

SWT Planning Committee

Thursday, 18th March, 2021,
1.00 pm



Somerset West
and Taunton

[SWT VIRTUAL MEETING WEBCAST LINK](#)

Members: Simon Coles (Chair), Marcia Hill (Vice-Chair), Ian Aldridge, Mark Blaker, Dixie Darch, Ed Firmin, Roger Habgood, John Hassall, Mark Lithgow, Chris Morgan, Craig Palmer, Andrew Sully, Ray Tully, Brenda Weston and Loretta Whetlor

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 - 14)

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.

5. 19/20/0008

(Pages 15 - 26)

Application for Outline Planning with all matters reserved for the erection of 1 No. dwelling on land to the south of Mill Lane, Hatch Beauchamp

6. Latest appeals and decisions received

(Pages 27 - 66)



**JAMES HASSETT
CHIEF EXECUTIVE**

Please note that this meeting will be recorded. You should be aware that the Council is a Data Controller under the Data Protection Act 2018. Data collected during the recording will be retained in accordance with the Council's policy. Therefore unless you are advised otherwise, by taking part in the Council Meeting during Public Participation you are consenting to being recorded and to the possible use of the sound recording for access via the website or for training purposes. If you have any queries regarding this please contact the officer as detailed above.

Following Government guidance on measures to reduce the transmission of coronavirus (COVID-19), we will be live webcasting our committee meetings and you are welcome to view and listen to the discussion. The link to each webcast will be available on the meeting webpage, but you can also access them on the [Somerset West and Taunton webcasting](#) website.

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

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.

Full Council, Executive, and Committee agendas, reports and minutes are available on our website: www.somersetwestandtaunton.gov.uk

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

If you would like an agenda, a report or the minutes of a meeting translated into another language or into Braille, large print, audio tape or CD, please email: governance@somersetwestandtaunton.gov.uk

SWT Planning Committee - 25 February 2021 held via Zoom Video Conference

Present: Councillor Simon Coles (Chair)

Councillors Marcia Hill, Ian Aldridge, Dixie Darch, Ed Firmin, Roger Habgood, John Hassall, Mark Lithgow, Janet Lloyd, Chris Morgan, Craig Palmer, Andrew Sully, Ray Tully, Brenda Weston and Loretta Whetlor

Officers: Jo Humble (Lead Specialist - Affordable Housing), Rebecca Miller (Principal Planning Specialist), Simon Fox (Planning Specialist), Martin Evans (Shape Legal Partnership), Nick Bryant (Assistant Director, Strategic Place Planning), Amy Tregellas (Monitoring Officer), Tracey Meadows and Marcus Prouse (Democracy and Governance) Gillian Sanders (Wessex Water)

Also Present: Councillors Farbahi, Hill, Hunt, Rigby, Wakefield and A Wedderkopp

(The meeting commenced at 1.00 pm)

131. **Apologies**

Apologies were received from Councillor Mark Blaker.

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

(Minutes of the meeting of the Planning Committee held on 4 February 2021, circulated with the agenda)

Resolved that the minutes of the Planning Committee held on 4 February 2021 be confirmed as a correct record with a minor amendment to a spelling error on the list of participations.

Proposed by Councillor Morgan, seconded by Councillor Palmer

The **Motion** was carried.

133. **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 D Darch	42/20/0042	A member of the Taunton Area Cycling Campaign.	Personal	Spoke and Voted

		Discretion not fettered.		
Cllr R Habgood	42/20/0042 42/20/0056	Declared that he knew to a member of the public who sent in representation on this application. A member of the Taunton Area Cycling Campaign. Discretion not fettered.	Personal	Spoke and Voted
Cllr A Sully	42/20/0056	Declared that he knew to a member of the public who sent in representation on this application.	Personal	Spoke and Voted

134. **Public Participation**

Application No.	Name	Position	Stance
42/20/0042	A Stainthorpe B Lestrangle B Lawrence C Briggs H Starsmeare H Jaeschke J Stainthorpe J Warren J Foster R Hartland J Rasell M Yeo Mr & Mrs Sullivan-Russell Mr & Mrs Bull Mr & Mrs Garrod Mr Roberts J Briggs P Briggs Friends of Galmington Stream R Jaeschke R Walsh	All Local Residents	Objecting

	S Warren S Reekie S Walsh T Lestrangle V Dawson S Smith Ms Clements Trull PC		
	Lawrence Turner	Consortium	In favour
	Cllr Nicholls	Ward Members	Objecting
	Cllr Wakefield		
	Cllr Farbahi		
	Cllr Hunt		
	Cllr A Wedderkopp		
	Cllr Martin Hill		
42/20/0031	C Warburton Mr Sweetland Trull PC	All Local Residents	Objecting
	Vistry and LiveWest	Developers	In favour
42/20/0056	C Burton M Sweetland M Oliver Mr & Mrs Grant Mr Salter Ms Catchpole Trull PC	All Local Residents	Objecting
	Vistry & LiveWest Cllr Farbahi	Developer Ward Member	In favour Objecting

135. **42/20/0042**

Erection of foul pumping station, water booster station and gas pressure reducing station to serve the permitted 2000 dwellings under outline application 42/14/0069 on land at Comeytrowe/Trull

Comments by members of the public included;

- The wet well proposed was not compliant with current Design and Construction Guidance;
- Concerns that no foul water equipment could be completely sealed;
- Mixing gas and sewage was a known safety risk;
- Concerns with the location of the pumping station. The entire facility should be moved further south with an access off the spine road;
- What assessment has been made of the transport difficulties of bringing a generator to the site on a narrow lane which can be busy and flood on occasions should this facility fail;
- Concerns with how the storage tank operates;
- What preventions were there in preventing overflow from entering Galmington Stream and then the river;
- Concerns that there were no details of the downstream piping;
- Concerns with the storage capacity of the existing sewers;
- Concerns that no environmental impact or noise, vibration or environmental assessment for the application has been carried out;
- Concerns with odours;
- Concerns with the cycleway being so close to the site;
- Concerns with heavy traffic entering and leaving the site;
- Concerns with the increase of vermin on the site;
- No consideration for existing residents has been taken;
- Concerns that this was a premature application;
- Concerns with the impact on the wildlife on the Galmington Stream and the River Tone due to increased risk of flooding and pollution;
- A further opening to allow vehicular access would be needed to protect emerging cyclists and pedestrians;
- Concerns with hours of operation, use of equipment, lights and nuisance factors;
- Can the developer and the planning authority confirm that the proposal would not exacerbate the existing high levels of phosphate pollution in the River Tone, its tributaries and Somerset Levels;
- How did this proposal fit with Somerset West & Taunton's vision as a Garden Town;
- Concerns that the application did not satisfy DM1 and DM5 of the Core Policy requirements;
- A great deal of work had been undertaken in partnership with SWT and County Officers to help bring forward the new urban extension;
- The vast majority of utilities infrastructure would be installed below ground. Above ground the only visible plant and equipment was contained within standard green kiosks, with water booster station and foul pumping station enclosed within a palisade fencing compound. Additional landscaping including the planning of hedging and trees to screen the kiosks and vehicle hard standing;
- There was no flood risk associated with this development, confirmed by the consultees responses from the Environmental Agency and Lead Flood Authority;
- There was no risk of pollution to the Galmington Stream, confirmed by Wessex Water in their consultees response to SWT;

- There would be no unacceptable noise, odour or health and safety issues arising from the installation of the pumping station;
- The application proposed would include a standard pumping station that meets all the requirements of the National Guidance and had a minimum distance of 18 metres to the nearest residential property ensuring that residents were unaffected by odour, noise and vibration;
- No impacts on residential amenity;
- The proposed utilities were an important and timely element of infrastructure that was required to deliver the Council's urban extension at South West Taunton;

Comments by Members included:

- Concerns that the developers were not taking the residents' concerns seriously;
- Concerns with the impacts on the wildlife and noise vibration all year around;
- Concerns that the developers choose the cheapest location for the pumping station;

At this point in the meeting a 30 minute extension was proposed by Cllr Coles and seconded by Cllr Habgood.

- Concerns with road safety on the site;
- Flooding concerns;
- Concerns with harm to nearby properties;
- Bat survey and light condition was required for this application;
- Concerns with the cumulative impact of the development on nearby residents;

At this point in the meeting a 30 minute extension was proposed by Cllr Coles and seconded by Cllr Habgood.

- Concerns with the lack of consultation from the developers with residents;

At this point in the meeting a 30 minute extension was proposed by Cllr Coles and seconded by Cllr Habgood.

Councillor Morgan proposed and Councillor Habgood seconded a motion for Conditional approval **APPROVED** as per Officer Recommendation with an additional Condition 10 for noise emissions and amendment to Condition 01 as per update sheet;

The motion was carried.

136. **42/20/0031**

Application for approval of Reserved Matters in respect of appearance, landscape, layout and scale, following outline application 42/14/0069, for Phase H1A for the erection for 76 No. Dwellings hard and soft landscaping, car parking including garages, internal access roads, footpaths and circulation areas, public open space and drainage with associated infrastructure and engineering works on land at Comeytrove/Trull

Comments by members of the public included;

- A Habitat Regulations Assessment should be completed before this development goes ahead;
- Concerns with the Phosphate Mitigation Strategy;
- The scheme could not be implemented without major fundamental amendment to the Outline Permission. This should be done through a new application;
- Concerns on how the interim position of site fencing was to be addressed;
- This development will be the gateway to Taunton from the A38 so it is important to get this right;
- Concerns with the density of the properties on the site;
- The placemaking specialist objects to this proposal as the site was bland, indistinctive and monotonous;
- The development makes a mockery of the Garden Town Status;
- The site would deliver new and affordable homes that Taunton needed to help young people to get on the housing ladder;
- Public consultation had been undertaken over the years with local people, businesses, schools, stakeholders, officers and Central Government to help prepare a Masterplan for this site;
- Many of the issues raised by local people have already been addresses and approved by the Planning Committee in the Outline Permission and the obligations contained within the S106 agreement;
- The application was in full accordance with the approved Outline Planning Permission and the approved Design Guide for the site;
- The proposal had not received any technical objections from any consultees;
- The application was supported by a comprehensive and detailed Phosphate Mitigation Strategy for the site;
- 35% of the development would be developed as affordable homes;

Comments by Members included;

At this point in the meeting an extension of 30 minutes was proposed by Cllr Coles and seconded by Cllr Habgood. Councillor Morgan left the meeting;

- Concerns that the standard of homes was not high enough for the gateway frontage to Taunton;
- Happy with the affordable housing aspect of the development;
- Pleased with the external finish of the homes;
- Concerns with the fallow land and the right of way being fenced off;

At this point in the meeting a 30 minute extension was proposed by Cllr Coles and seconded by Cllr Habgood. Councillor Weston left the meeting.

Councillor Habgood proposed and Councillor Sully seconded a motion for Conditional approval to be **APPROVED** as per Officer Recommendation with Condition 5 rewritten and Condition 6 amended as per update sheet;

The motion was carried.

137. **42/20/0056**

At this point in the meeting a 30 minute extension was proposed by Cllr Coles and seconded by Cllr Habgood.

Approval of Reserved Matters in respect of the appearance, landscape, layout and scale, pursuant to planning permission reference (42/14/0069) for the erection of 64 dwellings, hard and soft landscaping, car parking including garages, internal access roads, footpaths and circulation areas, public open space and drainage with associated infrastructure and engineering works, together with additional details as required by Conditions 7,9,11,12,13,14,15,16,18,19,20,21, and 23 at Phase H1C on land at Comeytrove/Trull

Comments from members of the public included;

- The application should be deferred to allow the applicant to provide more Public Open Space and Fallow Land as much of what is being promoted as Public Open Space consists of water retaining attenuation basins;
- Concerns that the Local Equipped Area for Plan (LEAP) south of the site was being proposed to be fallowed with public access denied;
- The proposal was contrary to the Core Strategy Policy CP5, inclusive Communities;
- Concerns with the impact of the development on properties on Jeffreys Way. Previous views of the Blackdown Hills were now being replaced with a huge construction site and the peace shattered due to heavy plant noise and the ground rumbling on a daily basis;
- Concerns with the unsightly metal Heres style fencing running directly along the south boundary of the site;
- Concerns with overlooking;
- Concerns that a previous proposed buffer area and hedges to soften the impact of houses on the properties of Jeffreys Way had now gone and the development was up to the properties boundary;
- Could the developers consider adding bungalows for the elderly in the development;
- Concerns with the density of the development;
- The Placemaking Specialist objects to the proposal due to poorly designed bland houses;
- Concerns with the lack of a Phosphate Mitigation Strategy;

- This application was for the second phase of 64 homes which included 33 affordable 'tenure-blind' homes. The application was full in accordance with the approved Outline Planning permission and the Design Guide for the site;
- LiveWest and Vistry proposed to build approximately 52% of the development as affordable homes and significantly exceeds both the requirement of the S106 agreement and the Council's affordable housing policy. This will reduce the number of people requiring accommodation;
- There were no outstanding technical objections to the proposal;
- This development reflects the Taunton's Garden Town Vision;
- The development has gone through numerous rounds of design revisions to reflect the concerns of local residents;

Comments from Members included;

- The development was a dull, boring unimaginative scheme;
- A Condition for frosted windows and the erection of a fence was needed as soon as possible;
- Concerns with the lack of visitor parking spaces;
- Concerns with the comments regarding the Fallow Land Management Plan;
- Concerns with the impact of existing trees on Jeffreys Way;
- Pleased with the affordable housing aspect;
- Concerns that there were no bungalows proposed on site;

At this point in the meeting a 30 minute extension was proposed by Cllr Coles and seconded by Cllr Habgood.

Councillor Lloyd proposed and Councillor Hill seconded a motion for Conditional approval to be **APPROVED** as per Officer Recommendation with Conditions 01 and 3 amended, Condition 5 rewritten, Condition 6 amended, new Condition 7 as per update sheet. Condition 01 was further amended during the presentation;

The Committee also asked for a Condition for fencing to be erected before the build process started along the boundary of Jeffreys Way and a Condition for obscure glazed windows in the rear roof slopes of Plots 101/102 and 114/115 (2.5 storey units) as follows;

- New Condition 08 - A scheme shall be submitted detailing the timing (as soon as possible) of the erection of the approved fence along the Jeffrey's Way boundary, and thereafter the approved fence should be erected in full in accordance with the agreed scheme;
- New Condition 09 – The roof lights in the rear roof slopes of Plots 101, 102, 114 and 115 serving the ensembles of those respective properties shall be fitted with obscure glazing prior to the first occupation of that respective dwelling;

The motion was carried.

138. **Latest appeals and decisions received**

Latest appeals and decisions noted.

(The Meeting ended at 8.20 pm)

19/20/0008

MR J MARKS

Application for Outline Planning with all matters reserved for the erection of 1 No. dwelling on land to the south of Mill Lane, Hatch Beauchamp

Location: FIELD TO THE SOUTH OF MILL LANE, HATCH BEAUCHAMP, TA3
6TH

Grid Reference: 330427.119755

Outline Planning Permission

Recommendation**Recommended decision: Refusal**

- 1 Having regard to sustainability considerations, the site is not considered to be an appropriate location for use as a permanent dwelling. In such circumstances, the proposal to allow a permanent residential dwelling (Class C3) within the countryside would be contrary to the principles of sustainable development, adopted development plan policies and Guidance which seek to avoid the development of 'isolated' homes in the countryside and to reduce reliance on the car. In circumstances where the proposal would fail to enhance the vitality of rural communities, there is no identified need for a countryside location, the permanent use would be likely to increase reliance on the car, the proposal would result in identified harm contrary to Policies CP1, CP8, DM2, SD1, SP1 and CP6 of the Taunton Deane Core Strategy 2012 and Policies SB1 and A5 of the Taunton Site Allocations and Development Management Plan 2016 and paragraphs 78,79, 103 and 108 of the Framework.
- 2 The proposed dwelling by reason of its siting in an isolated open countryside location and outside defined settlement limits together with the removal of a large section of boundary hedge would result in significant visual harm upon the rural local landscape character and therefore would be contrary to Policies CP8 and DM1 of the Taunton Deane Core Strategy (2012) and relevance section sections of National Planning Policy Framework.
- 3 The proposed development would adversely impact upon the Somerset Levels and Moors Ramsar site by adding to the concentration of phosphates in the area where they are already excessive. In the absence of technical information demonstrating the level of phosphates generated by the development, it is not possible to produce a Habitat Regulations Assessment or put in place the measures necessary to off-set the impact. As such the proposal is contrary to Policies CP8 (Environment) and DM1 (General requirements) of the adopted Taunton Deane Core Strategy and Paras. 175-177 of the NPPF.

Recommended Conditions (if applicable)

Notes to Applicant

- . 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 entered into pre-application discussions to enable the grant of planning permission. However in this case the applicant was unable to satisfy the key policy test and as such the application has been refused.

Proposal

The proposal is for outline planning permission with all matters reserved to build a dwelling on land to the south of Mill Lane this road. A Site plan has been submitted detailing a two storey detached dwelling house with the creation of a new vehicular access to Mill Lane with parking area in front of the property.

Site Description

The site is located to the south of Hatch Beauchamp with access taken from Village Road. The land is south of Village Road (detailed as Mill Road by applicant) with the property know as Fowler's to the north east and the property of Meadows to the south west.

Relevant Planning History

19/19/0008 Pre-application consultation for the erection of a dwelling which concluded:

"Having regard to the above matters, I can advise, in conclusion that a proposal for a dwelling in this location currently fails to accord with local plan policies and national guidance".

Consultation Responses

Cllr Henley – I would like this application to be brought before Planning Committee

HATCH BEAUCHAMP PARISH COUNCIL - Support
SC - TRANSPORT DEVELOPMENT GROUP - Standing Advice
WESSEX WATER - No objection
LANDSCAPE - Objection Raise the following concerns:

- Given that the site lies in open countryside and would be contrary to policy I would have expected a landscape appraisal to have accompanied the application but the details submitted are very poor.
- The site is in open countryside and not well related to other buildings;
- To meet highway visibility splay requirements a considerable amount of 'Important' hedgerow will need to be removed;

- As well as views from the roadside there are a number of public rights of way that would also have a view to the site and there is no indication how the proposed development would mitigate the harm.

In summary, the proposed residential development would be contrary to policy CP8 and based on lack of supporting evidence and impact on the rural countryside I strongly object to the application on landscape grounds.

A condition would also be required on any approval granted:

No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared commences and provides 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. In no circumstances should netting be used to exclude nesting birds.

Reason: In the interests of nesting wild birds and in accordance with policy CP8 of the Taunton Deane Core Strategy.

Ecology – Objection Habitats Regulations Assessment required.

As hedgerow and possibly trees would be removed to form the access to the proposed development and lacking evidence to the contrary the following condition is required:

1. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared commences and provides 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. In no circumstances should netting be used to exclude nesting birds.

Reason: In the interests of nesting wild birds and in accordance with policy CP8 of the Taunton Deane Core Strategy

Following recent advice from Natural England this application may now require a Habitats Regulations Assessment (HRA) due to the recent CJEU Dutch Nitrogen case law. This is because the application site falls within the catchment flowing into the Somerset Levels and Moors Ramsar, designated for its rare aquatic invertebrates. There is a major issue with nutrients entering watercourses which adversely changes environmental conditions for these species. Any new housing, including single dwellings, will result in an increase in phosphates contained within foul water discharge. As the designated site is in 'unfavourable' condition any increase, including from single dwellings, is seen as significant, either alone or in

combination with other developments.

To complete the Habitats Regulations Assessment information on how foul water is to be dealt with, this will either through a mains wastewater treatment plant or a site package treatment plant or septic tank. If it is via the main wastewater network the Wastewater Treatment Works, and the amount the permitted amount of phosphate for the works. Where Package Treatment Works information on the efficiency of the plant in treating phosphates will be required. Guidance is in preparation for septic tanks.

Natural England have pointed us towards guidance for Stodmarsh SSSI [https://www.folkestone-hythe.gov.uk/media/2747/ID-1042876-2-MM7-/pdf/ID_1042876_\(2\)_MM7\).pdf?m=637309397591500000](https://www.folkestone-hythe.gov.uk/media/2747/ID-1042876-2-MM7-/pdf/ID_1042876_(2)_MM7).pdf?m=637309397591500000), in lieu of national guidelines at the moment. This may help you with the data needed to inform an assessment of the proposed development. Natural England will be issuing national guidance within the next few weeks.

In addition, Natural England advise that mitigation will need to be identified and secured by the applicant in order to complete the Habitats Regulations Assessment. For mains wastewater treatment this can be funding for habitat creation or agricultural land taken out of production in the Levels and Moors catchment. A strategic approach is being developed to enable developers to purchase mitigating habitat creation. However, locations and their viability for habitat creation has yet to be determined, as has a scheme for financial contributions per dwelling to this habitat creation. This is likely to take some time and will inevitably lead to delays in determining housing applications, as it has elsewhere, for example in Hampshire where the Solent SAC was affected. Alternatively an applicant may source their own mitigation. For Package Treatment Plant this can be a small wetland, specifically designed to remove phosphates, its area depending on the amount of phosphate kilograms produced from the proposed development per year. The mitigation will be required to be implemented prior to commencement or will then need to be in place before any dwelling is occupied depending on the certainty of the scheme offered.

Once the above details have been submitted the Local Planning Authority, as the competent authority under the Habitats Regulations 2017, will be able to carry out the Habitats Regulations Assessment. Note a response on this assessment is required from Natural England before a decision can be made on the application.

01/03/021 Thank you for the above consultation which Somerset Ecology Services (SES) has considered.

As per our previous consultation response, the application is located within the catchment of the Somerset Levels and Moors Ramsar site. Following recent advice from Natural England this application may now require a Habitats Regulations Assessment (HRA). The submission will therefore need to demonstrate how the proposal achieves nutrient neutrality in order to comply with The Conservation of Habitats and Species Regulations 2017 and The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

In the event that the development requires mitigation to ensure the proposal is nutrient neutral, the application will not be considered further unless, or until, a complete package of information is submitted. To assist with how this could be

undertaken, please see the attached documents, comprised of Somerset Nutrient Information Request Sheet (V1), Interim guidelines on small scale thresholds and nutrient neutrality principles, and the Stodmarsh Methodology Guidance (Nov 2020).

The attached Interim guidelines on small scale thresholds and nutrient neutrality principles have been agreed between SES and Natural England in lieu of the national guidance. It is noted that the application is supported by evidence pertaining to these Interim guidelines, specifically to the small scale thresholds of likely significant effects in relation to Package Treatment Plants (PTPs). The evidence submitted in order to progress the application under these guidelines comprises the following:

- Foul Drainage Assessment submitted 18th February, prepared by James Marks (applicant).

The attached Interim guidelines state that small discharges from PTPs to ground (i.e. less than 5m³ per day) within the Ramsar catchment will present a low risk of a significant effect where the location and design of the drainage field meets the Proposed thresholds criteria a-g. As a result the applicant will now be required to satisfy these criteria for small scale thresholds.

The attached Interim guidelines also state that a PTP discharging into a drainage field needs to be appropriately designed, including acceptable year round percolation rates for it to work effectively. A percolation test ensures the drainage field effectively removes pollutants and then determines the size of the drainage field required.

SES therefore request a percolation test is performed to ensure the proposed location of the drainage field, which needs to be clearly indicated, effectively removes pollutants and to determine the size of the drainage field required. The results of the percolation test will also enable SES to confirm whether the location of the drainage field meets *Proposed thresholds* criterion b.

It is also not presently clear within the submitted documentation where the PTP and its subsequent discharging point is located.

Please note the following regarding the provision of the above scheme of foul water treatment:

- Where PTPs discharging into drainage fields are proposed, compliance with the criteria on drainage and waste disposal, as set out under the Building Regulations 2010 (see Approved Document H - Drainage and Waste Disposal, 2015 edition) is required. This criteria outlines distances in relation to the location of the PTP and drainage field, as well as the requirement for a percolation test, amongst other requirements. See https://www.planningportal.co.uk/info/200135/approved_documents/71/part_h_-_drainage_and_waste_disposal;
- In addition, compliance with the criteria on small sewage discharges, as set out within the general binding rules under the Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2014, and/or an environmental permit under the Environmental Permitting Regulations 2016, is required. Both outline distances in relation to the location of the PTP and

drainage field, as well as limits on daily discharges, amongst other requirements. See <https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground>, <https://www.gov.uk/government/publications/small-sewage-discharges-in-england-and-general-binding-rules/general-binding-rules-for-small-sewage-discharges-in-england>, and <https://www.gov.uk/permits-you-need-for-septic-tanks>.

Compliance with these requirements may result in a potential conflict with what may have been considered acceptable by SES under the *Proposed thresholds* criteria (a-g), as set out within the Interim guidelines on small scale thresholds and nutrient neutrality principles. As such, this is a constraint in planning determination at this time and requires further discussions between the Local Planning Authority, SES and Statutory agencies including Natural England and the Environment Agency. The application will therefore not be determined until this constraint has been resolved and the conclusions of the HRA can be reached with absolute certainty.

Representations Received

There have been some 7 letters of support to the application stating:

- The applicant needs to be closer to their business;
- Sympathetic setting for a new dwelling house;
- Support subject to hedgerows being retained and protected;
- This is a self-build project for the applicant and his family and therefore not for profit and should be permitted.

There have been some 12 letters of objection starting the following:

- Outside of settlement boundary so should be refused;
- The land is half a mile from the village envelope and would result in additional traffic congestion;
- No reason to build a house in a field just because applicant wishes to live their business;
- Such development is contrary to Para 55 of NPPF;
- Fails to meet criteria of Policy DM2 of the Local Plan and should be refused;
- It would set a dangerous precedent in the local area;
- The village offers limited facilities i.e. no post office, doctor, pharmacy, public transport, access roads are in poor repair;
- Loss of more green space and adverse impact upon wildlife;
- Loss of agricultural land.

Habitats Regulations Assessment

Following recent advice from Natural England this application may now require a Habitats Regulations Assessment (HRA) due to the recent CJEU Dutch Nitrogen case law. This is because the application site falls within the catchment flowing into the Somerset Levels and Moors Ramsar, designated for its rare aquatic invertebrates. There is a major issue with nutrients entering watercourses which adversely changes environmental conditions for these species. Any new housing, including single dwellings, will result in an increase in phosphates contained within

foul water discharge. As the designated site is in 'unfavourable' condition any increase, including from single dwellings, is seen as significant, either alone or in combination with other developments.

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.

SB1 - Settlement Boundaries,
A1 - Parking Requirements,
SD1 - Presumption in favour of sustainable development,
SP1 - Sustainable development locations,
CP1 - Climate change,
CP8 - Environment,
CP4 - Housing,
CP6 - Transport and accessibility,
DM1 - General requirements,
DM2 - Development in the countryside,
A5 - Accessibility of development,
D5 - Extensions to dwellings,

Local finance considerations

Community Infrastructure Levy

The application is for residential development outside the settlement limits of Taunton and Wellington where the Community Infrastructure Levy (CIL) is £125 per square metre. Based on current rates, the CIL receipt for this development is approximately £15,750.00. With index linking this increases to approximately £22,250.00.

Determining issues and considerations

THE SITE

The site is located in open countryside outside of any settlement boundary.

PLANNING POLICY

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.

Core Strategy 2012

SD1 Presumption in Favour of Sustainable Development
SP1 Sustainable Development Locations
CP1 Climate Change
CP4 Housing
CP6 Transport & Accessibility
CP8 Environment
DM1 General Requirements
DM2 Development in the Countryside
DM4 Design
DM5 Extensions to Dwellings

Site Allocations & Development Management Plan 2016

SB1 Settlement boundaries
A1 Parking requirements
A5 Accessibility of Development

Para 79 of National Planning Policy Framework

Planning Policy

The Council's wider strategy is to focus development within the main centres in recognition that these are the more sustainable locations with the necessary services and facilities to support residents. The approach also serves to protect the areas of open countryside.

The site lies outside any recognised settlement limits therefore Policy SB1 would apply. This states that in order to maintain the quality of the rural environment and ensure a sustainable approach to development, proposals outside of the boundaries of settlements identified in Core Strategy policy SP1 will be treated as being within open countryside and assessed against Core Strategy policies CP1, CP8 and DM2 unless:

- A. It accords with a specific development plan policy or proposal; or
- B. Is necessary to meet a requirement of environmental or other legislation; and

In all cases, is designed and sited to minimise landscape and other impacts.

The justification for this policy is that the Framework recognises the importance of protecting and enhancing the natural environment. The policy also assists in meeting other core principles such as shaping patterns of development to reduce the need to

travel, reducing pollution and CO2 emissions.

Core Strategy policies SP1 (Sustainable Development Locations) and DM2 (Development in the countryside) seek to apply strict control over development in the countryside to contribute towards meeting the wider aims of sustainability. The designation of settlement limits or boundaries provide clarity for the application of these policies.

The principle considerations surround policies and guidance relating to sustainability and countryside protection. Factors to consider include the level of reliance on the car.

Having regard to sustainability considerations, a key issue is whether the site is in an appropriate location for residential use having regard to planning policies and guidance surrounding the accessibility of services. The site is outside of any settlement containing basic services required to meet day to day needs. The characteristics of the nearby roads required to reach those destinations are likely to discourage pedestrians and cyclists resulting in a reliance on the private car. Having regard to sustainability considerations, a key issue is whether the site is in an appropriate location for residential use having regard to planning policies and guidance surrounding the accessibility of services. The site is outside of any settlement containing basic services required to meet day to day needs. The characteristics of the nearby roads required to reach those destinations are likely to discourage pedestrians and cyclists resulting in a reliance on the private car. Policy states that "It has been well established that bus ridership falls off substantially where distance to walk to bus stops exceeds 300-400m. Given that bus frequencies in Taunton Deane are relatively low compared with larger urban centres, it is important that walking distances to bus stops are short, and walking and waiting conditions attractive to potential bus users".

Given that bus frequencies in Taunton Deane are relatively low compared with larger urban centres, it is important that walking distances to bus stops are short, and walking and waiting conditions attractive to potential bus users".

There is nothing to suggest that a permanent dwelling in this location would offer particular support to rural services in any rural settlement given distances involved and detachment from them. While it is appreciated that opportunities to maximise transport solutions other than use of the private car are likely to be less in rural areas, conflicts do arise with the Framework which promotes limiting the need to travel and offering a genuine choice of transport modes. This is not the case here where public transport is limited and walking and cycling opportunities limited by factors such as the nature of the rural lanes and distances involved. The proposal is not considered to comply with the Framework when considered as a whole.

Policy DM2 (Development in the Countryside) specifies a range of acceptable uses in the countryside together with associated criteria which must be met. The justification for Policy DM2 states "In line with Government policy, Policy DM2 therefore seeks to control development outside of settlements to protect and enhance the quality of the local landscapes whilst promoting sustainable patterns of development and allowing for economic growth and diversification." However, this policy refers to the conversion or replacment of existing buildngs and this

application is for a new dwelling that is not a consideration of this policy.

The Council's approach reflects the National Planning Policy Framework insofar as it expects development to be centred on appropriate locations and in doing so to limit the need for travel by private car by promoting the use of sustainable modes of transport. The proposed dwelling in this location would fail to accord with these policies.

Policy CP8 states that the Council will conserve and enhance the natural and historic environment, and will not permit development proposals that would harm these interests or the settings of the towns and rural centres. The site and neighbouring sporadic development falls outside the contiguous built-up area of Hatch Beauchamp and is visually distinct from the village by virtue of the tree and hedge lined edges to the highways. In policy terms, as noted above, the location falls within open countryside. Development is limited to individual dwellings or farmsteads and ribbons of a small number of dwellings separated by agricultural fields, all of which contribute to the open, undeveloped setting of the landscape.

It is noted that the applicant has applied for a self-build property and is registered on the Self Build Register with the Local Authority. It is noted that Local Planning Authority does not have a specific policy relating to self-build development. Any new self-build development should be well related to existing settlements and in sustainable locations. However, in this case the proposal would not meet such aspirations and fails to comply with local plan policies as detailed previously.

The Landscape Officer has raised an objection to the proposal stating that a Landscape Appraisal should have been submitted with the application, the site is in open countryside and not well related to other buildings, a considerable amount of hedgerow will have to be removed to accommodate visibility splays to the new access and the site is highly visible from public rights of ways within the area and no mitigation measures are proposed within this application. Therefore this application would be refused on the harm it would have upon the local landscape character.

There have been some 12 letters of objection to the proposal stating that the proposed dwelling is outside of a settlement boundary, fails to meet Local Plan Policies, owning a business in the local area is not a reason to build a house in the countryside, loss of agricultural land and concern to additional traffic generation.

Some 7 letters of support have been submitted to this proposal stating the applicant needs to be closer to their business, it is for self-build and should be permitted and support providing hedgerows are retained.

All these comments have been noted and taken into consideration, however, the principle of a dwelling in the countryside is contrary to the adopted local plan policies as detailed above and it is recommended for refusal.

Conclusion

The introduction of a building in this location would erode the low density, rural pattern of development and by virtue of developing within the existing gap between the properties would result in an intensification of development. The proposals would therefore have a harmful effect on the character and appearance of the rural area

and fail to complement the environment and character of the existing settlement.

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

Contact Officer: Mr C Mitchell

APPEALS RECEIVED – 18 MARCH 2021

Site: Land north of Huish Lane, Washford, Old Cleeve,

Proposal: Outline planning application with all matters reserved except for access for the erection of 14 No. dwellings

Application number: 3/26/19/024

Appeal reference: APP/W3330/W/20/3263266

Decision: Committee - Refusal

Enforcement Appeal:

Site: PARK END LODGE, WEST BAGBOROUGH ROAD, WEST BAGBOROUGH, TAUNTON, TA4 3DU

Proposal: Change of use of residential garden store into Class A5 take away outlet at Park End Lodge, West Bagborough Road, West Bagborough

Application number: 06/20/0017

Appeal reference: APP/D3315/W/20/3264558

Decision: Chair - Refusal

Enforcement Appeal:

Site: The Station Masters House, Carnarvon Arms Drive, Brushford, Dulverton, TA22 9AF

Proposal: Installation of external spiral staircase (retention of works already undertaken)

Application number: 06/20/0017

Appeal reference: APP/W3330/D/21/3267718

Decision: Delegated Decision - Refusal

Site: FAIRFIELD STABLES, MOOR LANE, CHURCHINFORD, TAUNTON, TA3 7RW

Proposal: Variation of Condition No. 05 of application 10/16/0028 to vary the wording to include 15 breeding bitches, 3 stud dogs and puppies at Fairfield Stables, Moor Lane, Churchinford

Application number: 10/20/0002

Appeal reference: APP/W3330/W/21/3266747

Decision: Committee - Refusal

Enforcement Appeal:

Site: PARK END LODGE, WEST BAGBOROUGH ROAD, WEST BAGBOROUGH, TAUNTON, TA4 3DU

Proposal: Change of use of residential garden store into Class A5 take away outlet at Park End Lodge, West Bagborough Road, West Bagborough

Application number: 06/20/0017

Appeal reference: APP/D3315/W/20/3264558

Decision: Chair - Refusal

Enforcement Appeal:

Site: CATTLEWASH, ILBEARE, FITZROY ROAD, NORTON FITZWARREN, TAUNTON, TA2 6PL

Proposal: Change of use of land from agricultural to domestic including erection of wall and additional patio slabs at Ilbeare, Cattlewash, Fitzroy Road, Norton Fitzwarren (retention of works already undertaken).

Application number: 20/20/0011

Appeal reference: APP/W3330/W/20/3266183

Decision: Committee - Refusal

Enforcement Appeal:

Site: LAND TO THE WEST OF BROOK VIEW, TUDOR PARK,
PRIORSWOOD, TAUNTON, TA2 8TD

Proposal: Erection of 1 No. single storey dwelling with detached garage on land
to the west of Brook View, Tudor Park, Maidenbrook

Application number: 08/20/0006

Appeal reference: APP/W3330/W/21/3268170

Decision: Delegated Decision - Refusal

Enforcement Appeal:

APPEAL DECISIONS – 18 MARCH 2021

Site: 75 UPPER HOLWAY ROAD, TAUNTON, TA1 2QA

Proposal: Erection of fence with bicycle storage area to the front of 75 Upper Holway Road, Taunton (retention of works already undertaken)

Application number: 38/20/0216

Reason for refusal: Appeal – Dismissed

Original Decision: Delegated Decision – Refusal



The Planning Inspectorate

Appeal Decision

Site visit made on 26 January 2021 by **C J Ford BA (Hons) BTP MRTPI**

a person appointed by the Secretary of State

Decision date: 25 February 2021

Appeal Ref: APP/W3330/D/20/3260992 75 Upper Holway Road, Taunton TA1 2QA

- 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 Mike Gammon against the decision of Somerset West and Taunton Council.
 - The application Ref 38/20/0216, dated 30 June 2020, was refused by notice dated 11 September 2020.
 - The development is new fence to front along with bicycle storage area.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The original planning application was made retrospectively. The appeal has therefore been considered on the same retrospective basis.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The appeal site forms part of a residential estate and occupies a prominent corner plot position within the street scene. It appears the dwellings were originally laid out with open plan, mainly grassed front garden areas, similar in character to the neighbouring highway verges and street corners. However, over time, the distinction between the boundaries of the front garden areas and the public amenity space have become more clearly defined.

5. In most cases, this is the result of very low 'knee rail' perimeter wooden fencing and the planting of shrubs or trees, boundary treatments which are broadly sympathetic to the original open plan design. Examples of taller wooden fencing or other such treatments are far less common. However, where they do exist, they have generally not exceeded a height of approximately 1m. (The fence which exceeds this height at No 106 Upper Holway Road, opposite the appeal site, does not benefit from planning permission and so can be given very little weight in the determination of this appeal). Therefore, despite the increased boundary definition described above, the properties have retained fairly open frontages and this openness is an important part of the character of the area.
6. The submitted plans indicate that for the most part the appeal fence has a height of approximately 1.35m. However, at the north-west corner it rises to around 1.5m. Consequently, it is between 35% and 50% taller than the common height of other erected boundary treatments found in the locality. Given the prominent nature of the site, the resulting greater degree of enclosure is plainly apparent and it has a significant harmful visual impact when observed amongst the characteristic fairly open frontages.
7. The appellant has referred to several benefits derived from the height of the fence as erected when having regard to the site's close proximity to a junction, the pavement and a bus stop. This includes security, privacy, safety and the mitigation of noise, light and air pollution. However, the benefits over an erected boundary treatment of up to 1m in height, consistent with others found in the area, would only be marginal in these respects. Furthermore, the submitted plans show the planting of leylandii to infill the gaps amongst the existing trees adjacent to the front boundary. Once mature, the resulting hedgerow will offer more tangible benefits in relation to the identified issues than the fence. The increased visibility of this soft landscaping would also have a positive effect on the street scene.
8. Consequently, the suggested benefits do not justify or outweigh the identified harm of the appeal development. Furthermore, while the fence has been constructed to a professional standard and it has received some positive comments from local people, it must be duly considered against planning policy.
9. In light of the above, it is concluded the development has an unacceptably harmful effect on the character and appearance of the area. It conflicts with Policy DM 1 of the Council's Adopted Core Strategy 2011-2028 which, amongst other things, seeks to ensure development does not unacceptably harm the character and appearance of any settlement or street scene.

Conclusion

10. For the reasons given above and having had regard to all other matters raised, the appeal is dismissed.

C J Ford

PLANNING DECISION OFFICER

Site: FAIRMEAD, STATHE ROAD, STATHE, BRIDGWATER, TA7 0JJ

Proposal: Replacement of rear conservatory with erection of a two storey extension at Fairmead, Stathe Road, Stathe, Burrowbridge (amended scheme to 51/19/0018) (retention of part works already undertaken)

Application number: 51/20/0007

Reason for refusal: Appeal – Allowed

Original Decision: Delegated Decision – Refusal



Appeal Decision

Site visit made on 26 January 2021 by **C J Ford BA (Hons) BTP MRTPI**

a person appointed by the Secretary of State

Decision date: 26 February 2021

Appeal Ref: APP/W3330/D/20/3261888 Fairmead, Stathe Road, Stathe, Bridgwater TA7 0JJ

- 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 Ian Webb against the decision of Somerset West and Taunton Council.
 - The application Ref 51/20/0007, dated 23 July 2020, was refused by notice dated 23 September 2020.
 - The development is extend work started for a single storey extension commenced under approved application (51/19/0018) to create a two storey extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a two storey extension at Fairmead, Stathe Road, Stathe, Bridgwater TA7 0JJ in accordance with the terms of the application Ref: 51/20/0007, dated 23 July 2020 and subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans; Location Plan, Site Plan Existing, Site Plan Proposed and Drawing Nos 005 Rev A, 006 Rev B, 007 Rev B, 008 Rev A and 009 Rev B.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be in accordance with those specified in the application form.

Preliminary Matters

2. At the time of the site visit the blockwork of the proposed development had been erected up to roof level. However, the ground floor works are part of a previously permitted scheme in relation to a single storey rear extension, (Council Ref: 51/19/0018). Also, I have used a simplified version of the description of the development in the decision above for the sake of conciseness.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the host property and the wider area.

Reasons

4. The appeal property is a traditional brick built two storey cottage. Although its front elevation is fairly wide, the gable ended flanks reveal it is particularly shallow. It has previously been enlarged through a rendered two storey front extension and a timber clad single storey side extension. There is also a rendered single storey lean-to element running along the front of the house which links the two extensions.
5. The dwelling is sited within a large plot which is generally secluded in relation to neighbours and the wider countryside. Public views are limited to those available from an unsurfaced footpath to the north of the site boundary.
6. The appeal proposal involves a two storey rear extension that would be rendered. It spans the full width and is deeper than the original brick built part of the house. The tiled roof would have a twin hipped form that would connect to the main roof and be no higher than the existing ridge.
7. Policy D5 of the Council's 2016 Site Allocations and Development Management Plan supports extensions to dwellings provided they do not harm the form and character of the dwelling, and are subservient to it in scale and design. Due to its large scale and massing it is considered the two storey extension fails to be subservient to the dwelling and harms its form and character. Although the effect on the wider rural area is minimal owing to the secluded nature of the site, it nevertheless conflicts with Policy D5.
8. However, the appellant has the fallback of the permitted single storey rear extension which, excluding the roof, is essentially the same as the ground floor to the appeal proposal. It would therefore be equally wide and deep but have a very large and uncharacteristic flat roof form. Furthermore, the approved scheme enables the extension roof to be used as a balcony. There would be an external staircase on one side and projecting above the roof would be a perimeter balustrade and a log burner flue. The placement of seating and other domestic paraphernalia on the balcony can also be expected.
9. Consequently, the fallback would also vastly change the form and character of the dwelling at the rear ground and first floor levels. Despite the appeal proposal's additional bulk and mass, it is considered the roof form and the cohesive form of a simple two storey extension would more sympathetically integrate with the dwelling's form and character than the fallback. This material consideration is afforded significant weight and leads to a conclusion that the appeal should be determined other than in accordance with the development plan.

Other Matters

10. The appellant has queried the Community Infrastructure Levy required by the Council. However, that is a matter to be agreed between the parties.

Conclusion

11. For the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be allowed.

Conditions

12. The standard time limit condition is imposed, as is a condition specifying the approved plans to ensure certainty. A condition requiring the external materials to be as set out in the application form, (as opposed to simply matching the existing dwelling as suggested by the Council) is imposed to ensure the walls are rendered to purposely contrast with the original brick built part of the dwelling.

C J Ford

PLANNING DECISION OFFICER

Site: Lawsons Burgage, SHURTON LANE, STOGURSEY, Bridgwater, TA5 1QL

Proposal: Alleged unauthorised mobile homes and caravans on site

Application number: ECC/EN/19/00038

Reason for refusal: Appeal – Allowed
Costs - Dismissed

Original Decision: Enforcement Case



Appeal Decision

Hearing Held on 8 February 2021 Site visit made on 11 February 2021 **by P N Jarratt**

BA DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 March 2021

Appeal Ref: APP/W3330/C/20/3249313 Lawsons Burgess, Shurton Lane, Stogursey, Somerset, TA5 1QL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Terry Buller against an enforcement notice issued by Somerset West and Taunton Council.
- The enforcement notice was issued on 11 February 2020.
- The breach of planning control as alleged in the notice is the use of the land for the siting of a mobile home together with the porch and decking and its use as permanent residential accommodation.
- The requirements of the notice are:
 - 1 Permanently cease the use of the land for the stationing of a residential mobile home.
 - 2 Remove the mobile home from the land.
 - 3 Remove the porch and decking attached to the mobile home and remove all materials formerly comprising the porch and decking from the land.
 - 4 Remove all domestic items and paraphernalia from the land.
- The period for compliance with the requirements is 9 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (d) and (g) of the Town and Country Planning Act 1990 as amended.

Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the

Act as amended for the development already carried out, namely the use of the land at Lawsons Burgess, Shurton Lane, Stogursey, Somerset, TA5 1QL, as shown on the plan attached to the notice, for the siting of a mobile home together with the porch and decking and its use as temporary residential accommodation subject to the following conditions:

- i) The siting and occupation of the mobile home dwelling hereby permitted is limited to a period of three years from the date of this permission. After a period of three years from the date of this permission the mobile home, porch and decking and all domestic paraphernalia associated with the mobile home shall be removed from the site.
- ii) The occupation of the temporary dwelling shall be limited to a person solely or mainly working at the Quantock Steamers business at Lawsons Burgage, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.

Procedural Matters

2. In view of Covid restrictions, a virtual hearing was held.
3. For the purposes of the ground (a) appeal the appellant has requested that permission be granted for a limited period of three years for the unauthorised development to provide time for more permanent live/work arrangements to be achieved which would replace the temporary mobile home. I have therefore considered the appeal on this basis.
4. An application for an award of costs was made by the appellant against the Council. This is the subject of a separate decision.

The site and relevant planning history

5. The site is located in open countryside just to the north of the village of Stogursey, identified as a Primary Village in Policy SC1(2) of the West Somerset Local Plan to 2032. Sturton Lane runs along the east side of the site.
6. A mobile home of 12.7 x 6.5m is situated to the south of a former agricultural building currently used for the manufacture of sweet and savoury steamed puddings. The mobile home is occupied by the appellant and his family who sold their home in Stogursey and invested their funds in relocating and expanding their business, Quantock Steamers, on the appeal site. The former agricultural building is used for general and vehicle storage and as kitchens for the steam pudding preparation process, including toilets and washing facilities. Products are retailed at weekend events from a trailer.
7. The planning history of the site includes permission for the agricultural building in 2008; permission for storage of agricultural vehicles and repair and use as automotive workshop in 2012; refusal of prior approval application for conversion of light industrial building to dwelling in 2018; resubmission and refusal of the same in 2018 and appeal dismissed (APP/H3320/W/3217536); retrospective application for siting of mobile home for manager's residential use refused 2019 and resubmission of the same in 2019 (Ref 3/32/19/034).

8. Following the most recent refusal and the appointment of the current agent a detailed business and planning appraisal was prepared which was intended to accompany a revised planning application. These were discussed prior to submission with the planning officer in January 2020 but the enforcement notice dated 11 February 2020 was issued.

The appeal on ground (e)

9. An appeal on this ground is that the notice was not properly served. The appellant states that although the notice is dated 11 February 2020, it was not found in the box at the entrance of the premises until 17 March. This is confirmed in a statutory declaration by Mrs Buller dated 12 November 2020. She adds that the notice indicated that a copy was served on the appellant at his former house in Cannington although this was sold in 2011. Mrs Buller says it was distressing that the notice was received whilst the planning consultant was engaged in pre-application discussions with the planning officer and by the Council refusing to withdraw the notice or hold it in abeyance, thereby leaving little time to respond to the appeal.
10. The Council chose not to serve a Planning Contravention Notice as they considered that the breach and the site location were clear. The Council referred to Land Registry records which indicated that Mr Terry Buller at 6 East Street, Cannington was the registered freeholder of the appeal site. The Council state that the notice was posted through the letter box at this address and at the appeal site on 11 February 2020 by two officers of the Council.
11. It is evident that the appellant did not receive a copy of the notice until 17 March and I note that the appellant states that the Land Registry records that the Cannington house was sold in 2011. The Council has not provided any officer notes or photographs confirming that a copy of the notice was duly posted at the appeal site on 11 February.
12. On the basis of the evidence before me, the notice was not served effectively in that there was a delay before its receipt by the appellant. In reaching this conclusion I attach considerable weight to Mrs Buller's statutory declaration. However, in order for the appeal on this ground to be successful it is necessary to show that a person with an interest in the land has been 'substantially prejudiced'. The appellant confirmed at the hearing that although being distressed by the delay in receiving the notice, this was not 'substantial prejudice' in the context of a ground (e) appeal. It was further confirmed that there were no other persons with an interest in the land upon whom the notice should have been served.
13. Consequently, although the appellant may have been distressed by the notice not being served in the manner it should have been, the fact that a valid appeal has been made leads me to conclude that there has not been substantial prejudice and the appeal on ground (e) therefore fails.

The appeal on ground (a)

14. An appeal on this ground is that planning permission should be granted for what is alleged in the notice.
15. The reasons for refusal of the 2017 and 2019 applications and the reasons for issuing the enforcement notice refer to conflict with Policies OC1, SC1, EC1 and EC6 of the West Somerset Local Plan to 2032 and also to the National Planning Policy Framework (the Framework) at paragraphs 78 and 79. The Council consider that the development represents unsustainable development in the open countryside

where the location of the mobile home is not well related to the services and facilities of the settlement.

16. The Framework at paragraph 79 seeks to avoid isolated homes in the countryside except where particular circumstances apply including where there is an essential need for a rural worker to live permanently at or near their place of work; or where the development would re-use redundant or disused buildings and enhance its immediate setting.
17. Policy OC1 reflects national policy and seeks to restrict development outside existing settlements except in exceptional circumstances. The policy permits development in five categories including where 'such a location is essential for a rural worker engaged in eg: agricultural, forestry, horticulture, equestrian or hunting employment'. This is a list of examples of rural worker employment types and the policy does not indicate that this is an exclusive list, only examples of work engagement, similar to the approach of the Framework.

Policy OC1 also permits development through the conversion of existing, traditionally constructed buildings in association with employment or tourism purposes as part of a work/live development, although the former agricultural building on site is not of traditional construction. The policy requires applications for dwellings to be subject to a functional and economic test and consideration being given to a permission being granted initially on a temporary basis.

18. In terms of the functional test, the appellant states that it is necessary to have a person to manage the steaming process overnight and Mrs Buller confirmed that there could be 5 or 6 production cycles per day in a 72 pot steamer and requiring overnight attendance in two and a half hour sessions on average three times per week. Whilst an overnight shift by a person appears to be required as part of the production process it does not follow that such a person needs to live on the premises. Additionally, the situation in pudding production is very different to that pertaining to emergencies that could arise, for example, where the welfare of livestock is affected. The potential for losses through power cuts or the security of the premises are not adequate justifications for a dwelling on site. I also note that the Bullers sold their house in Stogursey to invest in their business and there is no evidence to indicate that there are no other suitable dwellings in the locality that could accommodate the appellant.
19. The submitted business appraisal and financial information indicate that the business has expanded since it was established in 2017 and to 2019, and has won a supply contract with 'Somerset Larder' with a total manufacturing capacity requirement to 1400 puddings per week which would lead to production at 12-15 hours per day for up to 5 days. The submitted accounts do not show any profits except for the half year to September 2019, largely due to the investment costs associated with the modernisation of the premises, the cost of equipment and other one-off costs. The effect of Covid-19 and the lockdown has significantly affected the business with the main points of sale through country fairs and shows not taking place. Notwithstanding this, the business appears to have been planned on a sound financial basis which under normal circumstances indicates that there would be a reasonable expectation of potential future financial viability. It is accepted that the appellant has requested that a temporary permission be granted for the mobile home and this would normally allow a period of time to review the financial aspects of the business.

20. Policy SC1 identifies the hierarchy of settlements where development will be acceptable. It also permits development in close proximity (within 50 metres) of the contiguous built-up boundary of certain settlements (including Stogursey which is identified as a primary village) subject a number of safeguards. These safeguards require development to be well-related to existing essential services and social facilities within the settlement which should have safe and easy pedestrian access. The Council indicate that the site is some 230m from Stogursey although the appellant refers to the entrance to the appeal site from the lane being 143m. The lane is narrow and does not have any lighting, like most other country lanes in Somerset, but I do not consider the distance from the services in the village to be at an unreasonable walking distance.

Nevertheless the location of the appeal site is in conflict with Policy SC1.

21. Policy EC6 supports new build or conversion of existing buildings to work/live developments. Whilst this does not apply to the stationing of a mobile home, it would be relevant in the context of the appellant's request for a three year temporary permission and his intentions for the conversion of the former agricultural building. The policy is subject to the employment and residential elements being integrated; there being no adverse impact on employment elsewhere; and there being no significant traffic impact. New build will only be allowed where an open countryside location is essential to the business and cannot be provided elsewhere. However, as no new build is involved, an essential need does not have to be demonstrated.

22. The purpose of the policy is to encourage the development of viable work/live accommodation that remains in the long term and the wording of the policy is quite clear. I note however that the policy justification indicates that work/live accommodation should, wherever possible, be sited within or adjacent to existing settlements, which is not the case here, but non-compliant locations are not necessarily rejected by the policy, otherwise the wording of the policy would have specifically stated that to be the case. Additionally, although there are no proposals for a conversion scheme before me, Mr Lawrey at the hearing considered that a work/live unit should look like a house with a ground floor work use. However, the policy does not specify the form that a work/live unit should take.

23. Although policy EC6 is not relevant to the development alleged in the notice, as there are no adverse impacts on employment elsewhere, or traffic implications arising, the principle of the conversion of the former agricultural building to a work/live unit is not expressly excluded by the policy wording.

Fallback Position

24. A fallback position is an important material consideration¹ on the merits of any deemed planning application of which there must be a realistic and not merely theoretical prospect. The appellant must show that a different use is likely to be carried out on the balance of probability and there are no insuperable practical drawbacks to its implementation. The question is whether the fallback would take place and be less desirable than that for which permission is sought.

25. It is contended by the appellant that although the prior approval route for the conversion of part of the former agricultural building is not available, there is a very realistic prospect that planning permission can be obtained for the Buller's original intention to create a manager's dwelling in part of the existing building.

¹ Mansell v Tonbridge & Malling BC [2017] EWCA Civ 1314

Whilst this is a possibility, it is nevertheless speculation until such time as the Council has such an application before them to determine.

26. A second fallback position is also considered to be possible. Should the business fail and the building become redundant then the whole building could be converted to a dwelling in accordance with paragraph 97 of the Framework. This indicates that one of the exceptions to the development of isolated homes in the countryside is where it would involve the re-use of redundant or disused buildings and enhance its immediate setting.
27. The effort by the appellant to seek prior approval for a partial conversion of the former agricultural building and the subsequent attempt to negotiate an acceptable solution with the Council indicates a serious intention to achieve lawful residency on the site. However, the Council disputes that there is any fallback position as no planning permission exists for residential accommodation on the appeal site and any proposal for a dwelling would be contrary to policy on sustainability grounds. I agree with this assessment inasmuch as the prospect of planning permission is only theoretical as partial or complete conversion of the building cannot lawfully take place without such a permission. Whether it would be the case that sustainability considerations outweigh the conformity of future conversion proposals when assessed against Policy EC6 would be a matter for the Council to determine in the event such an application for the conversion of the building is made.
28. Whilst I accept that it is more than probable that the appellant would pursue one of these options, neither course of action would cause more planning harm than the continuation of the siting of the mobile home for residential purposes, which is the subject of the allegation. I therefore attach limited weight to the appellant's claimed fallback position.

The Planning Balance

29. The appellant is seeking only a temporary permission for the mobile home pending the preparation and submission of an application for the conversion of the building to a work/live unit, which he considers will take some 18 months to prepare and submit. Whether such an application would be successful will be for the Council to determine at the appropriate time.
30. The existing siting of the mobile home is contrary to Policies OC1 and SC1 of the Local Plan. Although the term 'rural worker' in paragraph 79 of the Framework and in Policy OC1 is not defined, it is unlikely for it to be interpreted so broadly so as to incorporate the occupation of the appellant. Nevertheless, the business is a small manufacturing business that has employed part-time workers and which makes a contribution to the local economy. There is no essential need for a person to reside permanently on the site and the longer term financial viability of the business has yet to be demonstrated, partly due to the Covid-19 pandemic.
31. The appellant fears for the future of the business if it cannot be supported on site by accommodation and whilst there are no proposals before me for the conversion of the former agricultural building, it appears that in principle a work/live conversion of that building is not expressly excluded by Policy EC6, although this would be for the Council to determine taking into account all relevant policies and other material considerations.
32. On balance, there is a case for the granting of a three year temporary planning permission for the use of the land for the stationing of the mobile home to enable the appellant to progress with and submit a planning application for the conversion of the

former agricultural building to work/live premises. The appellant considers that it would take about 18 months or so for approval to be obtained for conversion and occupation of a work/live development. A three year permission should therefore be more than adequate to achieve this, or in the event that no permission is forthcoming, for alternative off-site accommodation arrangements to be made. In order for progress to be achieved, I therefore intend to grant planning permission subject to conditions restricting permission to be for a period of three years and to an occupancy condition.

33. The Council's proposed condition regarding foul and surface water details is unnecessary as the premises are connected to a digester system serving the mobile home and the building for foul drainage, with surface water running to a soakaway. The appellant advises that these arrangements have been approved by Building Control.

34. The appeal on this ground succeeds.

Conclusions

35. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered.

P N Jarratt

Inspector

APPEARANCES

FOR THE APPELLANT:

Clive Miller MBA BA(Hons) DipTP	Director, Clive Miller Planning Ltd
Helen Lazenby BSc (Hons) Dip TP MRTPI	Director, Clive Miller Planning Ltd
Mike Warren BIACS FEDI	Director, Mike Warren Consultancy
Mrs Anne Buller	Appellant's wife

FOR THE LOCAL PLANNING AUTHORITY:

Alex Lawrey BA (Hons) MCD L- RTPI	Specialist (Planning) Communications
--------------------------------------	--------------------------------------

INTERESTED PERSONS:

None



Costs Decision

Hearing Held on 8 February 2021 Site visit made on 11 February 2021 **by P N Jarratt**

BA DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 March 2021

Costs application in relation to Appeal Ref: APP/W3330/C/20/3249313 Lawsons Burgess, Shurton Lane, Stogursey, Somerset, TA5 1QL

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Terry Buller for a full award of costs against Somerset West and Taunton Council
 - The hearing was in connection with an appeal against an enforcement notice alleging the use of land for the siting of a mobile home together with porch and decking and its use as permanent residential accommodation.
-

Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. It is the applicant's case that the manner in which the enforcement notice was served amounts to unreasonable behaviour by the Council. It was served whilst active pre-application discussions were in train which were cut short due to the notice and deprived the applicant of the opportunity to submit a revised application. At the hearing the Council acknowledged that there should have been better communication by the officer concerned which was partly due to remote working, but the notice was served correctly and after the agent was advised that a notice was being prepared. The serving of the notice does not stop discussions on a new application for the conversion of the main building to a live-work unit but delays in serving the notice could run down the clock in terms of the ability to serve a notice. Two applications for the retention of the mobile home have been refused and it is correct for the Council to serve a notice where there has been an identified breach of control.

4. Whilst the applicant has attempted to resolve the planning issues and submitted applications and an appeal that have been unsuccessful, it is nevertheless the case that there has been a clear breach of planning control. Although the applicant may have concluded that his agent's discussions with local authority officers have been misleading, these are matters more properly dealt with under the Council's own complaints procedure, rather than through an application for a costs award. The serving of the notice was expedient and does not constitute unreasonable behaviour in the context of the Guidance. The applicant has not been deprived of the opportunity to submit a further application as this is a matter entirely under the applicant's control.
5. The applicant also considers that the Council failed to give due weight to the fallback position as a material planning consideration despite the Mansell¹ case being clearly referenced in the evidence. The applicant contends that the Council has not properly considered the weight to be given to the live/work potential of the site and that these matters may well have been drawn out fully during the pre-application process. The applicant also claims that the Council has failed to acknowledge that a live/work conversion of an existing building will conform with Policy EC6 and that it is only new build live/work units in the countryside which need to demonstrate an essential need for a rural location.
6. In respect of the fallback position, the Council consider it is unclear as under Class PA of the GPDO the whole building would need to be converted, as concluded by the Inspector in an earlier appeal decision, and the industrial element would be removed thereby removing the need for mobile home. The Mansell case has little or no relevance to the serving of the notice regarding a mobile home.
7. I am satisfied that the Council has not behaved unreasonably regarding the fallback argument presented by the applicant. The Council has not ignored the argument but reached conclusions different to those sought by the appellant, which they are perfectly entitled to do.
8. Whilst Policy EC6 is relevant in the context of the longer term intentions of the applicant for the conversion of a former agricultural building on the site, it is the stationing of a mobile home that is the allegation in the notice and this is what the Council has addressed and has considered planning policies relevant to that development. In any event, the Council has not disregarded the applicant's position in respect of Policy EC6 but reached their own conclusion on the facts before them.

Conclusions

9. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated in this instance. Accordingly, I refuse the application for an award of costs against the Council.

P N Jarratt

Inspector

¹ Mansell v Tonbridge and Malling BC [2017] EWCA Civ 1314

Site: THREE OAKS, COMBE FLOREY ROAD, ASH PRIORS, TAUNTON, TA4 3NQ

Proposal: Change of use of land for siting of mobile home for use as ancillary annexe accommodation at Three Oaks, Combe Florey Road, Ash Priors (retention of part works already undertaken)

Application number: 02/20/0002

Reason for refusal: Appeal – Allowed
Costs - Refused

Original Decision: Chair – Refusal



Appeal Decision

Site Visit made on 1 February 2021 by **David Wyborn**

BSc(Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2021

Appeal Ref: APP/W3330/W/20/3261062 Three Oaks, Combe Florey Road, Ash Priors, Taunton TA4 3NQ

- 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 Brian Forsey against the decision of Somerset West and Taunton Council.
 - The application Ref 02/20/0002, dated 27 March 2020, was refused by notice dated 17 June 2020.
 - The development proposed is the retention of existing mobile home for use as ancillary annexe accommodation.
-

Decision

1. The appeal is allowed and planning permission is granted for the retention of existing mobile home for use as ancillary annexe accommodation at Three Oaks, Combe Florey Road, Ash Priors, Taunton TA4 3NQ in accordance with the terms of application Ref 02/20/0002, dated 27 March 2020 and subject to the following conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1349-PL-301A, 1349-PL-302 and 1349-PL304.
- 3) The mobile home hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling currently

known as Three Oaks, and shall not become a separate unit of accommodation.

Application for costs

2. An application for costs has been made by Mr Brian Forsey against Somerset West and Taunton Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The mobile home on site was allowed as a unit of separate accommodation for a temporary period while the rural worker's dwelling was being constructed. The new dwelling has been built and provides permanent on-site accommodation to serve the race horse training enterprise at the site. Condition 8 of the planning permission¹ for the dwelling required that within 2

¹ Approved on 2 October 2012 under Council reference 02/12/0011

weeks of the new dwelling being first occupied the temporary dwelling should be removed and the land restored to its former condition.

4. The dwelling is occupied, however, the mobile home which was used as the temporary accommodation remains on site. The application seeks to use the mobile home as ancillary annexe accommodation to the main dwelling.
5. The Council's second reason for refusal, and supplemented in their appeal statement, in essence, argues that as the mobile home should have been removed now the new dwelling has been completed it would contravene its original purpose to remain on site. However, the proposal the subject of the appeal is not based on an application to extend the time period or vary the condition on the original approval. The proposal is a separate planning application based on the case that the mobile home would be used as an annexe. In these circumstances, while I have had regard to the background planning history, it is the merits of the proposal as now argued that are the key considerations.

Main Issues

6. Accordingly, the main issues are:
- whether the proposal would be tantamount to the provision of a separate unit of accommodation in the countryside or an ancillary annexe to the main dwelling and, dependent on the outcome, whether the development plan would support the proposal in this countryside location, and
 - the effect of the development on the character and appearance of the area.

Reasons

Separate unit of accommodation or an ancillary annexe to the main dwelling.

7. The submissions from the appellant explain that the annexe is required to provide additional guest accommodation, for use by apprentice stable hands gaining experience working in the stables, by visiting owners who come periodically to view their horses and to check on their progress, and by visiting members of the family². It was explained that all occupiers would be staying on a temporary basis and would not have exclusive use of the mobile home, using it mainly for sleeping, with most daily activity in the main dwelling. The letter sets out that the majority of meals would

² Letter dated 27 March 2020.

be taken in the main dwelling, and there would be substantial shared use of facilities, such as for laundry, cooking, and socialising.

8. The applicant accepts that any planning permission would be conditional that the mobile home should be used for ancillary domestic use only, and not as a separate dwelling.
9. The third reason for refusal explains, in summary, that the mobile home would be a self-contained unit of accommodation with no functional link to the host dwelling. As a consequence, the Council judge that the proposal would not constitute an annexe but an additional unit of accommodation.
10. A leading case in respect of these matters is *Uttlesford DC v SSE & White [1992]* which determined that, even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling – instead it would be a matter of fact and degree.
11. In this case, the mobile home has been used as independent accommodation in the recent past, is fairly extensive in size, has all the facilities for separate occupation and lies outside the residential curtilage of the main dwelling.
12. On the ground, the mobile home is reasonably well grouped with the main stables building and occupants could share a communal parking area accessed off the only driveway to the site. However, the mobile home is some way across the yard area from the main house and therefore the location is not so convenient and clearly associated with the dwelling that the positions of the mobile home and dwelling would clearly facilitate an ancillary relationship. It is a matter of judgement as to whether the positioning and separation would, as a matter of practical reality and regardless of any occupancy condition, lead to the two elements of the accommodation functioning separately.
13. I give substantial weight to the explanation of the appellant and the submissions whereby it is made clear that there is a need for ancillary accommodation on the site for a range of occupiers. There is no substantive evidence and, on balance, no clear physical reason to conclude that the occupation of the mobile home could not operate in the way envisaged and applied for.
14. The combination of all these circumstances lead me to conclude that the outbuilding would be occupied as ancillary accommodation and not as a separate dwelling. A single planning unit of residential accommodation across the site would be retained. A planning condition in any approval restricting the use to ancillary accommodation would be reasonable and necessary to ensure that the use was appropriately controlled and that a separate unit of accommodation would not be formed in this countryside location.
15. I therefore conclude as a matter of fact and degree, and subject to an appropriately worded condition in any approval, that the proposal should be considered, as proposed in the application, as ancillary annexe accommodation to the main dwelling and not on the basis that it would constitute the formation of a separate unit of accommodation.
16. If the mobile home was not to be used as proposed and there was a breach of planning control in the future to create a separate unit of accommodation, then a separate grant of planning permission would be required, and there would be a risk of enforcement action if such permission was not granted.

17. However, in addition to the above, it is also necessary to consider whether the provision of a mobile home to provide the annexe accommodation would accord with the development plan. The Council draw attention to Policy D6 of the Taunton Deane Adopted Site Allocations and Development Management Plan 2016 (the DMP) which allows for the consideration of ancillary accommodation. The policy does not prevent such accommodation in the countryside and requires that where ancillary accommodation is permitted, planning control over subsequent use or sale as a separate dwelling will be imposed.
18. The Policy sets out an approach which includes the conversion of an appropriate building within the curtilage for such accommodation. In this case, there is not an appropriate building that is available to convert. The garage has not yet been built and the evidence indicates that if this was built and used as an annexe this approach would impact on the finances of the business. The policy also considers the approach when considering the erection of a new building within the curtilage of a dwelling although the policy does not address the circumstances when the proposal is in the form of a mobile home for ancillary accommodation. Nevertheless, as the policy is referenced in a reason for refusal it is reasonable to examine the policy criteria in the context of the present application for the use of the mobile home.
19. In relation to criterion A of Policy D6 of the DMP, it is difficult to judge the impact of an extension to the dwelling compared with the present proposal because there is no extension before me to consider. However, the dwelling is on a slightly elevated part of the site and an extension could potentially be more prominent than the mobile home in its present location depending on the size, position and design of any extension. As I have concluded below that the location of the mobile home does not cause harm to the surroundings it could very well be the case that the appeal proposal would be less damaging than an extension.
20. The retention and use of the mobile home would comply with criteria B, C and D of Policy D6 of the DMP for the reasons explained above. In relation to criterion E, the proposal would not harm the form and character of the main dwelling. As the mobile home is a standard size and a use of the land rather than a building, the individual design is not an issue and the size would be fixed by the legislation for caravans and therefore is not a matter of specific control.
21. It follows that the general policy approach for the provision of ancillary accommodation as set out by Policy D6 of the DMP would not be breached where the criteria was considered applicable to the appeal proposal. This weighs in favour of the scheme.
22. The Council also highlight that the dwelling was permitted to be of a size that allowed for a fourth bedroom to meet the then accommodation requirements of the business and that this bedroom is now used as a store room. However, the appellant has explained the reason the space is used as a store, and the need for the annexe accommodation both in terms of family and business needs. The personal circumstances carry little weight, however, the appellant has explained that the ability to provide accommodation particularly for apprentice stable hands and for visiting owners is very important to the ongoing success of the business. Consequently, the use of the mobile home as proposed would have an economic benefit to the business and this weighs in favour of the proposal.
23. In summary, a new unit of accommodation would not be formed. The scheme would provide an ancillary annexe and on the basis of the above analysis I conclude the proposal would be supported by or not conflict with the relevant policies of the

development plan. In particular, the proposal would accord with the approach in Policies SB1, CP1, CP8 and DM2 of the Taunton Deane Core Strategy 2011-2028 (September 2012) (the Core Strategy), D6 of the DMP and the National Planning Policy Framework which, amongst other things, sets the approach to development in the countryside.

Character and appearance

24. When approaching along the drive, the mobile home is sited in a slight dip in the land and is well screened by a beech hedge and other planting. It is seen within the site against the backdrop of the high hedge along the southern boundary and behind the fairly well established planting to its northern side. The screening and position of the mobile home means that it appears as a fairly minor feature when experienced in conjunction with the more prominent stable barn and new dwelling.
25. Within the wider landscape, the mobile home, or any replacement, is only visible in some limited locations from outside the site. In these locations the reasonably low height of its form, the position in the dip in the site and the established planting mean that it does not cause any material level of visual harm to the rural character of the area. This is especially in the context of it being set amongst the present group of buildings and in the wider surroundings which have a scattering of other structures.
26. The appellant has made the case, that if permission is refused, it would be possible to station a caravan within the curtilage of the dwelling and use it as ancillary annexe accommodation as an alternative to the present proposal. An appeal decision³ from another site setting out the lawfulness of this general type of approach is included in the submissions. While all cases will have their individual circumstances, I consider, given the information on intended occupants and the way they would interact with the main house, that the siting of a caravan/mobile home within the curtilage of the dwelling, in a form that would not require planning permission, is an option that is likely to be available to the appellant.
27. There is space within the curtilage area to position a caravan and I consider that this alternative could be a real prospect to provide the accommodation that the appellant seeks. The dwelling and its curtilage are on slightly higher land and more exposed to views from the open countryside broadly to the north than the site of the mobile home. A caravan within the curtilage is therefore likely to be more prominent and cause some harm within the landscape compared with the mobile home site. Consequently, I consider that this fallback situation lends moderate additional weight in favour of the location of the appeal proposal.
28. In the light of the above analysis, I conclude that the present mobile home in its position does not harm the character and appearance of the area. Accordingly, the proposal complies with Policies CP1, CP8, and DM1 of the Core Strategy which seek, in this respect, amongst other things, that the appearance and character of any affected landscape would not be unacceptably harmed by the development.

Other Matters

29. I have carefully considered all the representations both for and against the appeal proposal together with the comments of the Chairman of the Ash Priors Parish Meeting. The concerns that the mobile home has not been removed as required by

³ APP/L5810/X/15/3140569

the condition are understandable. However, the mobile home is still in place and I am required to consider the proposal on its planning merits. I have already examined the issues regarding the size of the dwelling that was originally permitted to meet the appellant's needs and the arguments now raised both in support and against the additional space.

30. The adjoining landowner has explained that within the main buildings located to the south, livestock are overwintered and there is a machinery/workshop. It is explained that these buildings are directly adjacent to the mobile home and the relationship led to numerous complaints until the dwelling was moved across to the other part of the site. Concerns with the relationship of the mobile home and the adjoining farm buildings have been highlighted by the Council, although this was not progressed as a separate reason for refusal. The appellant has commented on this matter and judges that as they would have flexibility regarding when and how to utilise the annexe that any usual agricultural activities would not prove to be an issue for occupants of the annexe.
31. The mobile home would be an annexe and effectively be used as overflow accommodation and not a separate dwelling. In these circumstances, there would be some flexibility as to how it would be used and, on this basis, I consider that the relationship to the adjoining agricultural buildings would not be so harmful as to justify dismissal of the appeal on this issue.

Conditions

32. I have had regard to the conditions suggested by the Council and the advice in the Planning Practice Guidance. The statutory time limit is required and a condition specifying the approved plans is necessary in the interests of certainty.
33. A condition is necessary to restrict occupation of the mobile home to ancillary accommodation to the main dwelling and for it not to be used as a separate unit of accommodation so as to comply with development plan policies for the location of new residential units across the plan area.
34. The Council seek a condition requiring the removal of the mobile home within 5 years. However, a permanent permission is sought and such a temporary permission would not be reasonable as it would effectively negate the benefits of approval and be contrary to the advice in the Planning Practice Guidance.
35. Furthermore, the Council seek to remove permitted development rights, such as the ability to extend or alter what the draft condition says is a building, or erect outbuildings. However, in this case the proposal is the siting of a mobile home rather than a building and it would not benefit from permitted development rights for extensions and alterations. The area around the building is already fenced and well landscaped and the condition seeking the removal of permitted development rights is not necessary or reasonable.
36. The Council also seek a condition seeking details for approval of the parking areas to be associated with the mobile home. The mobile home would be used as an annexe in conjunction with the main dwelling and there is ample parking available adjoining the dwelling and yard. The condition is, therefore, not necessary in the interests of highway safety or visual impact.

Conclusion

37. For the reasons given above, the scheme would comply with the development plan when considered as a whole and other material considerations do not indicate that a decision should be made other than in accordance with the development plan. Accordingly, and taking all other matters into account, I conclude that, subject to the specified conditions, the appeal should be allowed.

David Wyborn

INSPECTOR



Costs Decision

Site visit made on 1 February 2021 by David Wyborn

BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2021

Costs application in relation to Appeal Ref: APP/W3330/W/20/3261062 Three Oaks, Combe Florey Road, Ash Priors, Taunton TA4 3NQ

- 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 Mr Brian Forsey for a full award of costs against Somerset West and Taunton Council.
 - The appeal was against the refusal of planning permission for the retention of existing mobile home for use as ancillary annexe accommodation.
-

Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises, regardless of the outcome, costs may be awarded against a party who has behaved unreasonably and caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant has set out in the written submissions the case for a full award of costs, on the basis, in essence, that the Council acted unreasonably in respect of the substance of the matter under appeal, and it was unreasonable to refuse planning permission. In particular, it is argued that the Council disregarded the fact that the proposal is for annexe accommodation and instead referred to policies which are not applicable to the circumstances, determining the application on the basis that it would be self-contained accommodation with no functional link to the main dwelling. Furthermore, the Council referenced the mobile home variously, including as a new building and an unauthorised unit of accommodation and, as a consequence of all these matters, this led to the incorrect judgement that the location was one that did not support further residential units. It is argued that this was not an apt description or accurate understanding of the proposal.

4. Additionally, it is argued that the Council made vague, generalised and inaccurate assertions about the impact of the proposal on the character of the main dwelling and on the surroundings. The applicant also makes the case that there was failure to give adequate weight to material planning considerations, including most significantly, the existence of a valid fallback position which would have a greater impact.
5. The applicant believes that the Council has not adequately defended its reasons at appeal. It is explained that it raised arguments such as because the proposed dwelling met the accommodation needs in 2012 no further accommodation should be required, the proposal is contrary to the condition on the original permission to remove the mobile home and the mobile home is effectively a self-contained dwelling, and none of these arguments justify the reasons for refusal.
6. The Council has responded in writing and, in summary, consider that the failure to remove the mobile home in accordance with the planning conditions resulted in the present planning application being submitted and the proposal was correctly determined against relevant policies of the development plan.
7. It is explained that the Council judge that, in accordance with the third reason for refusal, it is not considered that the retention of the mobile home would be less damaging than an extension or conversion. It refers to the garage that has not yet been built which could provide the required accommodation. The Council does not accept that there is a functional link between the mobile home and the new dwelling due to the distance of separation and the mobile home being fully-self-contained and therefore the approach of the Council has been sound and justified.
8. The Council argue that the planning appeal that the applicant submitted was considered but the circumstances were substantially different and had no bearing on what was before the Council for consideration. The Council accept the case made regarding the fallback position, but with qualifications, and that it judged that the removal of the mobile home from its unauthorised position and replacement to the rear of the dwelling would accord with the previous permissions and result in a closer and functional link with the main house.
9. Examining these matters, I consider that the Council placed too much emphasis on the history of the mobile home and the requirement for its removal rather than on the case made that it was now sought to be retained as ancillary annexe accommodation. Nevertheless, even having regard to the stated ancillary way the accommodation would function in relation to the dwelling, it was a matter of planning judgement as to whether the separation of the mobile home from the main dwelling was such that it could not practically function in an ancillary capacity. It will be seen from my decision that I consider that the balance falls in favour of the proposal in this regard, however, as this was a matter of judgement, it was not unreasonable for the Council to conclude otherwise on this planning matter. In these circumstances, there was merit in the analysis which follows from the conclusion that the mobile home would form a self-contained unit and therefore would not comply with the development plan which sought to control new units of accommodation in the countryside.
10. The Council did have some regard to the fallback position and also considered that there were policy compliant options, such as an extension, which would cause less harm to the character and appearance of the area than the appeal proposal. It will be seen that while I disagree with this analysis it was a matter of planning judgement as to the effect of the proposal on the surroundings and for the Council to come to a

conclusion that there would be harm in this respect does not demonstrate unreasonable behaviour.

11. It follows that in relation to the substantive issues, the Council made sufficient planning arguments to defend key aspects of the reasons for refusal and the appeal could not have been avoided.
12. As a result, it follows that in terms of the issues raised by the applicant in the costs claim, I cannot agree that the Council has acted unreasonably in this case. Accordingly, the applicant was not put to unnecessary or wasted expense.

Conclusion

13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the Planning Practice Guidance, has not been demonstrated and an award of costs, either in full or in part, is not justified.

David Wyborn

INSPECTOR

Site: THE CROFT, YALLANDS HILL, MONKTON HEATHFIELD, TAUNTON, TA2 8NA

Proposal: Erection of fencing to the front of The Croft, Yallands Hill, Monkton Heathfield (retention of works already undertaken)

Application number: 48/20/0026

Reason for refusal: Appeal – Dismissed

Original Decision: Delegated Decision – Refusal



The Planning Inspectorate

Appeal Decision

Site Visit made on 23 February 2021 **by T Gethin BA (Hons), MSc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 March 2021

Appeal Ref: APP/W3330/D/20/3262948 The Croft, Yallands Hill, Monkton Heathfield, Taunton, TA2 8NA

- 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 Mrs Sarah Webber against the decision of Somerset West and Taunton Council.
 - The application Ref 48/20/0026, dated 9 June 2020, was refused by notice dated 21 September 2020.
 - The development proposed is described as Erect a fence.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The fence the subject of the appeal has been erected and I observed it in situ on my site visit. I have dealt with the appeal on this basis.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

4. Fronting on to the highway, the appeal site is visible in public views for some distance in either direction along Yallands Hill and the fencing that has been erected is a prominent feature in the locality. The surrounding area contains numerous properties with boundary treatment facing the highway including, amongst other aspects, walls

and fences, some with soft landscaping above, and hedges and vegetated banks. Although this provides the locality with a varied appearance, the generally low walls and fences present, the open driveways and the presence of soft landscaping on many plots means that it has a relatively open and verdant character.

5. The proposed fence is set-back from the highway behind a narrow stretch of grass. However, due to its relatively significant height and its stark and solid appearance, it is an imposing feature that dominates and encloses its surroundings. It therefore reads as an incongruous, harmful addition. In coming to this view, I have taken into account that there are fences in the vicinity of the site that are over 1 metre high, that a 1.8 metre high fence on a nearby property to the east was previously granted planning permission despite numerous complaints from neighbours and that the new housing estates include 1.8 metre high fencing.
6. For the above reasons, I conclude that the proposed development would harm the character and appearance of the surrounding area. I therefore find that it conflicts with Policies DM1 of the Adopted Taunton Deane Core Strategy 2011 - 2028. Amongst other aspects, this requires development to not unacceptably harm the character and appearance of the street scene.

Other matters

7. The appellant indicates that the fencing installed is taller than was intended due to stock levels during the Covid lockdown and that bushes and climbing plants would have been planted which could intertwine the fence to make it less visible. Be that as it may, and despite the appellant indicating that they have started to plant some shrubs, the appeal proposal involves the erection of the fence that is now in situ. I have therefore determined the appeal on this basis, based on the submitted evidence and plans. Although the planting of trees on the inside of the fence would benefit wildlife, I have also little substantive evidence that this activity is dependent on the appeal proposal being allowed.
8. It has been put to me that, prior to the erection of the fence, the over eight feet high beech hedge was becoming dangerous to cut back given its proximity to the highway and was limiting visibility down the hill. Positioned closer to the house, the fence is said to be safer for all and to have improved visibility. Be that as it may, these matters do not provide justification for development that conflicts with the development plan.
9. I recognise that the fence makes the appellant's wife, who has a fear of burglars, feel more secure. An intended new dog, which would also make her feel safer, would be less likely to get under the fence than a hedge, and the appellant also worries that young nieces and nephews visiting could run into the road. In addition, the fence is said to have improved the noise from the road. However, I observed on my site visit that the site's access/driveway from the highway is open and the fence does not prevent access to the front of the property and its front door. It therefore seems to me that the benefits of the appeal proposal in terms of security, safety and noise are likely to be relatively limited and therefore neither outweigh the harm identified nor justify a departure from the development plan.

Conclusion

10. For the above reasons, the appeal is dismissed.

T Gethin

INSPECTOR

Site: BARN A, B, C AND D, PYLEIGH HOUSE FARM, PYLEIGH MANOR FARM LANE, LYDEARD ST LAWRENCE, TAUNTON, TA4 3QZ

Proposal: Prior approval for proposed change of use from agricultural building to dwelling house (Class C3) and associated building operations at Barn D, Pyleigh House Farm, Pyleigh, Lydeard St Lawrence

Application number: 22/20/0002, 22/20/0003, 22/20/0004, 22/20/0004

Reason for refusal: Appeals – Dismissed

Original Decision: Delegated Decision – Refusal



Appeal Decision

Site Visit made on 8 February 2021 by **David Wyborn**

BSc(Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2021

Appeal A Ref: APP/W3330/W/20/3262500 Barn A, Pyleigh House Farm, Pyleigh, Lydeard St. Lawrence, TAUNTON, TA4 3QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
- The appeal is made by Mr & Mrs Richard Churchill against the decision of Somerset West and Taunton Council.
- The application Ref 22/20/0002/CQ, dated 17 March 2020, was refused by notice dated 7 May 2020.
- The development proposed is conversion of barn to dwelling.

Appeal B Ref: APP/W3330/W/20/3262537 Barn B, Pyleigh House Farm, Pyleigh, Lydeard St. Lawrence, TAUNTON, TA4 3QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr & Mrs Richard Churchill against the decision of Somerset West and Taunton Council.
 - The application Ref 22/20/0003/CQ, dated 17 March 2020, was refused by notice dated 6 May 2020.
 - The development proposed is conversion of barn to dwelling.
-

Appeal C Ref: APP/W3330/W/20/3262547 Barn C, Pyleigh House Farm, Pyleigh, Lydeard St. Lawrence, TAUNTON, TA4 3QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
- The appeal is made by Mr & Mrs Richard Churchill against the decision of Somerset West and Taunton Council.
- The application Ref 22/20/0004/CQ, dated 17 March 2020, was refused by notice dated 6 May 2020.
- The development proposed is conversion of barn to dwelling.

Appeal D Ref: APP/W3330/W/20/3262552 Barn D, Pyleigh House Farm, Pyleigh, Lydeard St. Lawrence, TAUNTON, TA4 3QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr & Mrs Richard Churchill against the decision of Somerset West and Taunton Council.
 - The application Ref 22/20/0005/CQ, dated 17 March 2020, was refused by notice dated 6 May 2020.
 - The development proposed is conversion of barn to dwelling.
-

Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.
3. Appeal C is dismissed.
4. Appeal D is dismissed.

Procedural Matters

5. Separate applications have been submitted concerning four different buildings under Class Q of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) seeking approval for the change of use under Q(a) and the building operations reasonably necessary to convert the building under Q(b). Each proposal concerns a separate barn with its individual considerations, although some of the relevant issues are similar.
6. A Structural Appraisal Report has now been submitted to seek to address the reasons for refusal in each case. I have had regard to the Report in my considerations.
7. I noted that at the application stage, the County Council Ecologist had raised a holding objection to the works to Barns A, B and C because of the potential for roosting bats in the structures. As I considered that the presence of bats could be a material issue that may affect the outcome of three of the appeals I sought the views of the appellant on the advice of the Ecologist. The appellant has responded with detailed comments and I have taken them into account as part of my considerations. I

am satisfied, therefore, that no party would be prejudiced by my consideration of this issue.

8. At the appeal stage, information from the County Council Ecologist has raised the issue of recent advice from Natural England regarding nutrient flows from new development within the catchment of the Somerset Levels and Moors Ramsar site. It is explained that because of the impacts there is a need for an appropriate assessment, and depending on the outcome, this could disapply the ability for the proposals, in each case, to be considered under Class Q. The appellant has had the opportunity to comment on this matter at the final comments stage and I will examine the implications of this advice later.

Main Issues

9. The main issues are, in the case of each building, whether or not the proposal is applicable to be considered under Class Q, and if so, secondly, whether it would meet with the conditions and limitations of Class Q.1, and finally, if these circumstances are met, whether prior approval should be granted.

Reasons

Barn A

10. Barn A is a substantially built and traditional building with a tiled roof. It appears to be in reasonable condition and structurally sound. The Structural Appraisal Report, although brief, provides sufficient evidence to affirm this view. I consider that the works proposed to the structure would retain the vast majority of the building and can be considered as a conversion. Therefore, the proposal would be applicable for consideration in terms of Class Q.
11. Paragraph Q.1.(h) sets out one of the limitations for a scheme to be considered as permitted development. This specifies that a proposal would not be permitted development if the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.
12. The plans show that two external staircases would be constructed to facilitate access to the external doors. The staircases incorporate a number of steps and would be of solid construction such that they would not be considered to be *de minimis* additions. Their construction would involve development. The limitation under paragraph Q.1.(h) does not reference floorspace but it is the external dimensions of the building that should not be extended. The definition of a building in the GPDO includes part of a building. The staircases would be attached to and form part of the finished building. The staircases would, therefore, extend the external dimensions of the building at those given points and the limitation under paragraph Q.1.(h) would not be met.
13. As a consequence, I conclude that the scheme would not comply with all the conditions and limitations set out in Class Q.1 and therefore the proposal would not be permitted development. As a result, I do not need to consider the prior approval matters in this case, including any issue in relation to bats that may be present.

Barn B

14. Barn B is another substantially built and traditional building. It has some cracks to the elevations but it still appears to be in reasonable condition and of generally sound construction. The Structural Appraisal Report affirms this analysis. The works

proposed to the existing structure would fall within the bounds of a conversion and therefore the scheme would be applicable for consideration in terms of Class Q.

15. The proposal for this barn includes the erection of a fairly sizeable external ramp and steps to provide access to the external door. This addition would be attached to the external form of the present building and form part of the building. This addition would extend the external dimensions of the building at this given point. This would be contrary to the requirements of paragraph Q.1(h).
16. Accordingly, I conclude that the scheme would not comply with all the conditions and limitations set out in Class Q.1 and therefore the proposal would not be permitted development. As a result, I do not need to consider the prior approval matters in this case, including any issue in relation to bats that may be present.

Barn C

17. Barn C is a reasonably modest sized stone barn at one end of the yard area. It is a substantially built and traditional building with a number of existing openings. While there are some cracks to the elevations it appears to be a solidly constructed building. The Structural Appraisal Report is sufficient to support this analysis. The works would retain the vast majority of the structure and are considered to be a conversion of the building. In this respect the

proposal can be considered under Class Q. The Council has not raised any issue with the conditions and limitations listed under paragraph Q.1 and I have found no reason to disagree. Accordingly, it is necessary to consider the prior approval matters in relation to the scheme.
18. I have noted from the advice from the County Council Ecologist, at the application stage, that there are some opportunities for crevice roosting bats in the structure of Barn C. As the Council did not consider the proposal met with the requirements of Class Q it did not consider this matter further and it did not form a reason for refusal. Given my findings on the preceding matters, this is now a issue which I need to address.
19. I note that no Preliminary Bat Roosting Survey has been submitted as recommended by the County Ecologist in his original advice. Bats are a protected species. The advice in Circular 06/2005 is that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. I consider that this advice is also relevant to the present proposal and the necessary considerations.
20. I note that the submissions indicate that the appellant's own observations have not witnessed bats leaving, entering or inside the buildings, or seen physical evidence of any bats being there. However, in the absence of professional survey information undertaken in accordance with best practice, I attribute these observations limited weight. It seems to me from my site visit that the location of the barn and its features could provide suitable roosts for bats and this is also the view of the County Ecologist whose professional opinion I attribute substantial weight. It would not be appropriate to seek resolution of this issue the subject of a condition in any approval. This is because the nature and extent of any bats are not known and, consequently, there is uncertainty as to what mitigation may be required and whether the design may need to be altered to address this issue.

21. Relying on the fact that causing harm to a bat habitat could be a criminal offence to ensure the protection of any bats that may be present would not be appropriate as it is necessary to take all relevant considerations into account at this stage.
22. As the location of the barn, together with its features, make it potentially suitable for bats to be present I conclude that it would be undesirable for the building in this location to change to a dwellinghouse because of the potential presence of a protected species. The proposal would therefore fail to satisfy the requirements of paragraph Q.2.(1)(e), the wording of which I consider is sufficiently broad to cover this issue. Consequently, I conclude that prior approval should not be granted and the proposal would not be permitted development under Class Q.

Barn D

23. Barn D is an opened fronted portal framed barn. It has an internal metal frame with timber purlins. The enclosed sides have a mix of block work, horizontal timbers, fibre cement sheeting and vertical slatted timber elements. I have carefully considered the Structural Appraisal Report and all the accompanying details. The Report says the roof should be replaced, and is not definitive, in

my judgement, as to precisely what other parts of the structure would or would not be retained as part of the proposal under consideration.
24. In particular, I note that the Report explains that new perimeter walls are to be constructed with the existing 140mm blocks left in place. However, it is also suggested that new lightweight perimeter walls are supported off the new slab with an edge thickening. There is limited detail to the specifications or large scale drawings, for instance, to help me understand whether this approach is consistent and could be undertaken given the condition and mix of external walling that I observed at my site visit. Furthermore, the provision of an edge thickening may be akin to a foundation which is an addition not permitted under paragraph Q.1.(i). I do not have the level of detail to assist me to determine whether this would be the case.
25. Again there is some doubt, in my mind, based on my observations at the site visit, as to whether the timber purlins would be sufficient and while they could be strengthened the details are not available to understand how much of this part of the structure, if any, may need to be removed and what could be retained and strengthened. I have had regard to the final comments of the appellant on this matter and appreciate that the Structural Appraisal Report comes from a qualified professional. However, the detail is brief and not entirely definitive such that I am not able to ascribe any more than limited weight to the Report submissions in respect of Barn D. Because of the form of the structure and its present condition, more detail is necessary to accurately assess the likely extent of works to be undertaken.
26. The ability to undertake works to facilitate a conversion can be quite broad under Class Q, including a replacement roof. However, from my assessment on site and the details submitted with the application, I am concerned that much of the fabric could need to be removed to facilitate the provision of the dwelling. It may be the case that so much of the existing fabric would be lost that effectively only a skeletal frame of the original building would remain. If this was the case, then having regard to the approach set out in *Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2)* [2016] EWHC 2853 (Admin) the works would not fall within Class Q as they would constitute a rebuild and not a conversion.

27. The advice in the Planning Practice Guidance⁴ explains that it is not the intention of the permitted development right under Class Q to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. It is explained, therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.
28. In my judgement, I do not have the necessary and detailed information to accurately assess whether the works would constitute a conversion or a rebuild. Paragraph W.(3)(b) explains that the Local Planning Authority may refuse an application (for prior notification under Part 3) where in the opinion of the authority the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified in this Part as being applicable to the development in question.
29. As a consequence, I conclude that insufficient information has been provided to establish whether the proposed development would comply with the requirement that the works would constitute a conversion and therefore would comply with the requirements of Class Q. Consequently, in accordance with paragraph W.(3)(b) the scheme cannot proceed as permitted development and as a result, I do not need to consider the proposal further.

Other Matters

30. In respect of the potential effect on the Somerset Levels and Moors Ramsar site it appears from the evidence that nutrient flows from new housing and other developments from within the catchment of this habitat site are entering the watercourses and adversely changing the environmental conditions for rare aquatic invertebrates. Based on the information it seems probable that there would be a pathway from the additional dwellings to the habitat site and, therefore, there would be a likely significant effect from each appeal proposal, either alone or in combination with other projects, to the designated site.
31. The grant of planning permission under Article 3(1) of the GPDO is subject to the provisions of the GPDO for each class of development and compliance with regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). Effectively, Article 3(1) provides a precommencement condition which must be met, where the development would affect a European protected habitat, before the works can be undertaken as permitted development. This includes a separate application to the Local Planning Authority under regulation 77 of the Habitats Regulations to allow the Local Planning Authority to undertake an appropriate assessment and, depending on the outcome, this would determine whether, in terms of that matter, the scheme could be undertaken as permitted development under the GPDO.
32. I am not aware that an application to the Local Planning Authority under regulation 77 has been made in respect of any of the proposals and therefore whether this pre-commencement requirement of Article 3(1) could be met. Nevertheless, as the regulation 77 application can be submitted and potentially approved after the grant of prior approval, it is not determinative in respect of the main issues that I have examined and, therefore, I do not need to consider this matter further as part of these appeals.

⁴ Paragraph: 105 Reference ID: 13-105-20180615

33. Two letters of objection from local residents have been submitted and I note that Lydeard St Lawrence and Tolland Parish Council raise no objections to the four proposals. I have taken these views into account, however, they do not materially influence my considerations on the main issues examined above.

Conclusion

34. For the reasons set out above, and having regard to all other matters raised, I conclude that for the specified reasons in each case, all four appeals should be dismissed.

David Wyborn INSPECTOR