph and is therefore located within the countryside for the purposes of planning policy.
6. Policy OC1 of the Local Plan sets out that "*Development in the open countryside ... will only be permitted where [amongst other things] it is provided through the conversion of existing, traditionally constructed buildings in association with employment or tourism purposes as part of a work/live development*". The proposal does not involve the conversion of an existing building and none of the other policy criteria are specifically relevant to the proposal to introduce a new tourism use into the open countryside.
7. Local Plan Policy EC9 indicates that new tourism uses/buildings outside of settlements "*will only be supported where:*
  - *The proposed location is essential to the business and that it could not be located elsewhere;*
  - *it does not adversely affect the vitality and viability of the neighbouring settlements; and*
  - *it complements the existing tourism service and facility provision in neighbouring settlements and surrounding area without generating new unsustainable transport patterns*".
8. Notwithstanding that the site may have previously been used by the Scouts, the proposal is not connected to an existing relevant business and nor is there any evidence that the current site is the only one suitable for the proposal. Given its limited scale, the proposal would be unlikely to have any noticeable effects on the vitality or viability of neighbouring settlements. No specific tourism provision in the surrounding area has been drawn to my attention which the proposal would complement.
9. In terms of the need to locate tourism accommodation where it would minimise the need to travel, the appellant accepts that the proposal is only really accessible by car. Aside the long, uneven and unlit access driveway, the surrounding rural roads are not conducive to walking or cycling due to topography, distance and absence of footways. Furthermore, there are very few local facilities or establishments that guests could use or frequent in the surrounding area in any event.
10. It is also agreed by the appellant that the site is detached from Brompton Ralph, which itself is only considered suitable to accommodate small scale development under Local Plan Policy SC1 where it can be proven to contribute to wider sustainability benefits for the area. Whilst the measurement from the appeal site to Brompton Ralph is stated as being in the region of 400 metres that appears to be to the closest dwelling. A more realistic distance to the only local facility, the Post Office, is approximately double that distance by road.

11. Paragraph 83 of the National Planning Policy Framework (2019) (the Framework) indicates that planning policies and decisions should enable *sustainable* rural tourism and leisure developments which respect the character of the countryside (my emphasis). The revised Framework is also clear that the planning system should be genuinely plan-led and neither Local Plan Policies EC9 or OC1 conflicts with the Framework in this regard.
12. In view of this main issue, the use of land for tourism accommodation purposes does not accord with Local Plan Policies OC1 or EC9 in respect of the accessibility of local services or minimising the need to travel by private car. For similar reasons, it would also conflict with the Framework.

## **Other Matters**

13. The appellant argues that the scale of vehicular movements that would be generated would be minimal given the modest size of the accommodation which would preclude large groups of people staying. By extension, the economic benefits from such a small scale proposal would also be limited. Whilst it is claimed that the socioeconomic benefits would be so great as to override the negative impacts of car dependency by future guests, there is little to quantify the scale of these benefits.
14. I note that the proposal would offer the opportunity for guests to undertake recreational walks in the countryside. It would also suit tourists wishing to take advantage of the tranquillity and natural beauty of such a rural location. Whilst these factors indicate that the rural nature of the proposal is a key factor in its attractiveness to future guests, there are many likely candidate sites of this nature within the plan area and these factors alone do not themselves justify a departure from the local policies that govern development in the countryside.
15. Another appeal decision<sup>1</sup> has been brought to my attention involving a shepherds hut in the countryside. That proposal was in a different local authority area and was therefore considered against a different policy context. Whilst I note that there are some parallels between the proposals, the evidence pertaining to this scheme is not sufficiently compelling to reach the same decision as my colleague and I am not bound by her decision in any event.

## **Planning balance and conclusion**

16. On the evidence before me, the proposal conflicts with the Development Plan and there are no considerations of sufficient materiality to outweigh the identified harm.
17. For the reasons set out above, and having regard to all other matters raised, the appeal is dismissed.

*Hollie Nicholls*

INSPECTOR

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<sup>1</sup> APP/D2510/W/19/3232935

**Site:** 2 Moorlands, Moor Road, Minehead, TA24 5RT

**Proposal:** Erection of 1 No. detached dwelling in the garden to the front

**Application number:** 3/21/19/013

**Reason for refusal:** Dismissed



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## Appeal Decision

Site visit made on 16 March 2020

**by Mrs H Nicholls MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 April 2020**

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### **Appeal Ref: APP/W3330/W/19/3242257**

**2 Moorlands, Moor Road, Minehead TA24 5RT**

- 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 Nick Dunn against the decision of Somerset West and Taunton Council.
  - The application Ref 3/21/19/013, dated 3 February 2019, was refused by notice dated 30 May 2019.
  - The development proposed is construction of new 3 bedroom house in front garden of 2 Moorlands.
- 

### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. West Somerset and Taunton Deane Councils ceased to exist on 1 April 2019, following a merger to form the new Somerset West and Taunton Council. Provisions within the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 allow for any "*plan, scheme, statement, or strategy*" prepared by one of the merged authorities to be treated as if "*it had been prepared and, if so required, published by the single tier council for the whole or such part of its area as corresponds to the area to which the particular plan, scheme, statement or strategy relates*". The status of the West Somerset Local Plan to 2032 has not changed following the merger.

### **Main Issue**

3. The main issue is the effect of the proposal on the character and appearance of the area, including on the Higher Town Conservation Area and setting of the Grade II listed building, Edgehill.

## Reasons

4. The appeal site forms the front garden of No 2 Moorlands, which, due to the steep topography of the area, is situated at an elevated level along with its attached counterpart, No 1 Moorlands. Below the appeal site is the former vicarage, (listed as No 28 and Edgehill, albeit with 'Edghill' on its name plaque), which are grade II listed buildings listed together along with the front part-rubble, part-render wall. The end of the garden forms an embankment behind Edgehill and the garden level is marginally below its roofline. The garden is also split into two main levels, accessed from the driveway via a set of steps.

5. Adjacent to the site is a recently constructed dwelling which was built within the garden of No 1 Moorlands. Whilst the dwelling appears to be substantially complete, there are elements of external landscaping in its limited garden space which appear, as yet, unfinished.
6. The appeal site lies within the Higher Town Conservation Area (CA). Section 72(1) of the Listed Building and Conservation Areas Act 1990 (as amended) (the Act) requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
7. From the Minehead Conservation Area Review (2003) and from my own observations, the special qualities of the CA include the prominent church building as a focal point, the associated buildings including the former vicarage and stables, and the range and quality of its historic buildings, the majority of which are cottages which line the narrow historic streets. Due to the steep topography of the area, there is a high degree of intervisibility between various parts of the CA. It also possesses a richness due to the variety of traditional materials, including thatch, cob, brick, stone, red clay tiles and the architectural detailing on some buildings, including brick chimneys, canopied porches and bay windows.
8. As the appeal site falls within close proximity of a listed building, I am also required under Section 66(1) of The Act to pay special regard to the desirability of preserving the listed building, its setting or any features of special architectural or historic interest which it possesses. From the evidence and my own observations, I consider that the significance of Edgehill relates primarily to its age, historic association with other prominent historic buildings, built fabric, which comprises a building built in two parts, and its specified features of special interest, including its brick stacks and splayed bay window to the front gable.
9. As a minor element of the Higher Town CA, currently experienced as part of the rising backdrop to Edgehill and seen as a green gap separating Nos 1 and 2 Moorlands from the same, the appeal site makes a minor contribution to the significance of the CA.
10. The appeal site appears to form part of the swathe of tiered and sloping landform that separates Edgehill from the buildings on the tier above. It provides a sense of understanding of the steep topography of the area and allows Edgehill, set above the road as it is, to appear as a dominant building in a streetscape which otherwise comprises largely of cottages of a more modest scale. In this sense, the appeal site is a valuable part of the setting of Edgehill and makes a moderate contribution to its significance.
11. The appeal proposal would introduce a large, contemporary dwelling on the garden to the rear of Edgehill. Whilst there would be a degree of separation therefrom, this would be relatively modest and the building would appear to overcrowd the available space and introduce a prominent and uncharacteristic element in the streetscene behind Edgehill. Whilst the height of the proposed dwelling has been minimised as far as possible, its siting and scale would still detract from the prominence of Edgehill in the streetscene.
12. In views from the south-east, the appeal proposal would appear an incongruous and dominant addition, despite the separation and intervening landscape between it and the road at a lower level. In views from outside the

church, the appeal proposal would also combine with the recently constructed dwelling next door to largely fill the remaining gap on the tier behind Edgehill, undermining the value provided by the relief in the built form. That the openness that once existed has already been eroded to a large extent by the construction of a new dwelling further raises the importance of retaining some spaciousness to avoid the urban form taking on a cramped appearance.

13. In terms of the contemporary design of the proposed dwelling, I note that the Council's non-binding pre-application advice leaned towards a solution that would harmonise with the permitted dwelling next door, although that had not been constructed at that time. Whatever the rationale for the design of the adjacent dwelling which has now been constructed, it does not assimilate with the form or appearance of buildings found within the wider surroundings. As a sleek, flat roof, timber-clad structure, it is devoid of vertical emphasis, gable features or the varied palette of materials found elsewhere within the CA. Whilst the proposal would include more glazing and a more varied depth to its principle east-facing elevation, the overall result would be to add a further degree of incongruity within the CA and streetscene. This would not be sufficiently mitigated by the evergreen hedge which has already been planted on the eastern boundary of the site but that has established only modestly in the intervening period.
14. In terms of the appellant's query concerning the rationale for granting permission for the adjacent dwelling and refusing the appeal application, it is well-established that each application is decided on its own merits. There is also limited information as to what particular policy circumstances or other considerations were before the Council at that time. Secondly, that very proposal has also diminished the area's capacity to accept further change. In my view, the cumulative effects of the proposal considered with the adjoining building would result in greater harm to the significance of the CA and listed building than might have been the case if either one of the proposals were considered individually, or perhaps as a single holistic proposal.
15. In view of this main issue, the proposal would harm the character and appearance of the area and would fail to preserve the character and appearance of the Higher Town Conservation Area. It would also harm the setting of the Grade II listed building, Edgehill. For these reasons, the proposal conflicts with Policy NH1 of the West Somerset Local Plan to 2032 (adopted 2016) which seeks to sustain and/or enhance the historic rural urban and coastal heritage of the district.
16. The National Planning Policy Framework (2019) ('the Framework') states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It also states that where a development proposal would lead to less than substantial harm to the significance of designated heritage assets, this harm should be weighed against the public benefits of the proposal. Under the terms of the Framework, the harm I have identified to the respective heritage assets would amount to less than substantial harm.

## **Other Matters**

17. I am mindful that the living conditions of future occupiers and existing occupiers could be compromised if the dwellings were too close and had overlooking windows. That they would be adequately separated by topography

and distance so as to avoid any harm in this regard is not sufficient in itself to suggest that the proposal is acceptable.

## **Planning balance and conclusion**

18. The proposal would deliver an additional open market dwelling in a sustainable location and would generate both short-term economic benefits throughout the construction period and longer-term economic benefits through its future occupation by incoming residents. However, the limited scale of the proposal would restrain the magnitude of these benefits and I therefore afford them limited weight.
19. The proposal would result in less than substantial harm to the significance of the identified heritage assets. Whilst I consider that the magnitude of harm would be moderate in both identified instances, more weight can reasonably be attached in the overall balance to more than one instance of less than substantial harm.
20. Accordingly, the totality of the identified harm would not be outweighed by the public benefits of the proposal in this case. The proposal therefore conflicts with the development plan, read as a whole, and with the provisions of the Framework.
21. For the reasons set out above, the appeal is dismissed.

*Hollie Nicholls*

INSPECTOR

**Site:** Land to the rear of 16 Town Farm, North Curry, Taunton

**Proposal:** Erection of bungalow on land to rear of 16 Town Farm, North Curry (resubmission of application 24/18/0012)

**Application number:** 24/19/0021

**Reason for refusal:** Costs Appeal – Dismissed



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## Costs Decision

Site visit made on 27 January 2020

**by Adrian Hunter BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 27<sup>th</sup> April 2020**

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### **Costs application in relation to Appeal Ref: APP/W3330/19/3240938 Land to the rear of 16 Town Farm, North Curry TA3 6NP**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by West of England Developments Ltd for a full award of costs against Somerset West and Taunton Council.
  - The appeal was against the refusal of planning permission for the erection of a bungalow.
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## Decision

1. The application for an award of costs is refused.

## Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The application for costs relates to the fact that the Council Officer's recommended that planning permission be granted for the proposal, but that Council Members took a different course of action without adequate reason to do so. In particular, it is claimed that the ecology information submitted with the

application provided sufficient information to fully assess the impact of the proposal.

5. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached, the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In refusing the application, Council Members considered that there was insufficient evidence upon which to assess the ecological impacts of the development. They therefore appear to have taken a pre-cautionary approach and refused the application for this single reason. I note that the Officer's report highlighted the ecological issues. A planning condition was recommended, specifically in relation to reptiles, to ensure appropriate ecological mitigation measures would be delivered.
6. I note the July 2019 ecology report in relation to reptiles, where it concluded that the site had the potential to support slow worm and potentially common lizard and, that works to facilitate construction had the potential to kill/injure reptiles. Therefore, at the time the appeal application was considered by Planning Committee, there still appeared to be ecology information that was outstanding.
7. On this basis, the Planning Committee were entitled to take the view that, at the point they were assessing the application, there was insufficient evidence to fully understand the full ecological impact from the proposed development. Whilst Officers considered that the matter could be adequately addressed by condition, this was not binding on Members, who were entitled to take a different approach. I also note the claimant's reference to the fact that Members could have deferred the application to allow time for the additional information to be submitted. Again, whilst this was an option available to them, there was no requirement for them to follow this route.
8. Subsequently, additional survey information (dated October 2019) was completed and submitted alongside the appeal by the appellant. As a result of these additional survey results, the Council felt unable to defend the appeal. The fact that the Council were unable to substantiate their reason for refusal, relates to the fact that the information to address Member's concerns was submitted after the decision, and not that the decision taken by the Planning Committee was unreasonable.
9. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

## **Conclusion**

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

*Adrian Hunter*

INSPECTOR



## APPEALS RECEIVED –15 MAY 2020

**Site:** Cruwy's Cross, Langley Marsh, Wiveliscombem TA4 2UG

**Proposal:** Erection of an agricultural building for storage on land at Cruwys's Cross, Langley Marsh (resubmission of 49/19/0034)

**Application number:** 49/19/0052

**Appeal reference:** APP/D3315/W/20/3246056

**Enforcement Appeal:**

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**Site:** Pen Elm, Minehead Road, Norton Fitzwarren, Taunton, TA2 6PD

**Proposal:** Conversion of stables to 1 No. detached dwelling within the domestic garden of Pen Elm, Minehead Road, Norton Fitzwarren

**Application number:** 25/19/0023

**Appeal reference:** APP/W3330/W/20/3245967

**Enforcement Appeal:**

**Site:** Land at Paddons Farm, Stogursey, TA5 1BG

**Proposal:** Erection of a residential development comprising of 27 No. dwellings, relocation of childrens play area and associated works

**Application number:** 3/32/19/019

**Appeal reference:** APP/W3330/W/20/3248009

**Enforcement Appeal:**

