

## SWT Planning Committee

Thursday, 22nd July, 2021,  
1.00 pm



Somerset West  
and Taunton

The John Meikle Room - The Deane  
House

[SWT MEETING WEBCAST LINK](#)

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**Members:** Simon Coles (Chair), Marcia Hill (Vice-Chair), Ian Aldridge, Mark Blaker, Ed Firmin, Roger Habgood, John Hassall, Mark Lithgow, Chris Morgan, Craig Palmer, Ray Tully, Sarah Wakefield, Alan Wedderkopp, 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 meetings of the Committee on the 10 and 24 June 2021.

**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

(Pages 5 - 14)

speaker and you will be asked to speak before Councillors debate the issue.

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

Due to the temporary legislation (within the Coronavirus Act 2020, which allowed for use of virtual meetings) coming to an end on 6 May 2021, the council's committee meetings will now take place in the office buildings within the John Meikle Meeting Room at the Deane House, Belvedere Road, Taunton. Unfortunately due to capacity requirements, the Chamber at West Somerset House is not able to be used at this current moment.

Following the Government guidance on measures to reduce the transmission of coronavirus (COVID-19), the council meeting rooms will have very limited capacity. With this in mind, we will only be allowing those members of the public who have registered to speak to attend the meetings in person in the office buildings, if they wish (we will still be offering to those members of the public that are not comfortable in attending, for their statements to be read out by a Governance and Democracy Case Manager). Please can we urge all members of the public who are only interested in listening to the debate to view our live webcasts from the safety of their own home to help prevent the transmission of coronavirus (COVID-19).

5. **3/30/20/004** (Pages 15 - 28)  
Erection of 2 No. luxury canvas holiday lodges (resubmission of 3/30/20/002) Little Haddon Farm, Skilgate to Little Haddon Farm, Skilgate, TA4 2DE
6. **42/21/0031/VSC** (Pages 29 - 36)  
Variation to Section 106 agreement to vary Part 3 of Appendix 3 of the S106 relating to application 42/95/0038 which restricts occupancy to certain user groups at Canonsgrove Halls of Residence, Honiton Road, Trull
7. **10/21/0011 This item is expected to be Deferred - Reason, To allow for the resolution of an outstanding complaint regarding the site.** (Pages 37 - 42)  
Change of use of land from agricultural to mixed agricultural and equine use and laying of hardstanding at Merlands, Stapley Road, Biscombe, Churchstanton (in accordance with amended plans received on 16 April 2021)
8. **21/21/0004** (Pages 43 - 54)  
Erection of summer house at Toms House, Langford Budville Road, Langford Budville (retention of part works already

undertaken)

**9. Appeals Lodged and decisions received**

Latest appeals and decisions received.

(Pages 55 - 76)

A handwritten signature in black ink, appearing to read 'James Hassett', written in a cursive style.

**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](mailto:governance@somersetwestandtaunton.gov.uk)

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

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

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

Due to the temporary legislation (within the Coronavirus Act 2020, which allowed for use of virtual meetings) coming to an end on 6 May 2021, the council's committee meetings will now take place in the office buildings within the John Meikle Meeting Room at the Deane House, Belvedere Road, Taunton. Unfortunately due to capacity requirements, the Chamber at West Somerset House is not able to be used at this current moment.

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

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**SWT Planning Committee - 10 June 2021**

Present: Councillor Simon Coles (Chairman)

Councillors Ian Aldridge, Mark Blaker, Roger Habgood, John Hassall, Marcia Hill, Mark Lithgow, Craig Palmer, Ray Tully, Sarah Wakefield, Keith Wheatley, Brenda Weston and Loretta Whetlor

Officers: John Burton (Planning Nationally Significant Infrastructure Specialist), Jeremy Guise (Planning Specialist), Martin Evans (Shape Legal Partnership), Alison Blom-Cooper (Assistant Director), Tracey Meadows (Governance and Democracy) and Clare Rendell (Governance and Democracy).

Also Present: Councillor D Mansell

(The meeting commenced at 1.00 pm)

10. **Apologies**

Apologies were received from Councillors Firmin, Morgan and A Wedderkopp

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

(Minutes of the meeting of the Planning Committee held on 20 May 2021 circulated with the agenda)

**Resolved** that the minutes of the Planning Committee held on 20 May 2021 be confirmed as a correct record.

Proposed by Councillor Hill seconded by Councillor Lithgow

The **Motion** was carried.

12. **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          | Agenda item | Description of Interest | Reason   | Action Taken                                                   |
|---------------|-------------|-------------------------|----------|----------------------------------------------------------------|
| Cllr M Blaker | 6           | Ward Member             | Personal | Spoke on the item and took part in the debate but did not vote |
| Cllr C Palmer | 7           | Ward Member             | Personal | Spoke and Voted                                                |

|                |   |                        |          |                 |
|----------------|---|------------------------|----------|-----------------|
|                |   |                        |          |                 |
| Cllr L Whetlor | 5 | Ward Member statement. | Personal | Spoke and Voted |

Statement from Cllr Whetlor, Ward Member for Watchet, Williton and Sampford Brett.

I am declaring a personal interest as I live in Liddymore Road. I made a statement, which is of public record on the website, back in 2017 before I was a District Councillor on the Somerset West and Taunton Planning Committee. This was the meeting at which the outline planning application was approved.

Today, I will be listening to the debate regarding Reserved Matters with an open mind and have not made any public statement in this regard.

I also declare that I have been in contact with the Planning Officer dealing with this application regarding access arrangement to the site during construction. The Planning Officer has picked up my question re the Travel Plan with the developer.

I am aware that comments are being made by Watchet Town Council of which I am also a member.

I have discussed the matter with the Monitoring Officer to establish my position.

### 13. Public Participation

| Application No | Name          | Position                                                    | Stance    |
|----------------|---------------|-------------------------------------------------------------|-----------|
| 3/37/20/006    | Mrs R Woods   | Local resident                                              | Objecting |
|                | Mr C Mitchell | Local Resident                                              | Objecting |
|                | Mrs L Bulpin  | Chair of Governors, Knights Templar Community Church School |           |
|                | Cllr J Irvén  | Watchet Town Council                                        |           |
|                | Mr S Collier  | Agent                                                       | In favour |
| 3/30/20/004    | Mr Barber     | Applicant                                                   | In favour |
|                | Mr Dewar      | Agent                                                       | In favour |
|                | Mr Martin     | Skilgate PC                                                 | In favour |
|                | Cllr Mansell  | Ward Member                                                 | In favour |
|                | Cllr Blaker   | Ward Member                                                 | In favour |
| 3/21/21/015    | Ms W Lewis    | Development Manager for the scheme                          | In favour |

### 14. 3/37/20/006

Application for approval of Reserved Matters following Outline Application 3/37/17/020 for access, appearance, landscaping, layout, and scale with

additional information on drainage strategy and levels for a residential development of up to 250 No. Dwellings at Liddymore Farm, Liddymore Lane, Williton, Watchet.

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

- Concerns with traffic when dropping off and collecting children from school;
- Concerns with the impact on existing residents;
- No new homes assessment was made to see if these homes were needed in Watchet;
- The application did not meet the needs of the community;
- Concerns with the lack of infrastructure;
- Concerns that this development would double the size of Watchet;
- Concerns with the lack of a risk assessment so close to the school;
- An amendment, condition or note should be added to the Decision Notice to secure S106 monies for pupils in the catchment area;
- There were no outstanding concerns from Consultees regarding the application;
- This development was unaffected by current phosphate issues;
- This application was fully supported by the Design Panel;
- The applicants have continued to work collaboratively with Officers, statutory consultees and the school;
- The scheme would provide a new staff parking area for the school;
- No construction vehicles would leave the site via Liddymore Road during the school drop off and pick up periods;
- This site provides one of the 5 year housing land supply as it is also one of only a very few sites in West Somerset with a developer on board;
- The site would provide much needed Affordable Housing in West Somerset;

#### **Comments from Members included;**

- Concerns with the heights, orientation and designs of the proposed houses;
- This was an excellent much needed scheme;
- Concerns with the school entrance and access to the site;
- Concerns that there was no transport plan in place;
- Concerns that the elderly residents on neighbouring roads were not taken into consideration in the construction of the site;
- Concerns that emergency services would not be able to access the site once it was built;
- Concerns with child safety;
- Traffic calming measures were needed to stop speeding vehicles speeding down these narrow lanes;
- Concerns with the adoption of the new road once the site was completed;
- Concerns with climate emergency and the heating of the homes;
- The green spaces would enhance the estate;
- Concerns with shared parking spaces and on street charging points;

- Concerns that there were no public transport links to the site;
- Screening for the car park was needed;
- Pleased with the 35% Social Housing allocation on the site;
- Concerns with the size and density of the development within the area;

Councillor Hill proposed and Councillor Wakefield seconded a motion for the application to be **APPROVED** and for the Conditions to be agreed by the Chair (or vice-Chair) in consultation with the Council's lawyer.

The **motion** was carried.

15. **3/30/20/004**

Erection of 2 No. luxury canvas holiday lodges (resubmission of 3/30/20/002)  
Little Haddon Farm, Skilgate to Little Haddon Farm, Skilgate.

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

- The property was previously near derelict and structurally unsafe with the land unkempt and overgrown;
- A Woodland Creation grant was secured to plant over a thousand native broadleaf trees which supported the latest government plans to combat climate change;
- A local service was provided to the local community by selling hay and meat boxes but unfortunately this was not enough to make this a viable business so we must look at diversification;
- The proposal would provide a unique tourist accommodation that fully supported the needs of individuals with disabilities which was only available to able bodied people in the UK;
- The application was Policy compliant with the Policies stated in the reason for refusal;
- The proposal was similar to others in West Somerset but was more inclusive as it catered for disabled visitors;
- No objections, only strong support from members of the public and the Parish Council;
- No objections from consultees;
- The economic impact of this application was important for the community as it was the first example of framing diversification in the Parish;
- The site was obscured by a significant band and hedge with noise, disturbance and smells insubstantial as there were no near neighbours;
- There would be no impact on the trees of other listed buildings in the area;
- The scale of the project was modest so no traffic congestion would ensue;
- The facility would modestly provide supplementary benefit to the local community;
- Concerns that people with disabilities were excluded from leisure activities that able bodied people take for granted;



At this point in the meeting a 30 minute extension was proposed and seconded.

- This application did not accord with our Policies;
- Concerns that application would set a precedent if approved;
- The local people and the Parish Council supported this application;
- Concerns with the lack of disabled facilities in the West Country;
- This application made good use of the land and should be supported;
- This application was clearly diversification;
- The application would bring life and vitality to the area;
- There would be no detrimental impact to the surrounding area;
- There would not be any increased vehicle movement to the area;
- This application would bring tourism to the local community so should be supported;

At this point in the meeting a 30 minute extension was proposed and seconded.

Councillor Habgood proposed and Councillor Wakefield seconded a motion for the application to be **DEFERRED** to seek further information and clarification on the applicant's Business Plan and to assess whether the Business Plan could be considered to justify an exception to the relevant policies of the adopted West Somerset Local Plan;

The **motion** was carried

16. **3/21/21/015**

Erection of 54 No. low-carbon affordable homes with associated works at Land at Seaward Way, Minehead

**Comments by Members included;**

- This was an exciting development as there was a desperate need of social housing;
- A budget for a safety net was required to ensure that cricket balls from the Cricket Club did not go into the gardens of the new homes;

The Chair further extended the meeting to conclude business.

- Buses needed to be encouraged to use this route;
- Right to Buy issues. This needs to be extended to 15 years;
- Great to see affordable houses coming to Minehead;

Councillor Hill proposed and Councillor Wakefield seconded a motion for Conditional Approval to be **APPROVED**

The **motion** was carried

17. **Latest appeals and decisions received**

The appeals and decisions would be noted at the next meeting.

(The Meeting ended at 5.40 pm)

## SWT Planning Committee - 24 June 2021

Present: Councillor Simon Coles (Chair)

Councillors Marcia Hill, Mark Blaker, Roger Habgood, John Hassall, Janet Lloyd, Craig Palmer, Sarah Wakefield, Brenda Weston and Loretta Whetlor

Officers: Rebecca Miller (Principal Planning Specialist), Martin Evans (Shape Legal Partnership), Simon Fox (Planning Specialist), Alison Blom-Cooper and Tracey Meadows (Democracy and Governance) and Marcus Prouse (Democracy and Governance)

Also Present: Councillor Johnson

(The meeting commenced at 1.00 pm)

### 18. Apologies

Apologies were received from Councillors Aldridge, Firmin, Lithgow, Tully and A Wedderkopp

### 19. Minutes of the previous meeting of the Planning Committee (to follow)

(Minutes of the meeting of the Planning Committee held on the 10 June 2021. (to follow))

### 20. 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 S Wakefield | 42/21/0004      | Ward Member. Correspondence received from members of the public. Spoken to the Planning Specialist about the site. | Personal | Spoke and Voted |

### 21. Public Participation

| Application No. | Name | Position | Stance | Attended |
|-----------------|------|----------|--------|----------|
|-----------------|------|----------|--------|----------|

|            |                |                                |           |                    |
|------------|----------------|--------------------------------|-----------|--------------------|
| 42/21/0004 | Mr T Smith     | Local Resident                 | Against   | Via Zoom           |
|            | Ms C Warburton | Local Resident                 | Against   | Via Zoom           |
|            | Mr E Orr       | Higher Comeytrove Farm         | In favour | Via Zoom           |
|            | Mr M Oliver    | Local Resident                 | Against   | In person          |
|            | Tessa Dean     | Chair Neighbourhood Plan Group |           | Statement read out |
|            | Mr L Turner    | Associate Director, Boyer      | In favour | In person          |
|            | Cllr D Johnson | Ward Member                    |           | In person          |

22. **42/21/0004**

Application for approval of reserved matters following outline application 42/14/0069 in respect of the appearance, landscape, layout and scale for the erection of 166 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 together with additional details as required by Condition No's. 7, 9, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21 and 23 on land at Parcel H1d, Comeytrove/Trull

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

- Concerns with the developer's noncompliance of conditions;
- Concerns that the homes were not adapted for climate change;
- Issues with access, flooding, and designs;
- Concerns that the allocated Public Open Space was to become fallowed land for the foreseeable future;
- The current closure of footpath T29/11 has highlighted the dangers of crossing the A38 close to or at the Jeffreys' Way junction. Clearing and levelling that land will facilitate construction of the footway and greatly improve forward visibility towards and beyond the road's existing bend, that will extend and tighten as you approach the new offset roundabout.;
- Extending the proposed footway on the south side of the A38 roundabout to Jeffreys' Way would allow pedestrians to cross safely in two stages via the new roundabout's splitter island that has a footway proposed across it;
- The allocated S106 monies would be better spent on the A38;
- Disappointed that this fourth parcel of land has come forward for consideration today;
- The houses were not aligned with the Garden Town requirement to respect traditional settlement pattern and respect the integrity of historical settlement forms;
- The homes were generic, mostly semi-detached and crammed together as tightly as possible;
- The Placemaking Specialists recommended refusal for this application;

- The Neighbourhood Plan called for Lifetime Home Standards in at least 25% of new homes and houses built to Wheelchair Design Standards in at least 10% of new homes. We had neither and in addition a high proportion of houses had several steps to the front door further limiting access;
- Concerns that the application did not have an acceptable SUDS scheme in place;
- A huge amount of public consultation has been undertaken over the years. The applicants were committed to work with the Council to deliver this important site that delivers new and affordable homes that Taunton needs to help young people get onto the housing ladder;
- Many of the issues raised by members of the public had been resolved with the Planning Officer and would hopefully provide some comfort and clarification;
- There were no objections on the application from consultees;
- The application pre-dated the Council's Design Guide, Garden Town and Climate Emergency agenda status by several years;
- An approved high-quality landscape scheme that would provide Parks and Gardens, Children's play spaces, allotment, orchards and the planting of nearly 500 new trees and over six acres of new native pitches woodland for future residents to enjoy;
- Concerns that comments from the place making specialist were yet again dismissed;
- The development lacked imagination and seemed to be based on a 1980's style estate;
- Concerns that despite the needs of our community, we have many elderly, infirm and disabled no proposed bungalows were being erected on the vast site;
- Concerns with the lack of wheelchair accessible properties;
- Concerns with the lack of on street visitor parking;
- Concerns that the storage for refuse storage was inadequate and impossible for disabled householders to carry their recycling for distances that required this to be carried through their properties;
- Concerns that the development did not reach the Somerset West and Taunton SADMP policy 10 that "a minimum of 3% of new dwellings on developments of 30 dwellings or more should be built to full wheelchair standards";

#### **Comments from Members included;**

- Concerns with the boundary (ransom land) that is the Higher Comeytrowe farm adjacent to the Equestrian Centre;
- Concerns with Condition 26 – (No dwellings are to be occupied until a network of cycleway and footpath connections had been constructed within the development);
- Concerns with accessibility and the number of properties that had steps up to them, not only for the disabled but also families that had pushchairs;
- There needed to be more emphasis within the play equipment for accessibility for the disabled;

- Concerns with the public open space on H1D and it's requirement in the S106 to this being constructed;
- The properties were bland for a Garden Town;
- Concerns that the 3% allocation for people with disabilities was to low;
- Concerns had been raised within the Committee that the Policy on accessibility building percentages had not been met. The Committee asked the developer to make sure that this practice did not carry forward into the future phases of this site;

Councillor Habgood proposed and Councillor Hill seconded a motion for **Conditional Approval** with alterations to stated conditions 01 and 06 and delegated to Officer's in collaboration with the Lead Planning Specialist and Chair to resolve the final points of negotiation regarding Outline Conditions 26 and 29;

The **motion** was carried.

23. **Latest appeals and decisions received ( Previous meeting 10 June 21)**

Appeals and decisions noted.

24. **Appeals received**

Appeals noted.

(The Meeting ended at 2.45 pm)

|                         |                                                                              |
|-------------------------|------------------------------------------------------------------------------|
| <b>Application No:</b>  | <a href="#">3/30/20/004</a>                                                  |
| <b>Parish</b>           | Skilgate                                                                     |
| <b>Application Type</b> | Full Planning Permission                                                     |
| <b>Case Officer:</b>    | Chris Mitchell                                                               |
| <b>Grid Ref</b>         | Easting: 299493    Northing: 127450                                          |
| <b>Applicant</b>        | Mr Barber                                                                    |
| <b>Proposal</b>         | Erection of 2 No. luxury canvas holiday lodges (resubmission of 3/30/20/002) |
| <b>Location</b>         | Little Haddon Farm, Skilgate to Little Haddon Farm, Skilgate, TA4 2DE        |

## Recommendation

Recommended decision: Refuse

### Reasons for refusal:

- 1 The proposal by reason of its siting in an isolated countryside location and without sufficient information to demonstrate that such a new build proposal ought to be allowed as an exception to Policy OC1 in order to benefit existing employment activity already established in the area, would be harmful to the aims of delivering sustainable development contrary to policies OC1, EC9 and EC11 of the adopted West Somerset Local Plan to 2032.
- 2 No ecological survey of the application site has been carried out to establish if there are protected species within the grassland on site and if the proposed parking and paths cause harm. Given the nature of the site and the scale of works, there is insufficient information within the application to demonstrate whether protected species are, or likely to be present on or near the development site and whether the proposed development would affect the protected species. As such the proposal is contrary to Policies DM2 and CP8 of the Taunton Deane Core Strategy, Government circular 2005/06 on biodiversity and geological conservation and Chapter 15 of the National Planning Policy Framework.

### Informative notes to applicant

- 1 In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has looked for solutions 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 the placement of two luxury canvas holiday lodges (safari style tents) on land called the park to the east of the main farmhouse of Little Haddon Farm. The Lodges would cater for persons with disabilities (including wheelchair users) with associated parking and the planting of hedges to the west of each tent. The tents would be fixed to a timber base with waterproof canvas structure finished in natural colours so as to blend in with the surrounding landscape.

They would measure 5.5m wide by 11m in length and be in cruciform design, some 50 sq.m, with a maximum height of 3.5m. Each lodge will provide an open plan living/dining/kitchen area with wood burning stove, 2 wetrooms and WC's and 2 bedrooms with decked areas to the front and rear.

Off road parking is shown, with access into the site as existing off an unnamed road which splits from the B3190. The parking area would be finished with a Hoggin permeable surface an access track that would also run along the northern boundary of the site with a single parking space to each of the lodges would be a grass matting. The southern boundary would be strengthen with additional planting of 2 *Acer campestres*, 1 *Sorbus aria*, *Amelanchier lamarckii* and 1 *Prunus avium*. *Acer campestre* is Field Maple. It's a native tree, often found in hedgerows. It is mid-sized. *Sorbus aria* is Whitebeam, which is native to many parts of the UK. and a mid-sized tree. *Amelanchier lamarckii* is Snowy Mespil, an attractive flowering tree which is not a native tree, but is quite commonly planted in gardens. *Prunus avium* is Wild Cherry, a native tree, potentially quite a large tree.

This application is a resubmission of application 3/30/20/002 which sought permission for 3 luxury canvas holiday lodges, but was refused by decision notice dated 9th October 2020.

## Site Description

Little Haddon Farm is located within the open countryside, to the east of the small village of Skilgate, near to the boundary of Exmoor National Park which lies to the west. There is a watercourse running through the site north-south with the land sloping up on either side. From the main entrance to the site, the land slopes gently up to the north with the north part of the site affording attractive long range views to the south. The nearest neighbour is a dwelling house beyond the northern boundary of the site. The site comprises a detached farm house and various outbuildings set within 18 acres of pastureland. The site is separated into seven distinct areas as follows:

1. The Farm Yard - currently accommodating the existing farm house (the



applicant's home), site of the former Dairy (partially demolished) and a number of other outbuildings

2. The Orchard - proposed to accommodate the kitchen garden and free range chicken area
3. Linney-Piece - 6 acre field, intended to be used for grazing sheep and horses.
4. Cross-Piece - 5 acre field, intended to be used for grazing sheep and horses
5. Great Meadow - 3 acre meadow
6. Park - 1 acre paddock to accommodate 2 x safari lodge, (subject of this application)
7. Homefield - 1 acre paddock used for grazing.

The site falls within Flood Zone 1. There are no listed buildings or other heritage assets on, or nearby, the site.

The applicant currently has 47 sheep, 2 pigs, 4 geese and 8 chickens and later this year lambs will be sold as meat boxes. The applicant has confirmed that they are currently farming a total land area around 6.73 hectares.

### **Previous Committee**

The application was presented at the Planning Committee on 20 May 2021. The application was deferred by Members as the officer report did not contain an assessment of the Business Plan that was submitted in support of the application. The Committee requested that this should be included in an updated report. Officers have now included details of the Business Plan submitted to support the development of two glamping tents for persons with a disability.

### **Relevant Planning History**

**3/30/20/002** – Erection of 3 No. luxury canvas holiday lodges set within two private paddocks at Little Haddon Farm – Refused by decision notice dated 9th October 2020, for two reasons -

(1). The proposal by reason of its siting in an isolated countryside location and without sufficient information to demonstrate that such a new build proposal ought to be exceptionally allowed as required by Policy OC1 to benefit existing employment activity already established in the area, would be harmful to the aims of delivering sustainable development contrary to policy OC1 of the West Somerset Local Plan to 2032

(2) When considered cumulatively, the proposed lodges by reason of their overall size, scale, residential appearance, decking areas and associated paraphernalia would result in incongruous and discordant features in the open countryside location and would be conspicuous as having an urbanising effect on this open area of land which would change the landscape character to a more urban form, introducing development into an area where the landscape dominates which would be detrimental to and adversely affect the visual amenity of the area. The proposal would cause harm to the landscape character and appearance of this open countryside area, failing to conserve and make a positive contribution to the character of the open countryside. As such the proposed development would be

contrary to policies OC1, EC9 and NH13 of the West Somerset Local Plan to 2032

A pre-application enquiry for the conversion of an old building at the site into accommodation was considered under reference **Pre/30/19/001**. The case officer concluded that the original building was largely dilapidated and not capable of conversion without substantial structural rebuild. Therefore, it would not, in policy terms, come under the accepted view of a conversion of an existing, traditionally constructed building.

## Consultation Responses

### *Skilgate Parish Council -*

Stated that they are broadly supportive of this application and had not received any adverse comment..

### *Highways Development Control -*

The proposed site lies off a classified unnamed road in a derestricted area. Access would be via an existing field gate where it is presumed would still be used by agricultural vehicles for internal maintenance purposes. In terms of vehicle impact on the local highway network considering the proposal would be seasonal, likely to be outside the daily peak times and modest in terms of daily vehicle movements when in use, the Highway Authority do not view this application as likely to have a severe impact on the local highway network. The proposal would see a material increase in vehicle movements from the access. However the applicant states the proposed access has unrestricted visibility although this has not been clarified or demonstrated through a suitable scaled drawing that this has been considered in line with appropriate design guidance.

Manual For Streets would be appropriate. There would appear scope to provide improved visibility splays if required. The applicant firstly demonstrates suitable visibility splays can be achieved from the access proposed onto both the immediate and secondary road (given the proximity of the access) and in line with Manual For Streets that can then be secured through condition.

### *Landscape -*

#### *Original comments dated 11/02/2020 -*

I have four main concerns which are:

- The access and car parking needs to be carefully considered so as not to impact on the rural character of the area. I recommend keeping the cars as close to the entrance as possible rather than adjacent to the tents, and using a hoggin type permeable surface to reduce run-off and wider visual impacts.
- The existing hedgerow is thin in several places and needs thickening with local native species where required. I would also recommend a hedgerow management condition to ensure that the hedgerow is managed and maintained to provide at least 2.5m height with trees singled out within the

hedgerow to provide longer term screening and to help integrate the proposals into the local area.

- The tents are likely to be most visible during the winter months so I would recommend them be limited from March to end of October.
- Any further 'domestic' type features such as washing lines and decking should be limited and if possible controlled through planning condition.

Subject to the above I consider that the two tents would meet the requirements of relevant landscape policies in maintaining the landscape character of the area.

*Further comments dated 17/05/21 -*

The landscape plan is wrong when it says scale 1:5000. I recommend only locally native trees in this area so I recommend that the Amelanchier is replaced with Acer campestre and the Sorbus aria with Sorbus aucuparia.

Given the importance of the hedgerow in providing shelter and screening to the site it is important that a hedgerow management plan showing how the existing hedgerows will be managed over the next 20 years is produced. I suggest that this can be done by condition such as:

The native species boundary hedges provide both ecological and landscape benefits that are essential for the scheme to meet the requirements of Policy CP8. To maintain those benefits the applicants will undertake an assessment of the existing hedgerow and from that assessment produce a 20 year management plan that encourages greater diversity of species along with favouring larger growing tree species as maiden trees. The plan will show how through management and maintenance the hedgerow can provide longer term visual screening of the proposed development as well as increasing its biodiversity interest. The landscape and ecological management plan will be produced and approved before development commences on site and recommendations within it implemented in a timely fashion.

*Wessex Water Authority -*  
No comments received

*Tree Officer -*  
No comments received

*SCC - Ecologist -*  
Holding objection dated 15<sup>th</sup> June received after the Committee Presentation

From the site layout plan I'm concerned on the impacts of vehicle access across the grassland to reach the proposed parking locations particularly if visitors would need to drive alongside hedgerows.

There is no ecology report to support this application. The applicant will be required to commission a Preliminary Ecological Appraisal, which may recommend further surveys and mitigation, as required. Surveys shall be undertaken in accordance

with

nationally recognised guidelines (BS 42020:2013 Biodiversity - Code of practice for planning and development and CIEEMs Guidelines for Preliminary Ecological Appraisal 2017, with the Ecologist being a member of the Chartered Institute for Ecology and Environmental Management (CIEEM).

This action is required in line with:

Section 99 of the Government circular 2005/06 on biodiversity and geological conservation states 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.' The Government circular 2005/06 on biodiversity and geological conservation states that 'Use of planning conditions to secure ecological surveys after planning permission has been granted should only be applied in exceptional circumstances Natural England advice requires that all developments likely to affect European Protected Species should have surveys carried out to inform the planning decision. They cannot be conditioned. This was confirmed in case law through Woolley v Cheshire East Borough Council and Millennium Estates Limited in 2009. Establishing presence of/implications upon protected species/habitats in the National Planning Policy Guidance (NPPG)

(<https://www.gov.uk/guidance/natural-environment#biodiversity-andecosystems> and Standing Advice/Gov.uk

Guidance <https://www.gov.uk/guidance/protected-species-how-to-reviewplanning-applications#when-applicants-need-a-species-survey>

## Habitats Regulations Assessment

Not Applicable.

## Representations Received

Original proposal -

There have been 5 letters of support to the application stating the following:

- This proposal will provide people with disabilities to have holiday within the countryside;
- This accommodation will provide economic benefit for the local area supporting local pub and other small business within the area;
- It will have no negative impact upon neighbours;
- Traffic impact and highway safety is negligible.

Revised proposal -

There has been 1 letter of support to this application stating the following:

- Support the proposal for a unique holiday opportunity for persons with

- mobility impairments;
- There are no other accommodation facilities as proposed within Devon and Cornwall.

There have been no further comments to the application following the presentation to Committee on 20<sup>th</sup> May 2020.

Cllr Mansell – Ward Member – supports the application

- This is a small specialist glamping site in a secluded part of Little Haddon Farm;
- It will provide seasonal accommodation designed for persons using wheelchairs;
- There will be minimal impact upon the local landscape and highways;
- It is compliant with Policy EC9 (Tourism) on tourism outside settlements and is essential to the business and does not affect neighbouring settlements and complements existing tourism within the area.

## **Planning Policy Context**

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

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

Relevant policies of the development plan are listed below.

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

|      |                                              |
|------|----------------------------------------------|
| OC1  | Open Countryside development                 |
| EC9  | Tourism outside settlements                  |
| EC11 | Agriculture                                  |
| CF1  | Maximising access to recreational facilities |
| NH13 | Securing high standards of design            |
| SC1  | Hierarchy of settlements                     |
| EC1  | Widening and strengthening the local economy |
| DM/1 | Mixed-Use Development                        |
| TR2  | Reducing reliance on the private car         |

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

|     |                              |
|-----|------------------------------|
| OC1 | Open Countryside development |
|-----|------------------------------|

|      |                                              |
|------|----------------------------------------------|
| EC9  | Tourism outside settlements                  |
| EC11 | Agriculture                                  |
| CF1  | Maximising access to recreational facilities |
| NH13 | Securing high standards of design            |
| SC1  | Hierarchy of settlements                     |
| EC1  | Widening and strengthening the local economy |
| DM/1 | Mixed-Use Development                        |
| TR2  | Reducing reliance on the private car         |

T/7 Non-Residential Development Car Parking

## Community Infrastructure Levy

The proposal is not liable for CIL.

## Determining issues and considerations

### Local Plan policy.

The key considerations are whether the proposed development complies with the West Somerset Local Plan. The two key policies are policy EC11 (Agriculture - Farm Diversification) and policy OC1 (Open Countryside Development).

Policy EC11 (Agriculture – Farm Diversification) states that development proposals for farm diversification which help to support the agricultural economy will be supported where it does not conflict with sustainability considerations. This policy has been referenced by the agent within their business plan which provides details of the size of the farm. This consists of some 6.73ha (some 18 acres) of land, with the applicant currently operating with 47 sheep grazing, 2 pigs, 4 geese and 8 chickens. The business plan has been considered but in officers' opinion it does not sufficient evidence that these glamping tents are required to support the existing farming business as part of farm diversification and provide sufficient justification that it does not conflict with sustainability considerations.

There is no definition how much land and number of animals are required for it to be defined as a Farm and it is therefore a judgement that each Local Planning Authority (LPA) has to make and in assessing each case on its merits. In general it is considered that a Farm should be a business that is large enough to support the primary livelihood of persons managing land and animals without the need for supplementary income. Having considered this case in respect of the amount of land managed by the applicant and the number of animals on the land, it is the LPA view that the business is not sufficient of sufficient scale to be classed as a large-scale farm, but is more akin to a small holding.

This farm business is therefore not classed as a large-scale farm which Policy EC11 (Agriculture) was designed to be judged against for additional revenue to be

generated to support agricultural businesses. Consequently, the proposed development does not comply with the aims of the policy.

Whilst other sites within the local area may have had approved similar rural tourism, Somerset West and Taunton Council has declared a 'Climate Emergency' with implications ranging across all the Council work areas. In response, Strategic Planning colleagues have produced a Carbon Neutrality and Climate Resilience (CNCR) Plan which notes that isolated rural locations are highly dependent upon the private motorcar.

The site is a farm located outside of recognised settlement limits so policies OC1 (Open Countryside developments), EC9 (Tourism outside of settlements) and TR2 (Reducing the Reliance on Private Cars) are relevant. The site is within the open countryside which includes all land outside of existing settlements, where development is not generally appropriate. In exceptional circumstances, development may be permitted where this is beneficial for the community and local economy.

Policy OC1 makes clear that development in the open countryside (land not adjacent or in close proximity to the major settlements, primary and secondary villages) will only be permitted where it can be demonstrated that either:

- Such a location is essential for a rural worker engaged in e.g: Agricultural, Forestry, Horticulture, Equestrian or Hunting employment, or;
- It is provided through the conversion of existing, traditionally constructed buildings in association with employment or tourism purposes as part of a work/live development, or;
- It is new-build to benefit existing employment activity already established in the area that could not be easily accommodated within or adjoining a nearby settlement identified in policy SC1, or;
- It meets an ongoing identified local need for affordable housing in the nearby settlement which cannot be met within or closer to the settlement, or;
- It is an affordable housing exceptions scheme adjacent to, or in close proximity to, a settlement in the open countryside permit.

As set out above the Business Plan details that the applicants are employed with farming in the local area with 18 acres (6.73 Ha) of pastureland and farm sheep, pigs, chickens and geese and haylage divided into 7 areas. The land holding and number of animals farmed are not sufficient to be considered to constitute a farm but it is more akin to a small holding. In respect of bullet point 3 of Policy OC1, whilst the proposal does benefit existing employment activity already established in the area and a case has been made to demonstrate that the proposed development could not be easily accommodated within or adjoining a nearby settlement identified in policy SC1. Officers do not agree that the proposal would be an overriding reason to approve this application under Policy EC11 (Agriculture) as the associated business is as detailed previously a small holding of some 7.3ha (18 Acres) not a proper farm due to its size. Consequently, the land holding would not be of sufficient size to be considered for farm diversification as detailed previously in this report.

The proposal does not satisfy any of the criteria under Policy OC1 (as listed above).

Bullet points 1, 2, 4 and 5 are not applicable to this proposal. The proposal is therefore contrary to policy OC1 of the adopted Local Plan.

Policy OC1 has a general presumption against new residential development in open countryside locations, noting that "dispersed development disproportionately increases transport demand which can usually only be fulfilled by use of the private car. The local road network is largely composed of single-lane country roads.

On balance, it is considered that the business plan submitted to support the proposed farm diversification does not meet policy EC11 and it is considered that the proposed development is contrary to policy OC1 as it would result in new development in the countryside.

Policy TR2 that seeks to reduce reliance upon the private car. As no public transport options are available to access the site it is considered very likely that any new holiday accommodation would necessitate a reliance on the use of the private car and as such the location is considered to be unsustainable. There is therefore an in principle conflict with the proposal as per policy OC1.

POLICY EC9 (Tourism outside of settlements), identifies that tourism development outside settlements will only be supported where it can be demonstrated that –

- The proposed location is essential to the business and that it could not be located elsewhere, and;
- It does not adversely affect the vitality and viability of the neighbouring settlements, and;
- It complements existing tourism service and facility provision in neighbouring settlements and surrounding area without generating new unsustainable transport patterns.

Currently the farming is limited 47 sheep grazing on pasture land of which the applicants have 6.73 Ha (18 acres) and keeping 2 pigs, 4 geese and 8 chickens. There are no other farm diversification activities at the site (see above for land uses). The application does not satisfy the criteria of Policy EC9. Being located outside a settlement, it is not essential to the functioning of the remainder of the land. The policy seeks to allow for the provision of additional tourist attractions outside existing settlements subject to environmental and viability safeguards. Whilst it is detailed within the business plan that there is a need for holiday accommodation for persons with a disability as the site is located close to Wimbleball Lake who are providing water activities, this is not an overriding reason to allow such development in the countryside where it could be provided in neighbouring settlements. It is therefore considered that the proposal does not meet the requirements of policy EC9.

Whilst para 83 of the National Planning Policy Framework (NPPF) encourages sustainable growth and expansion of all types of business in rural areas and diversification of agricultural land as stated previously this business is not classed to be a farm.

Evidence has been submitted with the application that there is a genuine need for



holiday accommodation for persons with a disability within England and development would also provide additional employment to the local economy, with occupiers visiting local attractions, spending money in shops, restaurants, etc. Consequently, the argument put forward that the proposed glamping tents should be considered under the Policy EC11 Farm Diversification. As previously stated, officers do not consider the business to be a large farm it is a small holding and therefore it cannot be considered under this policy.

The proposal if permitted would set a dangerous precedent for such a use within the countryside that fails to comply with the Local Plan policies and with the NPPF.

Therefore the application fails to comply with policies OC1, TR2, EC9 and EC11 of the Somerset West Local Plan.

### Landscape Impact

The application for 2 lodges consists of a timber base with canvas walls and waterproof canvas roof. It is proposed that they are used seasonally, with the canvas being put away in the off-season, and the base remaining in situ until the following season. The lodges would be placed on the site from March to November each calendar year. The field around each lodge would be used for horse grazing, for parties bringing their horses with them and then revert to grazing land in the off-season. This is claimed by the applicant to have a lower impact than a permanent structure, and it would be capable of being removed quickly.

The Landscape Officer has identified that the landscape plan has been submitted to an inaccurate scale and also that native trees should be planted with the Amelanchier replacement with *Acer campestre* and the *Sorbus aria* with *Sorbus aucuparia*. The agent has submitted a revised plan with correct scale and amended the proposed tree planting as recommended by the Landscape Officer. The Landscape Officer also recommends that if approval is granted, a hedgerow management plan should be produced, showing how the existing hedgerows will be managed over the next 20 years. This could be achieved by condition such as:

*"Prior to development commencing, a hedgerow management plan shall be produced, detailing the existing hedgerows to be managed over the next 20 years. To maintain those benefits the applicants will undertake an assessment of the existing hedgerow and from that assessment produce a 20 year management plan that encourages greater diversity of species along with favouring larger growing tree species as maiden trees. The plan will show how, through management and maintenance, the hedgerow can provide longer term visual screening of the proposed development, as well as increasing its biodiversity interest. Once agreed the planting as recommended shall be undertaken within the first available planting season and maintained thereafter in accordance with the approved management plan".*

The proposed use of grass matting and Hoggin permeable surface would ensure that when the lodges are removed from the land it would turn back to an agricultural field.

All of these factors are considered acceptable and enable the removal of the previous objection on landscape grounds. The previous concerns of officers have now been addressed. Consequently, the previous landscape objection is removed. It is recommended that the above referenced condition should be placed on any permission granted.

### **Ecology**

The County Ecologist has issued a late holding objection to the proposal. The Ecologist is concerned regarding the impacts of vehicle access across the grassland to reach the proposed parking locations particularly if visitors would need to drive alongside hedgerows. There has been no ecology report to support this application. The applicant will be required to commission a Preliminary Ecological Appraisal (PEA), which may recommend further surveys and mitigation, as required.

It is recommended that a further reason for refusal is added to the recommendation as whilst officers consider that this issue could be addressed through the submission of a PEA, one has not been submitted yet and in order to protect biodiversity, a PEA should be undertaken.

### **Highways**

The proposed access to all the lodges is via the existing gate. In terms of vehicle impact on the local highway network, given the seasonal use of the lodges, it is unlikely to have a significant harmful impact on local traffic generation. Adequate visibility splays could be provided by condition if approval were to be granted. However, concern is raised to the remote location of this site and the limited access via narrow winding lanes that would make a preferable location of a tourist facility.

### **Drainage and Utilities**

Surface water drainage would be dealt with by way of a soakaway and foul drainage by means of a septic tank.

### **Conclusions**

In conclusion, officers consider the proposed development to be in conflict with policy OC1 and it does not meet the criteria of policy EC11. The proposal would result in new development in an open countryside location which is contrary to planning policy. This would generate unsustainable travel patterns in a remote location with only single lane public highways to access the site. The submitted business case does not in officers' opinion provide sufficient evidence or an overriding argument to support a departure from adopted local plan policies giving reasons for the proposed location. Accordingly it is considered that the proposed development cannot be supported in its current form and is recommended for refusal on the basis that it does not accord with policy OC1 which seeks to protect the countryside. The submitted business case does not meet policy EC11 and therefore, it is recommended that this planning application is refused.

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**





42/21/0031/VSC

BRIDGWATER AND TAUNTON COLLEGE

**Variation to Section 106 agreement to vary Part 3 of Appendix 3 of the S106 relating to application 42/95/0038 which restricts occupancy to certain user groups at Canonsgrove Halls of Residence, Honiton Road, Trull**

Location: CANONSGROVE HALLS OF RESIDENCE, HONITON ROAD,  
STAPLEHAY TRULL, TAUNTON

Grid Reference: 321104.121264 Variation of S52/S106 Condition

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## **Recommendation**

**Recommended decision: Approval**

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

- 1. That the application be approved and that, from the date of the decision notice, the S106 Agreement dated 14<sup>th</sup> March 1996 and made between Taunton Deane Borough Council (1) and Summerfield Developments (SW) Limited (2) shall have effect subject to the modifications specified in the application.**

Notes to Applicant

## **Proposal**

As a result of the Government's response to COVID-19, Somerset West and Taunton Council Housing Department, in partnership with the YMCA Dulverton Group (YMCADG) approached Bridgwater and Taunton College in the spring of 2020 to seek agreement to use part of the Canonsgrove site – the 66 bed Quantock Halls – for the accommodation of homeless people and rough sleepers from the Taunton area.

The College have granted a lease to the YMCADG and the site has been providing accommodation for homeless people and rough sleepers since the start of April 2020.

However, there is a Section 106 Agreement connected to planning permission 42/95/0038 which limits the categories of people permitted to reside at the premises. This proposal seeks to modify the S106 Agreement to, amongst other things, allow

for the continued accommodation of homeless people and rough sleepers on the site for a temporary period ending 31<sup>st</sup> March 2023.

## Site Description

Canonsgrove Halls of Residence is located on the Honiton Road on the southern edge of Taunton. The Halls of Residence is set within large grounds and consists of several buildings and recreational facilities.

## Relevant Planning History

The Halls of Residence at Canonsgrove were constructed following the grant of full planning permission in 1996.

42/95/0038 Demolition of three houses and garage block and erection of two residential blocks and refurbishment of existing study bedrooms to form an additional 142 study bedrooms and two staff flats and formation of car parking at Canonsgrove House, Staplehay, Taunton as amended by agents letter and plan received 9th November 1995 - amended description (142 study bedrooms) – Conditional Approval.

The Planning Permission was accompanied by a S106 Agreement, completed on 14th March 1996. The relevant section for the purposes of this application reads:

*“(3) The owner hereby covenants with the Council that the accommodation existing on the land and the new accommodation to be provided as part of the development proposal shall at all time be occupied by:*

- (a) Those engaged in full-time vocation or educational courses*
- (b) Those attending residential vocational education or recreational courses*
- (c) Student nurses and midwives*
- (d) Persons engaged in the management of the accommodation and the land*

## Consultation Responses

*TRULL PARISH COUNCIL* –To support on the basis that the details are updated to reflect the date to be up to 31st March 2023 (as stated on YMCA/SWT communications) as opposed to it being two years from when the deed is signed.

*Cllr D Johnson* -opposes this application for the following reasons;

- No legal lease
- End date to variation contradiction
- Impact of placement of homeless people on Trull
- No minibus
- Antisocial incidents occurring
- Continuous footpath linking to Trull required.
- Application should be decided at committee due to level of objection.

*SCC - TRANSPORT DEVELOPMENT GROUP* – No observations to make.

## Habitats Regulations Assessment

Not required.

## **Representations Received**

12 letters of objection were received which raised planning concerns regarding:

- Request to be referred to Secretary of State
- Maximum number of residents to be conditioned
- Timeframe unclear
- Too far from Town Centre
- Public transport
- Need for minibus
- Footpath not fit for purpose
- Antisocial behaviour
- Crime
- Noise and disturbance
- Detrimental impact to residents and local community
- Lack of site notice
- Management arrangements

An objection was also received from the Trull Residents Group which raised concerns regarding:

- Lack of site notice
- Poor neighbour consultation
- Disagreement with Management Protocols and Liaison Group
- Departure from Development Plan and NPPF.
- Description of development
- Timescales

## **Planning Policy Context**

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

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

Relevant policies of the development plan are listed below.

CP8 - Environment

CP5 - Inclusive communities

CP4 - Housing

## **Local finance considerations**

### **Community Infrastructure Levy**

Not required.

## Determining issues and considerations

When determining an application for modification or discharge of a planning permission under S106A of the Town and Country Planning Act 1990, the local planning authority may determine it by:

- refusing it;
- discharging it; or
- modifying it.

The Courts have held that, when determining an application for modification, four essential questions need to be considered:

- (i) What is the current obligation?
- (ii) What purpose does it fulfil?
- (iii) Is it a useful purpose?
- (iv) If so, would the obligation serve that purpose equally well if it was subject to the proposed modifications?

The phrase 'useful purpose' is not defined but the Courts have held that it is not limited a useful planning purpose. The critical question was whether the obligation served some useful function.

There is a right of appeal to the Secretary of State if the local planning authority refuses or fails to determine the application.

The occupation of the premises by the homeless and rough sleepers is consistent with the C2 planning use of the site. However, homeless and rough sleepers are not listed under the terms of the existing S106 Agreement relating to planning permission reference 42/95/0038.

It is proposed to amend Clause 3 of the S106 Agreement to add further permitted occupation of rooms on the site as follows:

- “(a) those engaged in **full-time** vocational or educational courses;*  
*(b) those attending residential vocational educational or recreational courses;*  
*(c) ~~student nurses and midwives~~ health and care professionals;*  
*(d) persons engaged in the management of the accommodation and the land;*  
*and*  
***(e) the homeless and rough sleepers, with a connection to the Somerset West and Taunton locality, who can occupy bedrooms in Quantock House and the warden flats, as well as those persons engaged in the care and support of persons occupying Quantock House and the warden flats, for a limited period until the 31<sup>st</sup> of March 2023.**”*

As well as the addition of Clause 3(e) as detailed above, Clause (a) is proposed to be amended to allow non-full time students to occupy the development; Clause (b) remains as originally worded; Clause (c) has been amended to align more broadly with modern education relating to healthcare; and Clause (d) remains as originally



worded.

The proposed modifications to Clause 3(a) and 3(c) are intended to modernise the Section 106 in line with current education practices in order to make the site more useable.

It should be emphasised that the applicant is not seeking permanent occupation of the site by the homeless and the justification required for the proposals to be considered acceptable needs to be proportionate to the temporary nature of the proposals and the fact that they are responding to a global emergency.

The original Section 106 was required in order to control the type of students and people (typically in education) using the residence. It was not imposed to ensure specifically that homeless people did not reside at the premises. From a review of historic letters sent between Brigadier Bloxham and the Planning Officer, Mr Noall, there were no clear planning reasons as to why the accommodation was limited to full time students. It was simply the requirement at that point in time.

The NPPF supports the proposed modification of the S106 Agreement at Canonsgrove. Paragraph 8, Sustainable Development is defined as:

*“a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being”.*

Paragraph 118 deals with the use of land and states that:

*“Planning policies and decisions should:*

*... (d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure)”.*

In terms of Development Plan Policy, Strategic Objective 4 (Housing) of the Core Strategy (2011-2028) seeks to provide a sufficient supply of high quality housing accommodation to meet the needs of all sections of the community and strategic housing requirements.

Strategic Objective 5 relates to Inclusive Communities and seeks to reduce inequalities and deliver more prosperous, cohesive communities.

Policy CP5, Inclusive Communities states:

*“Development proposals will promote sustainable development that creates social cohesive and inclusive communities; reduce inequalities, promote personal well-being and address accessibility to health, inclusive housing, training, education, places of worship, leisure and other community facilities ensuring a better quality of life for everyone both now and for future generations”.*

It is clear from the above that the proposal to modify the Section 106 is consistent with the aims and objectives of National and Local Planning Policy. As such the modification is acceptable in principle. The next section of this report will consider other planning matters and the planning concerns raised by residents. It should be emphasised that the accommodation, as it stands, is suitable for full occupation by students/nurses and management associated with this and as such is considered suitable for temporary occupation by the homeless in responding to the ongoing global Covid-19 emergency.

In regard to accessibility, the footpath to the front of the premises is in a good condition and provides a safe walking route into Trull. There is also a pavement provision to Taunton which is a 45 minutes walk from Canonsgrove. Whilst it is acknowledged that this is not an ideal walking distance, it is an existing route and is proposed for use by the homeless for a temporary time whilst the pandemic is resolved and alternative accommodation across the District is sought. There is also a bus, the No. 97, which goes hourly into the Town Centre and takes 17 to 24 minutes depending on the time of day.

The LPA has been informed that a minibus will be not provided as part of the proposed amendments to the S106 Agreement. Historic provision of minibus services has related to specific activities carried out by the college and its students. Provision of a minibus service to and from the centre of Trull is not a current requirement for lawful operation of the site as a college campus and, whilst there would be some potential benefits to residents of Canonsgrove of providing such a service, it is considered that there are significant logistical issues with requiring such a service as part of the amendments to the S106 Agreement, including and not limited to the need to maintain safe social distancing practices. If the modification of the S106 is granted, the provision of a minibus could not be a conditional obligation. The applicant would have to amend the application to include this as an additional obligation.

Journeys associated with the use are already established and the proposals seek to temporarily alter the users in order to respond to the emergency caused by the COVID-19 pandemic. As such it is not considered necessary for the provision of a minibus service in order to make the proposals acceptable.

However, it is acknowledged that it would be more difficult for a homeless person to gain access to the town centre in terms of affordability and that is why this modification should be time limited to 31<sup>st</sup> March 2023. By this time, the homeless residents should be rehoused elsewhere, where local amenities are more accessible.

In regard to whether there can be a maximum number of residents conditioned, there are approximately 50 to 55 homeless people residing at the premises. The intention is to decrease this number in the run up to the 31<sup>st</sup> March 2023. It is not considered necessary to request an amendment to impose a cap on occupation levels, as this is defined in any event by the number of rooms available for occupation. It would not be possible to impose this via of condition to the amendment of the S106.

In terms of crime, whilst it is acknowledged that incidents have arisen since the change in occupancy at the site to the homeless, Local Policy D8 within the Site Allocations and Development Management Plan refers to safety which relates to new developments. It seeks to ensure that the design of new developments shall incorporate measures to reduce the likelihood of crime which are compatible with the need to create an attractive and sustainable layout. The Site Allocations and Development Management Plan was not adopted at the time the original planning permission was granted, however considerations in respect of crime and safety would have been taken into consideration during the original application for the Halls of Residence. If the homeless residents are causing crime, then this needs to be reported to and taken care of by the Police.

In regard to the site notice, a site notice was posted and dated. A photograph has been displayed alongside the other documents on the planning webpage. Consultation was carried out in accordance with the relevant legislation.

A management protocol is in place at the site. Every incident is dealt with appropriately in line with the provisions of the Equalities Act 2010 and other relevant legislation. The Police and YMCA Dulverton Group also have regular joint meetings to ensure their approach to and management of incidents and cases are effective.

It is understood that further discussion is taking place between the applicant and the Parish Council regarding their position as a Liaison Group. This is not, however, included as a necessary outcome of this application and is considered a separate exercise to be undertaken in good faith.

In light of the above assessment, it is the view of the LPA that refusal of the application is not justified because the current building is permitted for use by students, nurses etc and so the category of people using it for residency does not give rise to sufficient concerns which would lead to a recommendation for refusal. The use class of the premises ultimately remains the same and there are no sufficient planning grounds for refusal.

The modification of the Section 106 Agreement would be consistent with the aims and objectives of National and local planning policy and would not be harmful to the site or the surrounding area or have a detrimental impact on the planning amenities of local residents. In addition, the proposals represent a significant benefit in the response to the global emergency and the need to house homeless people for its duration, as required by national Government.

As such, it is considered that if the obligation in Clause 3 of the S106 Agreement is modified as specified in the application, the obligation would still continue to serve its purpose equally well.

**Accordingly, it is recommended that the application be approved and that, from the date of the decision notice, the S106 Agreement shall have effect subject to the modifications specified in the application.**

In preparing this report the planning officer has considered fully the implications and requirements of the Human Rights Act 1998 and Equalities Act 2010.

**Contact Officer: Abigail James**

10/21/0011

MRS G PEATFIELD

**Change of use of land from agricultural to mixed agricultural and equine use and laying of hardstanding at Merlands, Stapley Road, Biscombe, Churchstanton (in accordance with amended plans received on 16 April 2021)**

Location: MERLANDS, STAPLEY ROAD BISCOMBE, CHURCHSTANTON,  
TAUNTON, TA3 7PZ

Grid Reference: 317563.113324

Full Planning Permission

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## **Recommendation**

**Recommended decision: Conditional Approval**

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

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

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

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

(A4) Site Plan  
(A4) Location Plan

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

3. No jumps or other structures shall be erected on the land without the prior written consent of the Council.

Reason: To protect the landscape and visual amenity of the area in accordance with policy CP8 of the Core Strategy.

4. None of the fields shall be subdivided by way of hedges or fences without the prior written consent of the Council.

Reason: To protect the landscape and visual amenity of the area in accordance with policy CP8 of the Core Strategy.

## 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 has negotiated amendments to the application to enable the grant of planning permission.

## Proposal

The application, submitted partly in retrospect, proposes the change of use of agricultural land to a mixed agricultural and equine use. The application also includes the laying of a hardstanding at the field entrance from Merlands to the field to the east. The site area measures 9.4 acres.

The applicants agent has confirmed that all other accesses shown on the submitted plan are existing.

The applicant has requested a mix use to allow the recreational grazing of horses as well as the grazing of livestock. The application does not propose any physical changes to the land except for the laying of an area of hardstanding at the entrance to the field from Merlands. The land is to be used for the grazing of horses in connection with and ancillary to the recently approved stables and turnout area on an adjoining site (10/19/0030)

## Site Description

The site lies to the east of the village of Hemyock and two miles south of Churchstanton in an area of open countryside within the Blackdown Hills AONB. There are a number of residential properties along the road in close proximity to the application site and accessing onto Stapley Road. The parcels of land the subject of this application lie to the north and south of the highway and are bounded by mature hedgerows and trees.

## Relevant Planning History

10/91/0027 -CA granted in March 1992 for the change of use of garage and store to form a granny annex at Merlands, Biscombe, Churchstanton

10/03/0034 - CA granted in March 2003 for the use of existing annex as holiday accommodation in addition to annex use at Merlands, Biscombe, Churchstanton

10/09/0022- CA granted in September 2002 for the erection of single and double storey extension to rear at Merlands, Biscombe, Churchstanton

10/10/0012 - CA in October 2012 for alterations to fenestration, incorporation of balcony into bedroom into bedroom and provision of balustrade at Merlands, Biscombe, Churchstanton (non material amendment to permission 10/09/0022) as amended by revised proposed elevations and proposed first floor plan (reference

PM0971 Rev D)

10/19/0032 - Conversion of annex to dwelling - Approved 31 January 2020

10/19/0030 - Change of use of land from agricultural to equestrian with erection of stable block and formation of turning area at Merlands, Biscombe, Churchstanton - Approved

## Consultation Responses

*CHURCHSTANTON PARISH COUNCIL* - The Parish Council support this application.

*SCC - ECOLOGY* - As long as the proposal does not result in any change in the existing ecological (including removal of vegetation/greenspace and changes in lighting levels), I do not foresee any ecological constraints relating to this proposal.

*SCC - TRANSPORT DEVELOPMENT GROUP* - No comments received

*PLANNING ENFORCEMENT* - No comments received

*BLACKDOWN HILLS AONB SERVICE* - We do not wish to submit any detailed comments on this occasion other than to note that should the council be minded to approve the application we would support restrictive conditions relating to jumps and similar, and the sub-division/fencing of fields in the interests of landscape and visual amenity of the AONB.

## Habitats Regulations Assessment

Not applicable

## Representations Received

Ward Councillor (Cllr Henley) - I am the ward District Councillor for this Parish and I would like to request that this planning application is determined by the Planning Committee. Due to comments made by local residents raising a number of objections I would like this to go to committee. I think it would be premature to determine this application also while complaints about previous applications are still yet to be determined.

Two representations received objecting to the proposal and the objections are summarised below:

- Current use of the land not approved (since April 2020)
- Impact of equine use on neighbouring property having a negative impact on the health and welfare of horses and dogs
- personal safety whilst caring for own horses
- no evidence that the use is a benefit to the area and land, the only benefit being for the applicant
- Access to the fields - one access to the south of Stapley Road has been blocked off with a post and wire fence, the access from Merlands to the adjoining field was created in 2019 during the protected nesting season
- Previous use of the land (prior to April 2020) for cows is disputed
- Proposed expansion of equine use of the land would impact on the use and enjoyment of property and would lead to further harm to the surrounding area

- Proposed continued agricultural use of the land
- Adherence of planning requirements
- the proposed use would not be sensitive to the surroundings and consideration of the existing neighbours have not been taken into account
- discrepancies in the application

## **Planning Policy Context**

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

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

Relevant policies of the development plan are listed below.

DM1 - General requirements,  
 DM2 - Development in the countryside,  
 NPPF - National Planning Policy Framework,  
 CP8 - Environment,

## **Local finance considerations**

### **Community Infrastructure Levy**

Not applicable

## **Determining issues and considerations**

Policy DM1 sets out the general requirements for development. There are no specific policies relating to the change of use to mixed agriculture and equestrian.

Policy CP8 - Environment requires the conservation and enhancement of the natural environment and will not permit development proposals that would harm these interests.

The site lies within the Blackdown Hills AONB. The use of the land for mixed equine and agriculture would not affect the landscape character in this location. The AONB officer has requested conditions restricting jumps and similar and no subdivision of fields in the interests of landscape and visual amenity. Appropriate conditions have been included.

An area of hardstanding (approx. 200m<sup>2</sup> ) has been laid between Merlands garden



and the field access to the east. The application was amended to include this component and reconsultation was carried out. Given the size and location of the hardstanding in close proximity to the domestic curtilage, it is not considered it harms the landscape character of the area..

No additional traffic is likely to be created by the development. The stables in connection with this use are located on an adjoining field on the northern side of Stapley Road.

The issues raised in the representations raise concerns that the land is already being used for equine purposes, the application is incorrect as the use has been applied for retrospectively and the impact of the equine use on the adjoining site currently used for equine purposes.

Following the investigation by the Council into the unauthorised use, this application has been submitted for consideration and it is acknowledged it is retrospective.

The applicants agent has confirmed that the access from Merlands into the adjoining field was created in August 2019. Permission for the removal of the hedgerow was not required under the Hedgerow Regulations. Following the comments from the ecologist the details of the creation of the access were forwarded for clarification and further comment. No comments have been received. Confirmation has been received from the applicants agent that all other access points indicated on the plan are existing.

The site is located in a rural area where the keeping of animals is not an unusual feature. The use of the land for the grazing of horses would not be dissimilar to other animals grazing the land. Consequently it is not considered that the proposal would have a greater impact on residential amenity.

The existing stables have permission and the proposal is for the grazing of the horses in the adjoining fields. The level of activity is restricted to some extent by the number of loose boxes in the stable block. The application is not proposing additional horses so there would be no greater impact on the adjoining land use.

Other issues raised in the representations relate to the non-compliance of conditions attached to the application for stables and turnout area (10/19/0030). However these matters have been investigated by the enforcement officer and the case is now closed.

The proposal is considered acceptable and approval is recommended.

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

**Contact Officer: Denise Grandfield**



21/21/0004

MS J CATHCART

**Erection of summer house at Toms House, Langford Budville Road, Langford Budville (retention of part works already undertaken)**

Location: TOMS HOUSE, LANGFORD BUDVILLE ROAD, LANGFORD  
BUDVILLE, WELLINGTON, TA21 0QZ

Grid Reference: 311094.12274 Retention of Building/Works etc.

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## **Recommendation**

**Recommended decision: Conditional Approval**

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

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

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

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

(A3) DrNo 2021005 003 Proposed Drawings  
(A3) DrNo 2021005 001 Location and Block Plan  
(A3) DrNo 2021005 002 Existing Drawings

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

3. Prior to the usage of the summerhouse, a "lighting design for bats" shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:
  - a) identify those areas/features on site (particularly the boundary features i.e. tree's/hedgerows on the east side going south) that are very sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - b) show how and where external lighting will be installed through the provision lux lighting contour plans and if appropriate directional lighting of lights with

hoods technical specifications

so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places. The boundary should not exceed 0.5 lux in regards to light spillage onto the highlighted boundary features.

c) Where PIR timers are to be included, it should be shown that timers are going to be set to less than one minute.

Reason: In the interests of the Favourable Conservation Status of populations of European protected species and in accordance with policy CP8 in the Taunton Deane Core Strategy.

4. Two wildflower meadow beds measuring 2m length x 2m width shall be incorporated into the remaining land which is not being impacted by the proposal. Photographs of the wildflower meadow beds will be submitted no later than one week prior to the developments completion.

Reason: To ensure no net loss of biodiversity and in accordance with policy CP8 in the Taunton Deane Core Strategy

5. One Schwegler 2F bat boxes or similar will be mounted at least 4m high above ground level on the south or east facing aspects of trees and maintained thereafter. Photographs of the installed features will be submitted to the Local Planning Authority prior to first occupation of the summer house.

Reason: In accordance with Government policy for the enhancement of biodiversity within development as set out in paragraph 170(d) of the National Planning Policy Framework

6. The development hereby approved shall be limited to that of Thomas Parkhouse for ancillary use in connection with the host dwelling (known as Toms House) only in a private and personal capacity and shall not be used for any commercial or business purpose or be let or rented out to any other parties at any time. Within 3 months of the cessation of the use the building shall be removed and the land returned to amenity area/garden.

Reason: The local planning authority is only prepared to grant permission having regard to the personal circumstances of the case. Furthermore the local planning authority does not wish to see any commercial or business use in this attractive rural area and in the interest of visual amenity.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking and re-enacting the 2015 Order with or without modification), no alterations, outbuildings, gates, walls, fences or other means of enclosure shall be erected

on the site] other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.

Reason: To ensure that the proposed development does not harm the character and appearance of the area.

#### Notes to Applicant

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

## Proposal

The application is to regularise the development that has already taken place to the south east of the main dwelling, within the domestic curtilage, but outside the settlement limit of the village.

This application seeks approval for the erection of a Summerhouse providing three rooms including kitchenette facility plus a shower room. The Summerhouse measures approximately 11.80 m x 4.5 and with a area covered by a canopy measuring approximately 2.45m x 6.84m. The roof ridge of the Summerhouse is approximately 3.5m with eaves at 2.3m and the canopy has a maximum roof height of 2.4m and a minimum height of 2.2m. Materials are horizontal timber under a tiled pitched roof. Vehicular access via Courtlands.

## Site Description

The site was previously in agricultural use, however in 2018 planning consent was granted for its change of use to domestic amenity space and the erection of a shed/art room. It is located to the south of the main dwelling, Toms House whose principal elevation faces south east. The site currently has planning permission for a 10 metre x 3.5 metre shed/art room with access to ambulances via a field gate in the north east boundary off the shared drive adjacent to 7 Courtlands.

A condition to remove the permitted development rights to prevent any further impact on the amenity of the area was applied by 21/18/0023.

## Relevant Planning History

21/18/0023 - Change of use of land from agricultural to domestic and associated works including wheelchair accessible paths and erection of shed/art room - CA

21/18/0002 - Erection of a single storey flat roofed extension and balcony on the south east elevation and change of use of former garage to ancillary accommodation - CA

21/20/0008 - Erection of a single storey extension to the annexe - WDN

21/21/0005 - Erection of a single storey extension to the rear and canopy at the front of the ancillary accommodation known as Cosy Cott at Toms House, Langford

## Consultation Responses

*LANGFORD BUDVILLE PARISH COUNCIL* - Object to the planning application as it represents an overdevelopment of the site, and the building is capable of fully independent occupation. This is a problem because the entire premises is being used as holiday lets which is in contravention of Condition 4 of Application 21/18/0002. <https://www.somersetfamilyholidays.co.uk/about-tom's-house.htm>  
There is a car park shown on the plans of application 21/21/0005 that do not appear on the plans for this planning application. The car park is accessed via a private road through an agricultural access road.

*PLANNING ENFORCEMENT* - No comment received.

*SCC - ECOLOGY* - Requested confirmation that the development will not result/facilitate a net increase in potential occupancy. Assuming the answer is 'No' requests 3 planning conditions relating to lighting for bats, bat box and wildflower meadow

### Ward Member - Objection

On 24th December 2014 conditional consent was granted (21/18/0023) for "Change of use of land from agricultural to domestic and associated works including wheelchair accessible paths and erection of shed/art room at Toms House, Langford Budville Road, Wellington". This was to allow the annexation of extra land to provide for facilities and infrastructure for a disabled resident. This was approved with a condition removing any permitted development rights which said:-  
"3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking and re-enacting the 2015 Order with or without modification), no alterations, outbuildings, gates, walls, fences or other means of enclosure shall be erected on the site] other than that expressly authorised by this permission shall be carried out without the further grant of planning permission. Reason: To ensure that the proposed development does not harm the character and appearance of the area".

In explaining the decision the Planning Officer stated "It is considered that the change of use of land from agricultural to domestic would not have a detrimental impact on either the visual or residential amenity of the area. The conversion of the field will take the garden land to the same depth as the adjoining neighbours. It is noted that this change of use of land is outside the defined settlement limits, however the gardens for all the neighbouring properties also fall outside this line. A condition has therefore been included to remove the permitted development rights to prevent any further impact on the amenity of the area. The new shed/art room is to be located towards the north west close to the boundary with the existing garden, this is considered to not have a detrimental impact upon the neighbouring properties, due to the height and location. It is therefore recommended that planning permission be granted.

21/21/0004 is for the Erection of summer house at Toms House, Langford Budville Road, Langford Budville (retention of part works already undertaken). Although there is no covering letter this application seems to involve extending and

broadening the use of the shed/art room consented under 21/18/0023.

Retrospective applications are always difficult but it is clear that there are some differences between the submitted and approved drawing for 21/18/0023 and the Existing Drawing 2021005 002 submitted for approval under 21/21/0004. There is no discernible structural difference between the Existing Drawing 2021005 002 and Proposed Drawing 2021005 003 meaning that the application should be judged on the difference between 21/18/0023 and the existing. The building is now slightly longer but the change to the external appearance is minimal. However it is also clear that the originally consented Art Room has evolved into a broader use with the inclusion of a kitchen area and shower room. This provides a separate accommodation unit which runs counter to the original intention of 21/18/0023 Condition 3 which sought to reduce the impact of the annexation of the extra land on neighbouring amenity.

This has been complicated by the fact that the main property Toms House and an annexe has been advertised and apparently used as holiday accommodation for up to 20 people and 10 cars for which no formal planning consent has been granted. At the time of writing the website is still active and apparently accepting bookings. In my view, as well as being outside the defined settlement limits, this proposal does not accord with Policy D6 which states: "The conversion of an appropriate building within the curtilage of a dwelling for ancillary accommodation will be permitted. The erection of a new building within the curtilage of a dwelling for ancillary accommodation will not be permitted unless.....

B. It would be close enough to the main dwelling to maintain a functional relationship;

C. It does not harm the residential amenity of other dwellings;

The Garden Room is located at some distance from the main house and cannot be regarded as close enough to the main property to have a functional relationship.

Indeed the layout and accommodation demonstrate that the building could be used as a separate dwelling unit. A separate dwelling unit would lie outside the settlement limit and be potentially harmful to the residential amenity of nearby dwellings.

Therefore if this retrospective application should be refused. However if it is approved it should be with clear conditions prohibiting holiday and overnight use.

Further comments - Further to my earlier submission I have been in correspondence with the applicant. As a result of this exchange I have noted the apparent lack of drainage detail for the Garden Room in 21/21/0004. The original application 21/18/0023 did not include any details of interior services but this latest proposal seems to have a toilet and kitchenette but I cannot find any mention of how sewage or waste water will be disposed of.

## **Habitats Regulations Assessment**

As the development is ancillary accommodation the HRA issue does not need to be considered.

## **Representations Received**

4 x Letters of Objection

- Not built in accordance with previous planning consent (21/18/0023)
- Has it been built beyond the village building line?
- A new car park has been built adjacent to the summer house and a new gate

- erected which is used frequently to access the car park via Courtlands
- Validation letter point NO 5 clearly states that the existing gate is for ambulance access only. "There is no proposed change to the boundary treatments. Other than the existing wall adjacent to the house, all other boundaries are demarked by existing post and wire fencing around all, other than the emergency ambulance access which is via an existing gate."
- Courtlands was used by Construction traffic in order to build the Summer House. As far as I am aware Courtlands Management Company have not received a letter of confirmation from the applicant that this access can be used for such traffic.
- Concerned that Courtlands private road will be used as access for holiday guests if the summer house becomes part of the holiday lettings buildings
- Request that Courtlands Management Company is assured that holiday traffic will only be through the secure gate adjacent to the Martlet pub. On no account should holiday traffic be allowed through Courtlands or parking of guest cars within Courtlands private road.
- It is unclear whether sufficient space is available that will prevent additional parking and restrictions on the village roadway caused by the increased guest needs.
- With reference to the pre-application notes identifying that the previously approved application, (21/18/0023) for this building was not adhered to, what measures will be put in place, by the Planning Office, to ensure that this development will adhere to the application?
- Courtlands is a private road. Other than residents, the private road is for farm access and emergency vehicles only.
- Concerned about the increase in guest traffic and possible parking on the private road in the future.
- There is already accommodation for 16 people on the site, and the proposal to further increase the numbers is a concern for over development of the site, and an increase in noise levels and disturbance.

#### 1 x Support

- Concern that Tom for both health and safety reasons, might be deprived of his legal right to enjoy his accommodation in the knowledge that there have been objections to these important life enhancing buildings
- Please be mindful of the human rights of this severely disabled young man and his need for comfort and security within his environment; any objections should be weighed against the human rights of an individual in a balanced and humane manner giving due consideration to his long term needs.

## Planning Policy Context

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

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

Relevant policies of the development plan are listed below.



CP8 - Environment,  
D6 - Ancillary accommodation,  
DM1 - General requirements,  
SB1 - Settlement Boundaries,  
CP1 - Climate change,  
DM2 - Development in the countryside,

DM1 - General Requirements  
DM2 - Development in the Countryside  
CP 8 - Environment  
D5 - Extensions to Dwellings  
D6 - Ancillary Accommodation

## **Determining issues and considerations**

### The Principle of Development

The proposal relates to an existing dwelling on a site that has previously gained planning consent for a similar, but smaller proposal. The principle of development is therefore accepted.

It is noted that the village settlement boundary excludes the area of the summerhouse, which is adjacent to the settlement boundary, however it is noted that this also applies to several of the rear gardens of the neighbours in Courtlands many of which has outbuildings in their rear amenity space, but also outside the settlement boundary.

### Design

The proposal has been designed to support the applicants son who has a "severe brain injury, cerebral palsy, which has caused severe epilepsy as well as other disabilities." The agent has confirmed that this proposal is solely for a disabled person and includes facilities designed to secure their greater safety, health or comfort.

The design of the Summerhouse is a linear building with a canopy on the southern elevation. The building is easily accessible from the main dwelling by wheelchair friendly paths, which also lead around the amenity area to the fore.

The building, is approximately 11.8 m x 4.5m, and with an area covered by a canopy measuring approximately 2.45m x 6.84m. The consented outbuilding measured approximately 8.4m x 3.3m thus the proposal being considered is 3.4m longer and 1.2m wider plus the area covered by the canopy. As the previously planning consent removed Permitted Development Rights from the building, a planning application should have been submitted prior to its erection, however this application seeks to address that matter.

The proposal is considered to have no adverse impact in terms of overlooking, overshadowing or loss of amenity to the neighbouring properties as its height 3.5m to roof ridge is not excessive and the nearest neighbours are 35m to the east, 41m to the north-west and 41m to the public house. Other dwellings appear to have

summerhouse/sheds etc in their rear amenity space therefore it is considered that any increase in noise and disturbance will be of a similar level to that already in existence from the neighbours developments.

In terms of policy D5, the extension to the summerhouse is considered acceptable as it will not harm the form and character of the originally approved summerhouse is subservient to in its scale and design, it will not harm the amenity of other dwellings as it is located in the extended garden area for Toms House, nor would it harm future amenities for the site. The proposal is therefore considered acceptable when assessed against Policy D5.

The design and the materials are considered acceptable for a Summerhouse and as the previous application 21/18/0023 was granted consent the proposal is considered to accord with policy D6. The extension to that previously approved development is the main issue, however considered to have no adverse harm to the residential amenity of other dwelling, will not unacceptably prejudice future amenities, parking, turning space and other services of the main dwelling, nor it is considered to harm the form and character of the main dwelling and is subservient to it in scale and design. To be clear the development remains in the same site as previously approved there it is considered to be close enough to the main dwelling to maintain a functional relationship.

An internal inspection of the Summerhouse confirmed a kitchenette area and a W.C. with low level shower-tray, which are required due to the requirements of the applicant's son. Information of a confidential nature has been submitted regarding the need for this proposal and confirming that the applicant requires 2 full-time careers at all times. It is not the intention for the development to be used as a separate unit of accommodation, only to provide the facilities necessary to provide the care and comfort for the applicants son.

#### Use as Holiday Accommodation

The Summerhouse is not proposed as holiday accommodation or as ancillary living space for the main dwelling, but purely as a space for a gentleman with impairments. The internal layout would allow for him to spend quiet time in the building with his careers doing activities away from the main family home. It is therefore not considered unreasonable to have a kitchenette and W.C./Shower-room given his impairments. Planning condition would be included on any consent for the Summerhouse to be for the applicants personal use only and to remove the permitted development rights for the building. This is considered necessary to ensure that any future extensions are fully considered, however it does not exclude future development on the site which would be subject to a planning application.

The applicant has confirmed that they gave serious consideration to the use of the dwelling as holiday accommodation " even going to the expense of having a website created". The applicant has explained that testimonials on the website were written by friends & family who had stayed at Toms House, whilst they were living here and that no payments were made/taken. The issue of the dwelling being used as holiday accommodation appears arise due to the creation of a website that is not used and friends/family acting with good intentions.

#### Ecology

The county ecologist enquired as to whether or not this development will not

result/facilitate a net increase in potential occupancy and when on to provide comments assuming, correctly, that the answer would be no.

The ecologist noted that no bat activity surveys have been submitted, and therefore they would have to assume the presence of light averse species. The proposal would therefore need to avoid external lighting of the boundaries of the site and requested a planning condition regarding "lighting design for bats" In order to compensate for the net loss of grassland, the ecologist also requested a planning conditioned for two wildflower meadow beds measuring 2m length x 2m width shall be incorporated into the remaining land which is not being impacted by the proposal. The request for these two conditions is in accordance with policy CP8 in the Taunton Deane Core Strategy.

The National Planning Policy Framework (170d) requires biodiversity enhancement to be provided within development. The ecologist therefore recommended a condition for one Schwegler 2F bat boxes or similar be included in the development.

The requested ecology conditions are considered to be reasonable and necessary for the development to ensure the bio-diversity of this proposal given its edge of settlement location. The ecology team have not requested that the issue of phosphates on the Somerset Levels and Moors Ramsar site be addressed, as the proposal is for ancillary accommodation.

The proposal is considered to be appropriate in terms of scale, siting and design and the ecologist has requested measures for mitigation, therefore the proposal is considered to accord with policy CP8.

#### Other Matters

The Parish Council have objected to the proposal as an overdevelopment of the site, and the building is capable of fully independent occupation and that the "entire premises is being used as holiday lets which is in contravention of Condition 4 of Application 21/18/0002.

<https://www.somersetfamilyholidays.co.uk/about-tom's-house.htm>". The have also raised the car park and its access via a private road through an agricultural access road.

The application as been accessed as submitted for a summerhouse to a residential dwelling. The applicant did not realise that extending the previously approved scheme would require planning permission as that consent included a restrictive planning condition that removed Permitted Development Rights from the building. Unfortunately she received some incorrect building advice. The agent and applicant have explained that the possibility of the site being used as holiday accommodation has been explored, but has not been progressed and that the dwelling is only used for residential purposes of the occupant and their extended family. The site is large and a very similar scheme was granted consent in 2018, therefore this slight enlargement of that design is not considered to be overdevelopment of the site.

The local ward member has raised concerns regarding the removal of permitted development rights, which was included on the 2018 consent "To ensure that the proposed development does not harm the character and appearance of the area". This condition does however not prevent development of the site, it merely means that any alteration/extension will require a planning application so that development

impact can be fully assessed.

This is a retrospective planning application, which has arisen as the applicant received some incorrect advice. It is accepted that the development as proposed is slightly longer and the change to the external appearance is minimal. The ward member is concerned with the inclusion of a kitchen area and shower room, however confidential information has been received to explain that this is required due to the needs of the applicant's son. A planning condition will be included for the development to be for the personal use of the occupants of Toms House and for no commercial/business uses.

The ward member has also raised the recently approved 'annexe' accommodation which is required to provide accommodation for carees. As previously stated the applicant has confirmed that they are not pursuing holiday accommodation use, but do allow members of their extended family to visit. The proposal is seeking to rectify a new building that has not been built in accordance with the previously approved plans. It is accepted that the summerhouse has additional facilities, however this is due to them being required for a person with particular needs and will be controlled by planning condition. The summerhouse is not proposed as a unit of fully self-contained accommodation, but as a space with appropriate facilities for a person with particular needs.

The ward member has also raised an apparent lack of drainage detail for the proposal however this will be dealt with under Building Regulations.

Four letters of objection have been received mainly relating to the use of the host dwelling as holiday accommodation and associated holiday traffic. The proposal has been assessed as submitted, for a private summerhouse and as previously stated the dwelling is not a holiday let.

The issue of the village settlement boundary has been raised and this development is just outside of this, however so are several of the rear gardens of the dwellings in the new residential development to the north-east of this proposal, several of which appear to have outbuilding beyond the settlement boundary. This issue has however been assessed by this and the previous application.

The applicant has a right of access through Courtlands and is therefore able to access the site. The issue of construction traffic using the Courtlands access is one that should have been raised at the time with the applicant. It would be a private matter for Courtlands Management Company to discuss with the applicant this use of the access such traffic.

Planning conditions will be used to control the development and any reported breaches will be investigated by the planning enforcement team, which applies to any and all planning applications.

The issue of access via Courtlands is a private one between the applicant and the management company though it is understood that the applicant has right of access. A car parking space has been created, however as it has a permeable surface planning consent would not be required.

## Conclusion

The proposed Summerhouse, including the 3.4m (l) x 1.2m (w) 'extension' plus the area covered by the canopy is to be in the extended rear amenity area of Toms House, and is considered to have no detrimental impact upon the neighbouring properties, due to the height and location. The design and materials are considered to be acceptable and planning conditions will be used to restrict the use of the Summerhouse to the applicants son.

The proposal is therefore recommended for approval.

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

**Contact Officer: Mrs D Todd**



# APPEAL DECISIONS – 22 JULY 2021

**Site:** THE GREENHOUSE, NEWTONS, NAILSBOURNE, TAUNTON  
SOMERSET TA2 8AQ

**Proposal:** Prior approval for proposed change of use from agricultural building to dwelling house (Class C3) and associated building operations at The Greenhouse, Newtons, Nailsbourne

**Application number:** 20/20/0026/CQ

**Appeal number:** APP/W3330/W/21/5268761

**Reason for refusal:** Allowed

**Original Decision:** Delegated Decision



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## Appeal Decision

Site Visit made on 12 May 2021 by **Nick Davies BSc(Hons)**

### BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2021

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### Appeal Ref: APP/W3330/W/21/3268761 The Greenhouse, Newtons, Nailsbourne, Taunton, Somerset TA2 8AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mrs Donna Thomas against the decision of Somerset West and Taunton Council.
  - The application Ref 20/20/0026/CQ, dated 24 September 2020, was refused by notice dated 13 November 2020.
  - The development proposed is conversion of commercial greenhouse to dwelling together with formation of parking & garden area.
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### Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for conversion of commercial greenhouse to dwelling together with formation of parking & garden area at The Greenhouse, Newtons, Nailsbourne, Taunton, Somerset TA2 8AQ in accordance with

the terms of the application, Ref 20/20/0026/CQ, dated 24 September 2020, and the plans submitted with it, subject to the following conditions:

- 1) The development must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 77 of The Conservation of Habitats and Species Regulations 2017.
- 2) The development must be completed within a period of 3 years starting with the date of this decision.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 1920/1 Sheet 1 of 2 – Measured Building Survey; 1920/2 Sheet 2 of 2 – Measured Building Survey; 1920/3 Sheet 1 of 2 – Floor Plan/Section; 1920/4 Sheet 2 of 2 – Elevations; 1920/5 – Location/Site Plan.

## **Background and Main Issue**

2. Class Q(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) permits development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses), and, under Class Q(b), building operations reasonably necessary to convert the building for that purpose. This is subject to a number of situations where such development is not permitted, listed under Paragraph

Q.1. The Council raises no concerns in respect of the proposal complying with criteria Q.1 (a)–(h) and (j)–(m). The Council considers, however, that the development is not permitted by Class Q, because the proposal contravenes the requirements of paragraph Q.1(i).

3. Consequently, the main issue is whether the building operations involved in the development would be to an extent reasonably necessary for the building to function as a dwellinghouse.

## **Reasons**

4. The building is a single storey steel-framed horticultural glasshouse. The framework comprises two spans, each having a twin-pitched roof with structural gutters supported by lattice girders. The roof largely comprises of glazed units, and the external side walls are composed of low-level blockwork with glazing panels above. There is an open-sided triple-pitched roof canopy attached to the eastern end of the building, with a small blockwork store underneath. The whole building is on a solid concrete floor slab.
5. The application was accompanied by a Structural Report, which found that the main steel-framed structure, blockwork walls, glazed panels, and floor slab were in a sound structural condition. Design assessment checks on the steel frames revealed that they were capable of safely supporting the loads from the proposed conversion. Overall, the report concluded that, although some repairs would be required to the external cladding and low-level walls, the building could be satisfactorily converted to residential accommodation. As the Structural Report was prepared by a suitably qualified professional, and there is no evidence to cast doubt on its findings, I give it significant weight in my decision.
6. The development would involve the retention of the glass roof, low-level block walls, and the majority of the glazed side wall panels. Relatively small areas of glazing in the east and west elevations would be replaced with vertical timber panels containing new doors and windows. Internally, new insulated walls and partitions would be



constructed off the existing floor slab. These walls would, in turn, support a fully insulated ceiling under the glazed roof. The internal walls would be set well back from the external glazed side walls of the existing structure, with the resultant spaces being utilised as conservatories, covered terraces, a porch, and a kitchen garden. The open-sided canopy would be retained to provide a covered terrace/play area, but the blockwork store would be demolished.

7. There would be some external changes to the building, through the construction of the timber panels, the demolition of the store, and the removal of three sets of doors. However, Class Q(b) of the GPDO permits building operations that are reasonably necessary to convert the building to a dwellinghouse. Paragraph Q.1(i) specifies that the installation or replacement of windows, doors, and exterior walls, and partial demolition, are not excluded from this definition. The timber panels would be necessary to provide enclosure to the internal accommodation, and the removal of the doors would allow ventilation to the terraces and porch and, in turn, to the living accommodation within. The demolition of the store would allow light to reach the internal accommodation. All of these works would, therefore, be necessary to allow the building to function as a dwelling, so would be permitted development.
8. The Planning Practice Guidance advises that internal works are not generally development, and for the building to function as a dwelling it may be appropriate to undertake internal structural works, including internal walls, which are not prohibited by Class Q. Consequently, the internal insulated walls, partitions and insulated ceiling would fall within the scope of the permitted development rights conferred by Class Q of the GPDO.
9. The Council contends that the construction of four walls within the glasshouse would, effectively, constitute the erection of a dwelling within the existing building, and would constitute a rebuild rather than a conversion. In this regard, my attention has been drawn to the Hibbitt<sup>1</sup> case, which considered the difference between conversion and rebuilding. That case, however, involved a proposal to convert a steel framed barn which was largely open on three sides, and the proposed building works included the construction of all four exterior walls. The appeal proposal, by contrast, involves a building that is fully enclosed. The exterior walls would remain largely unaltered, and the roof would be retained in its entirety. The starting point for the conversion would not, therefore, be a skeletal structure, as in the Hibbitt case.
10. I acknowledge the Council's concern that the construction of a freestanding dwelling, within the shell of a larger building, could not be considered to be a conversion. However, that is not what is proposed in this case. The existing building would be integral to the resultant dwelling. Some of the areas of the existing building, outside the new internal walls, would form additional living space, in the form of conservatories accessed internally from the principal rooms. Other parts would be utilised as covered terraces and a porch, which would provide sheltered space immediately outside the living accommodation. The glazed roof would provide a weatherproof cover for the new insulated ceiling, and the exterior structure would provide solar gain for the living accommodation. The internal work would not, therefore, constitute a new dwelling that would be independent of the existing building.
11. Whilst a significant amount of work would be required to render the building suitable for residential accommodation, the works would either be permitted by Class Q.1(i) of the GPDO, or would be internal work that would not constitute development.

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<sup>1</sup> Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)

Furthermore, the proposal would not involve any new structural elements, and the existing building would remain largely intact. The resultant building would not be significantly different in its external appearance. In these circumstances, the works would constitute conversion of the building rather than re-building.

12. For the above reasons, I conclude that the building operations involved in the development would be to an extent reasonably necessary for the building to function as a dwellinghouse. Consequently, the proposal would comply with the requirements of paragraph Q.1(i) of the GPDO.

## **Other Matters**

13. The application site falls within the catchment area flowing into the Somerset Levels and Moors Special Protection Area and Ramsar site. Natural England has raised concerns regarding nutrients entering watercourses in this catchment. New housing will result in an increase in phosphates contained within foul water discharge. As the Ramsar site is in unfavourable condition, any increase, either alone or in combination with other developments, would have a likely significant effect on the protected site.
14. Regulation 75 of the Conservation of Habitats and Species Regulations 2017 provides that it is a condition of any planning permission granted by the GPDO, that development which is likely to have a significant effect on a European site, alone or in combination with other plans or projects, must not be commenced until the developer has received written approval from the local planning authority under regulation 77. I have therefore imposed a condition to this effect for the avoidance of doubt.

## **Conditions**

15. Planning permission granted for the change of use of agricultural buildings to dwellinghouses under Schedule 2, Part 3, Class Q of the GPDO must be completed within a period of 3 years, starting with the prior approval date, in order to comply with condition Q.2(3). I have therefore imposed a condition to this effect for the avoidance of doubt. In the interests of certainty, I have also imposed a condition requiring that the development is carried out in accordance with the approved plans.

## **Conclusion**

16. For the reasons given above, I conclude that the appeal should be allowed.

*Nick Davies* INSPECTOR

**Site:** LAND AT GREENWAY WOOD, SOUTH DRIVE, BISHOPS LYDEARD, TA4 3BZ

**Proposal:** Change of use of land for siting of 4 No. timber glamping pods and erection of welcome office with associated access and parking on land at Greenway Wood, South Drive, Bishops Lydeard

**Application number:** 06/20/0009

**Appeal number:** APP/W3330/W/21/3268194

**Reason for refusal:** Dismissed

**Original Decision:** Chair Decision



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## Appeal Decision

Site Visit made on 8 June 2021 by **A Tucker BA (Hons) IHBC**

an Inspector appointed by the Secretary of State

Decision date: 28 June 2021

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### Appeal Ref: APP/W3330/W/21/3268194 Land at Greenway Wood, Bishops Lydeard TA4 3BZ

- 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 A Goddard against the decision of Somerset West and Taunton Council.
  - The application Ref 06/20/0009, dated 5 March 2020, was refused by notice dated 22 September 2020.
  - The development proposed is change of use of land for the siting of four timber camping pods and associated ancillary development including welcome office, access and parking.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. On 1 April 2019 Taunton Deane Borough Council merged with West Somerset Council to become Somerset West and Taunton Council. The development plans for the merged local planning authority remain in place for the former area of Taunton Deane Borough Council until such a time as they are revoked or replaced. It is therefore necessary to determine this appeal with reference to policies set out in the plans produced by the now dissolved Taunton Deane Borough Council.
3. During the appeal process the Council raised an issue with the ownership of the site, as declared by the appellant in his submissions. The Council are of the view that Dan's Engineering Ltd is the legal owner of the appeal site. The appellant has

confirmed that he is authorised to represent Mr Daniel Puddy and his business activities involving Dan's Engineering Ltd, and that Dan's Engineering Ltd have been involved with and are fully aware of the appeal proposal. I am therefore satisfied that no party has been prejudiced by this matter. **Main Issue**

4. The effect of the proposal on the significance of the grade II\* listed building, known as Sandhill Park.

## Reasons

5. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
6. Sandhill Park, referred to as Sandhill Park Hospital on the list entry, is a substantial grade II\* listed country house. It dates from approximately 1720, with a portico and wings added circa 1815. It 7 bay front is three storeys high and fronts a double pile plan. It occupies a gently elevated position, facing out over an extensive area of open parkland laid to pasture with parkland trees. The southern extent of the parkland is defined by an area of woodland. The principal approach to the building is through this woodland from South Drive. A lodge building defines the start of the drive, at its junction with Greenway Road. Beyond this the driveway passes through the mature woodland before it breaks out into the open area of parkland where the principal elevation of the house can be glimpsed between trees in its pastoral setting.
7. This arrangement gives a strong naturalistic setting to the house, with a pleasant transition between the informal wooded areas along the southern part of the drive, to the more formal landscape as one moves through the parkland towards the front of the house. Existing development to the east side of the southern end of the drive and to the east of the house detract from this setting to a certain extent. However, between these areas the character of what would appear to be a deliberately planned approach to the house, through a tranquil area of woodland and into the more open area of parkland, has been largely retained, and is a highly important aspect of the building's setting that contributes significantly to its special interest.
8. The proposal would see a loose arrangement of four accommodation pods set within the area of woodland alongside South Drive. They would be served by a small parking area and welcome building and accessed by individual paths. The pods would be set amongst existing trees, facing informally towards a clearing in the woodland.
9. The pods would be modest structures, with a simple curved timber roof that would wrap over the structure with vertical walls at the front and back. The front wall would be set back slightly, to provide some cover to the entrance door. If left to weather down to develop a natural finish, the placement of these pods alone would not be prominent to view from South Drive and would have little impact on the designed approach to the listed building.
10. The parking area would however be much closer to South Drive. I am mindful that intervening under storey planting would be increased to limit visibility of this area from the Drive, and that the track providing access to the parking area would have a low visual impact, however given the distance I consider it likely that someone walking along the drive would be well aware of the presence of parked cars within the adjacent area of woodland. The degree by which parked cars erode the tranquil approach to

the house along the drive would be increased by the movement of vehicles and associated activity within the parking area.

11. The welcome lodge would be larger than the proposed pods, and would have the appearance of a domestic summerhouse, with a low pitched roof and eaves height that would roughly align with the head of its window and door opening. This would be positioned just beyond the car park area. As a larger building it would be visible over the height of parked cars and understorey planting. Although still a timber structure, it would have a more angular form than the camping pods and would thus be a more intrusive addition to the naturalistic woodland setting.
12. When considered in combination the visibility of the elements of the proposal closest to South Drive, coupled with the activity associated with the parking area and the use of the welcome lodge as well as the activity arising from persons staying at the pods, would create visual harm as well as harm to the tranquil setting of the woodland. These impacts would be increased during the winter months when trees in the woodland, most of which are deciduous, would be without leaf. The proposal would thus erode the quality of the approach to the house, which would in turn harm its special interest.
13. In terms of the National Planning Policy Framework (the Framework) the harm would be less than substantial. Paragraph 196 of the Framework establishes that any harm should be weighed against the public benefits of the proposal.
14. The proposal would introduce a new tourism use. Guests staying at the site would be likely to spend money locally on food and various local attractions, including the nearby steam railway. The proposal would thus benefit the local economy. However, this would be limited by the small scale of the proposal.
15. The proposal would generate some employment during the construction phase. In addition, persons would be employed to manage the units. Both would constitute a public benefit, however the level of employment generated would be modest.
16. It is suggested that the proposal would secure better management and restoration of the woodland and would give it a viable long-term use. However, the information before me states that a legal agreement associated with the original planning approval for the wider site is in place already, and that this covers the management of Greenway Wood. The site is not previously developed land, or in such poor condition that it would appear to warrant a new use. I am thus not satisfied that this matter is a public benefit that would weigh against the heritage harm identified.
17. As set out above, the proposal would cause harm to the building's special interest in the form of a harmful change to a significant aspect of its setting. Paragraph 193 of the Framework establishes that great weight should be given to the conservation of a heritage asset. In this context I find that the public benefits of the proposal would not be sufficient to outweigh the degree of harm identified.
18. In summary, the proposal would fail to meet the requirements of the LBCA as it would cause harm to the setting of the listed building. It would thus be contrary to Policies SP1, SB1, CP1, CP8, DM1 and DM2 of the Taunton Deane Core Strategy 2011-2028 (CS) and Policy D7 of the Taunton Deane Adopted Site Allocations and Development Management Plan 2016, which together seek to ensure that development proposals conserve and enhance the historic environment.

19. In its reason for refusal the Council also referred to Policies SB1, CP2 and CP6 of the CS. I am however not satisfied that these Policies are relevant to the Council's refusal reason or the main issue of the appeal.

## **Other Matters**

20. The appellant refers to the proximity of the site to public transport. The appellant also refers to a previous appeal decision<sup>2</sup> and other decisions by the Council where the settlement boundary was a main issue, including proposals for holiday units. However, none of these matters are a main issue of the appeal before me or are matters that could weigh in favour of the proposal in the context of my finding of heritage harm.

21. Natural England has advised the Council about the high levels of phosphates in the Somerset Levels and Moors Ramsar site. The proposal falls within the development types identified by Natural England that may give rise to additional phosphates within the catchment of the Ramsar. No information is before me relating to the level of phosphates that would be generated by the development, or details of any measures that may off-set the impact. However, as I am dismissing the appeal for other reasons, the proposal cannot give rise to additional phosphates, and this matter does not therefore need to be considered further.

## **Conclusion**

22. There are no material considerations that indicate that the appeal should be determined other than in accordance with the development plan. For the reasons above, I therefore conclude that the appeal should be dismissed.

*A Tucker*

INSPECTOR

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<sup>2</sup> APP/D3315/W/17/3179264

**Site:** MIDDLE SWEETHAY FARM BARN, SWEETHAY LANE, TRULL,  
TAUNTON, TA3 7PB

**Proposal:** Prior approval for proposed change of use from agricultural building to dwelling house (Class C3) and associated building operations at The Greenhouse, Newtons, Nailsbourne

**Application number:** E/0062/42/18

**Appeal number:** APP/W3330/F/20/3253765

**Reason for refusal:** Dismissed / Costs - Refused

**Original Decision:**



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## Appeal Decision

Site visit made on 21 June 2021 by **P N Jarratt BA DipTP MRTPI**

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

Decision date: 25 June 2021

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### Appeal Ref: APP/W3330/F/20/3253765 Sweethay Farm Barn, Sweethay, Trull, Taunton, Somerset, TA3 7PB

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Anthony Ormerod against a listed building enforcement notice issued by Somerset West and Taunton Council.
  - The enforcement notice, numbered E/0062/42/18, was issued on 28 April 2020.
  - The contravention of listed building control alleged in the notice is 1) the unauthorised insertion of a rooflight at roof level on the western elevation; and 2) the unauthorised installation of concrete roof tiles on the main barn.
  - The requirements of the notice are 1) remove the rooflight in the main roof of the western elevation roof slope and reinstate clay double Roman roof tiles over the void; and 2) remove the concrete roof tiles from the main roof and reinstate clay double Roman roof tiles.
  - The period for compliance with the requirements is 6 months.
  - The appeal is made on the grounds set out in section 39(1) (a), (c), (e), (f), and (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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## Decision

1. The appeal is dismissed and listed building consent is refused for the insertion of a rooflight at roof level on the western elevation and the unauthorised installation of concrete roof tiles on the main barn.

## Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

## Main Issues

3. The main issues are whether the appeal property is within the curtilage of a listed building and whether the works subject to the notice preserve the listed building or its setting or any features of special architectural or historic interest it possesses.

## Appeal Site

4. The appeal property is the southern half of a barn converted to holiday lets. The northern half of the barn is in separate ownership as is Middle Sweethay Farmhouse which is listed grade II. The barn is in close proximity to the farmhouse across a small yard which has been sub-divided by fencing from the appeal property. The subject barn is on two floors with a rear single storey annex dating from the 1970s and having concrete tiles, although these tiles are not the subject of the notice.

## Relevant Planning History

5. Application 42/16/0026 was approved subject to conditions for the change of use of the barn to form holiday accommodation and 42/16/0014LB approved various internal and external alterations to the barn.
6. Application 42/18/0025 for the variation of Condition 02 (approved plans) of 42/16/0026 was retrospective and involved the change of roof material on the main barn roof from clay double roman concrete tiles and for the insertion of a roof light. The refusal reason states that "The proposed change of roof tiles from clay to concrete harms the character and appearance of the listed barn by adding a modern material that has a uniform and regular appearance and colour. The insertion of the roof light is visually intrusive and when combined with the new roof tiles causes harm with no corresponding public benefit to offset the harm. The proposals are therefore contrary to the provisions of Chapter 16 of the National Planning Policy Framework and policy CP8 of the adopted Taunton Deane Core Strategy 2011-2028."
7. A listed building application for the retention of various works to the barn has been deemed invalid (42/20/0027/LB/INV).
8. It is noted that the conversion of the adjacent barn to a holiday let was approved in 2011.

## Policy Background

9. Section 16 of the LBCA requires special regard to be paid to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, before granting listed building consent. In addition to the duties under the Act referred to above, the policies of the development plan for Taunton Deane are also material considerations as is the National Planning Policy Framework (the Framework).



## Appeal on ground (f)

10. Although an appeal has been made on the ground that the notice was not served correctly, no evidence has been submitted to support this claim.
11. The appeal on this ground fails.

## Appeal on ground (a)

12. An appeal on this ground is that the building is not of special architectural or historic interest on the basis that the appeal building is not included in the listing description, is not within the curtilage of the listed building, is a separate planning unit and in separate ownership. The appellant cites *Hants CC & the Open Spaces Society & Others v SEFRA & Blackbushe Airport Ltd [2020] EWHC 959 (Admin), [2021] EWCA 398, [2020] JPL 398* in support.
13. Middle Sweethay Farmhouse was listed on 3 March 1988 and the description refers to it being a farmhouse C16 possibly earlier, enlarged C17, restored late C20. The barn is not mentioned in the list description but this does not mean that it is not curtilage protected. Section 1(5) of the Act confers protection to any object or structure within the curtilage of a listed building that has formed part of the land since before 1<sup>st</sup> July 1948.
14. The Council's statement clearly sets out the various considerations in their assessment of whether the barn is curtilage listed and cites *Debenhams PLC v Westminster CC [1987] AC 396* and *A-G ex rel Sutcliffe v Calderdale BC [1983] JPL310*. In summary, these are that the outbuildings fall within the curtilage of the farmhouse at the time of listing and historically, and formed one enclosure. There is a strong boundary wall built into the outbuilding and this forms the northern boundary of the Middle Sweethay curtilage. The shared courtyard is small and was sub-divided with fences following listing. The buildings are intimately related in the historic development of the farmstead, proximity, layout and function such that they are part of an integral whole and a single unit.
15. The appellant refers to English Heritage Listing within the Trull area indicating properties with barns or the listing of a barn in its own right but such information does not assist in this case which I have considered on the facts and judicial authority.
16. The appellant draws attention to the *Sinclair Lockhart's Trustees v Central Land Board [1950] 1 P. & C.R 195* regarding the interpretation of 'curtilage'. Whilst the barn may now be functionally separate to the farmhouse and in different ownership, this was not the case at the time of listing or in 1948. The appeal property satisfies the tests set out in s1(5) of the Act regarding the meaning of a listed building.
17. Reliance is also placed by the appellant on changes that have occurred to the planning unit and I accept that the appeal property appears now to be in a separate planning unit to that of the attached barn and farmhouse. However, this is of limited materiality to the conclusion regarding curtilage listing as "the planning unit is a concept which has evolved as a means of determining the most appropriate physical area against which to assess the materiality of change, to ensure consistency in applying the formula of material change of use"<sup>3</sup>.

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<sup>3</sup> Encyclopedia of Planning Law and Practice P55.44

18. I note that in *R(Egerton) v Taunton Deane BC [2008] EWHC 2752*) it was held on the facts of that particular case that for one building to be within the curtilage of another building, their relationship must be both functional and spatial. However, this does not overcome the fact that there was both a functional and spatial relationship of the appeal property with Sweethay Farmhouse at the relevant date, notwithstanding the appellant's reliance on the farmhouse being a dwelling and the barn originally being used for agricultural purposes.
19. I am left with no doubt that on the facts of this case and having had regard to all relevant judicial authority raised by the parties, the appeal property is a curtilage listed building.
20. The appeal on this ground fails.

### **Appeal on ground (c)**

21. An appeal on this ground is that if the matters occurred they did not constitute a contravention.
22. As I have concluded that the building is curtilage listed, the works subject to the notice are unauthorised in the absence of listed building consent.
23. The appeal on this ground fails.

### **Appeal on ground (e)**

24. An appeal on this ground is that listed building consent ought to be granted for the works, or that any relevant conditions of such consent which has been granted ought to be discharged, or different conditions substituted.
25. The Framework at paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction or from development within its setting) should require clear and convincing justification.
26. In this case the significance of the listed building arises from its historic role as a farmstead comprising the relatively substantial farmhouse, the subsidiary barn and the small courtyard. The presence and appearance of traditional materials form a key aspect of the historic and aesthetic significance of a listed building. Its setting is created through the disposition of other buildings, lanes and spaces in its vicinity. Various different roofing materials have been employed in the construction of neighbouring buildings and some roof lights are visible.
27. The Council's submitted photograph of the adjoining barns prior to conversion illustrates the simple form of the roof consisting of clay double Roman tiles with the ridgeline of the appeal property being considerably distorted through the passage of time. The renovation of the roof with the use of concrete tiles and the insertion of a centrally placed rooflight, which is visible from public viewpoints, coupled with the other alterations to the building, have created a distinctly domestic character. Additionally, the different external treatment and roofing materials used create two distinctive parts to the barn which is exaggerated through the visible division of the roof between the two units.
28. Much of this change is inevitable when the principle of the conversion of simple, utilitarian agricultural buildings to residential use is accepted but with care in design and with the use of appropriate traditional materials, the adverse effects of physical works can be mitigated to ensure that heritage buildings continue to adapt and serve

a useful purpose. This would have been achieved had the works approved in 42/16/0014LB been carried out but the unauthorised use of concrete tiles and the insertion of a rooflight causes harm to the significance of the listed building and its setting through the intrusive central position of the rooflight and the nature, uniformity and texture of the concrete roof tiles.

29. However, the extent of the harm caused is less than substantial in the context of paragraph 196 of the Framework which states that the harm should be weighed against the public benefits of the development including, where appropriate, securing its optimal viable use. The appellant has not indicated any public benefits arising from the works that offset the harm caused.
30. Notwithstanding the extent of the harm caused I attach substantial weight to this level of harm which is not outweighed by any benefits and I therefore conclude that these unauthorised works are contrary to the Framework and to Policy CP8 of the Taunton Deane Core Strategy which aims to protect the environment including historic assets.
31. I have had regard the representations submitted by the occupant of Middle Sweethay Farmhouse.
32. The appeal on this ground fails.

### **Appeal on ground (h)**

33. The appellant considers that the compliance period of 6 months is too short for all the necessary work to be carried out and having regard to the property being a holiday let. A compliance period of 12 months is requested.
34. However, in my view the unauthorised works should be removed within a reasonable period in order to overcome the harm I have identified. I therefore consider that the compliance period is adequate to carry out the requirements of the notice.
35. The appeal on this ground fails.

### **Conclusions**

36. For the reasons given above I conclude that the appeal should fail.

*P N Jarratt*

**Inspector**



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## Costs Decision

Site visit made on 21 June 2021 by **P N Jarratt BA DipTP MRTPI**

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

Decision date: 25 June 2021

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### Costs application in relation to Appeal Ref: APP/W3330/F/20/3253765 Sweethay Farm Barn

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 39, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Anthony Ormerod for a full award of costs against Somerset West and Taunton Council.
- The appeal was against a listed building enforcement notice alleging the insertion of a roof light at roof level on the western elevation and the unauthorised installation of concrete roof tiles on the main barn.

### Decision

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

### Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant's case relies on the fact that the Council issued a Listed Building Enforcement Notice, claiming that they have not carried out the correct assessment based on case law. The appellant is also critical of the Council in respect of information and advice supplied.
4. The Council has exercised its responsibilities and duty in respect of heritage assets in taking the necessary action to seek the removal of unauthorised works to a curtilage listed building. The notice was served after the failure of the parties to resolve the issues without resorting to formal action. It has been the consistent view that the building is listed and this has been accepted in the past by the applicant. A new Conservation Officer reviewed the position in November 2019 which demonstrates that the Council has been careful in its approach. The appellant has relied heavily on his own interpretation of listed building case law which differs to that of the Council. This is not unusual but it is not a basis to justify unreasonable behaviour.
5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*P N Jarratt*

Inspector

<https://www.gov.uk/planning-inspectorate>

**Site:** LUDWELLS BARN, LANGPORT ROAD, WRANTAGE, TAUNTON, TA3 6DQ

**Proposal:** Alleged unauthorised use of holiday let as permanent residential dwelling at Ludwells Barn, Langport Road, Wrantage, Taunton, TA3 6DQ

**Application number:** E/0201/24/19

**Appeal number:** APP/W3330/C/21/3272700

**Reason for refusal:** Appeal Allowed in Part & Enforcement Notice Upheld

**Original Decision:**



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## Appeal Decision

Site visit made on 21 June 2021 by **P N Jarratt BA DipTP MRTPI**

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

Decision date: 5 July 2021

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### Appeal Ref: APP/W3330/C/21/3272700 Ludwells Barn, Wrantage, Taunton, TA3 6DQ

- 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 Fisher Christopher Dodd against an enforcement notice issued by Somerset West and Taunton Council.
- The enforcement notice reference E/02001/24/19, was issued on 29 March 2002.
- The breach of planning control as alleged in the notice is the use of a building on the land (shown edged green on the plan attached to the notice) as permanent residential accommodation in breach of Condition 03 of planning permission reference 24/00/0020 which states "The occupation of the building shall be restricted to bona fide holiday makers for individual periods not exceeding four weeks in total in any period of 12 weeks. A register of holiday makers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times."
- The requirements of the notice are 1) to cease the use of the building referred to in paragraph 3 of the notice as permanent residential accommodation; and 2) comply with Condition 03 of planning permission reference 24/00/0020.
- The period for compliance with the requirements is 9 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended

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## Decision

1. The appeal is allowed in part and the enforcement notice is upheld. In accordance with section 177(1)(b) and section 177(4) of the 1990 Act as amended, Condition No 3 attached to the planning permission dated 13 July 2000, Ref 24/00/0020, granted by the Taunton Deane Borough Council is discharged and the following new condition is substituted. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for "Change of use of upper floor from studio to holiday accommodation to form one unit of holiday accommodation and formation of door and two windows at Ludwell Farm, Wrantage, North Curry" without complying with the said condition but subject to the other conditions attached to that permission and to the following new Condition 3:

*The holiday accommodation hereby permitted shall be occupied for holiday purposes only. It shall not be occupied as a person's sole or main residence. The site operator or owner shall maintain an up to date register of the names of all occupiers of the self-contained holiday unit and of their main home addresses, and the duration of their stay and shall make this information available at all reasonable times to the local planning authority.*

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## Procedural Matters

2. A building edged blue on the plan attached to the enforcement notice is the subject of a separate notice and appeal (APP/W3330/C/21/3272827) and does not form part of this decision.

## The site and relevant planning history

3. The land subject to the notice is adjacent to Ludwell's Farm and appears originally to have formed part of the range of buildings and yard of Ludwell's Farm. There is a vehicular access through the gate to Ludwell's Farm which provides access to the building the subject of the notice and edged green on the plan attached to the notice. It is of stone and blockwork construction on two floors with a tiled roof. Within the red line of the plan there is the building edged blue and a further building that at the time of my site inspection appeared to be in some form of holiday use although its forecourt contained a quantity of varied materials randomly stored. This has a separate vehicular access from the highway.
4. Planning permission reference 24/00/0020 was issued on 13 July 2000 for "Change of use of upper floor from studio to holiday accommodation to form one unit of holiday accommodation and formation of door and two windows at Ludwell Farm, Wrantage, North Curry" subject to 4 conditions. Condition 03 of the permission is referred to in the heading above and the reason for its imposition is stated as being "The Local Planning Authority is not prepared to allow a permanent residential site to become established because of the close relationship with out buildings, the restricted curtilage and the inadequate size of the building and wish to ensure that approved accommodation is available for tourism".
5. I note that the reason for the enforcement notice is based on the suitability of its location for a permanent dwelling alone as the Council makes no reference to the

curtilage, relationship with outbuildings and size of the building. set out in the reason for Condition 3. I have therefore considered the locational policy issues in determining this appeal and I consider the main issue is whether the disputed condition is appropriate with regard to the location of the appeal site and the proximity of services in the context of current local and national policy.

### **The appeal on ground (a)**

6. An appeal on this ground is that planning permission should be granted for what is alleged in the notice.
7. The development plan consists of the Taunton Deane Core Strategy 2012 (CS) and the Taunton Site Allocations and Development Management Plan 2016.
8. The site is outside recognised settlement limits to which Policy SP1 applies. This policy seeks to maintain the quality of the rural environment and regards development outside settlement boundaries as being in open countryside. Policy DM2 specifies uses that will be supported in open countryside which includes the conversion of existing buildings, with the acceptability of such conversions being sequential. Conversion to open market residential use is only appropriate in exceptional circumstances and the appellant has not submitted any information in support of such exceptional circumstances.
9. The CS was adopted after the original Framework was published and would have been consistent with its principles and policies. The 2019 revised Framework supports rural community, business, tourism and leisure uses and rural housing to meet local needs, particularly for affordable housing. It also allows reuse of redundant and disused buildings in the countryside. The Council has referred to a recent appeal decision at Smeathorpe<sup>4</sup> in which the Inspector considered that Policy DM2 is consistent with the revised Framework.  
I have no reason to disagree with that Inspector and I attach full weight to the Policy contrary to the argument of the appellant that the development plan is out of date as it does not take account of changes to the National Planning Policy Framework (the Framework) or case law since adoption.
10. It is also argued by the appellant that whilst Policy DM2 supports the provision of tourism accommodation within existing buildings, there is no policy for resisting the loss of tourist accommodation, citing Bournemouth Local Plan as an example of which has such a policy but I attach little weight to such an argument as it implies that in the absence of an explicit policy, any development is acceptable without regard to the wider aims and objectives of the development plan.
11. It is further argued that as there are no relevant development plan policies the 'tilted balance' of paragraph 11(d) of the Framework should be engaged. The appellant regards SP1 and DM2 as blanket policies and refers at length to an appeal decision in which policies in the Doncaster UDP<sup>2</sup> not being considered to be in line with the 'direction of travel of local and national policies'. However, the appellant has failed to demonstrate that the development plan policies relevant to this appeal are out of date and overlooks policies such as DM2 which remain relevant and in accord with the Framework as concluded by the Smeathorpe Inspector.
12. Paragraph 79 of the Framework states that planning policies should avoid the development of isolated homes in the open countryside except in the specific circumstances listed, none of which apply to the appeal site. The appellant has cited

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<sup>4</sup> APP/W3330/W/19/3237811 <sup>2</sup> APP/F4410/W/17/3169288

Braintree District Council v SSCLG [2018] EWCA Civ 610 about the meaning of 'isolated' and 'settlement', where the Court held that what is a 'settlement' and whether the development would be 'isolated' from a settlement are both matters of planning judgement for the decision maker on the facts of the particular case.

13. Wrantage is a sporadic collection of dwellings and farms along a stretch of the A358 with limited facilities. Ludwells Farm and Ludwells Barn are separated from Wrantage by open fields and could not be regarded as being within a settlement.
14. On the basis of the information submitted by the appellant, the site is 550m from a PH; 500m from a bus stop, 2.9km from a shop, 3.2Km from a PO and 3.37Km from a health centre and primary school. Although there is a footway to Wrantage, the distance to local services indicates to me that the use of sustainable transport modes are likely to be less likely than elsewhere where services are closer, albeit that this is not unusual in rural areas. I attach considerable weight to the absence of sustainable transport opportunities. The development does not accord with Policies CP1 to promote sustainability or with CP6 which seeks to reduce the need to travel.
15. The Council has referred to advice from Natural England dated 17 August 2020 in respect of the implications of the Dutch N case law on the Somerset Levels and Moors Special Protection Area and RAMSAR Site. Natural England advises that an appropriate assessment be carried out of planning applications that will result in a net increase in population served by a wastewater system, including new homes, student and tourist accommodation. However, this appeal relates to a breach of condition and not to a material change of use and the use remains as residential irrespective of the condition. The condition does not limit the period of the year when the property can be used as holiday accommodation, only the duration of occupation by a particular holiday maker. Accordingly the maximum use of the wastewater system could be potentially similar whether in permanent residential use as in holiday use. I therefore attach little weight to the relevance of the advice to this appeal.
16. I conclude that the disputed condition is appropriate with regard to the location of the appeal site and the proximity of services in the context of current local and national policy. The proposed removal of the holiday condition would result in an unfettered dwelling in an isolated location remote from services and where residents would be reliant on the private vehicle to meet their daily needs. It would be contrary to Policies SP1, DM2, CP1 and CP6 of the development plan and with the approach of the Framework to residential development in the open countryside.

#### *Other Matter*

17. The appellant has suggested a replacement condition that the Council considers acceptable as it would reflect the wording of similar conditions on more recent decisions. I have the power under s177(1)(b) to discharge Condition 3 of planning permission reference 24/00/0020 and impose a new condition using the power under s177(4).
18. The appeal has limited success on ground (a) to the extent that Condition 3 is replaced with another condition which is no more onerous than the original. The enforcement notice is upheld subject to the replacement condition on the deemed planning application.



## **The appeal on ground (g)**

19. The appellant states that the appeal property is his established home and has been so since 2013 and that a compliance period of 18 months would be more suitable. It is also requested that a concurrent time should be set for the compliance period in relation to the second enforcement notice which would require demolition and clearance.
20. I consider that the breach of condition should cease within a reasonable period in order to overcome the harm I have identified. I therefore consider that the compliance period is adequate and proportionate in order to carry out the requirements of the notice. Notwithstanding the outcome of the appeal against the second enforcement notice the Council has the power under s173A(1)(b) of the Act to extend the compliance period specified at its discretion.
21. The appeals on ground (g) fail.

## **Conclusion**

22. For the reasons given above I conclude that the appeal should have limited success on ground (a) but that the enforcement notice should be upheld. I propose to discharge the condition the subject of the notice, and to grant planning permission, on the application deemed to have been made, for the change of use previously permitted without complying with the condition enforced against, but to substitute a less onerous condition as indicated in the decision. The appeal on ground (g) does not succeed.

*P N Jarratt* **Inspector**



## APPEALS RECEIVED – 22 JULY 2021

**Site:** Strawberry Fields, Holford, TA5 1RZ

**Proposal:** Alleged unauthorised agricultural building not in accordance with prior approval at Strawberry Field, Holford

**Application number:**

**Appeal reference:** APP/W3330/C/21/3275167

**Decision:**

**Enforcement Appeal:** ECC/EN/18/00005

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**Site:** BARN AT MEARE GREEN, WEST HATCH, TAUNTON

**Proposal:** Prior approval for proposed change of use from agricultural building to dwelling house (Class C3) and associated building operations to the Barn at Meare Green, Hatch Beauchamp

**Application number:** 47/21/0001/CQ

**Appeal reference:** APP/W3330/W/21/3276284

**Decision:** Delegated Decision – Prior Approval Refused

**Enforcement Appeal:**

**Site:** 5 LANGHAM GARDENS, TAUNTON, TA1 4PE

**Proposal:** Installation of window at first floor level at 5 Langham Gardens, Taunton

**Application number:** 52/21/0009

**Appeal reference:** APP/W3330/W/21/3276435

**Decision:** Delegated Decision – Conditional Approval

**Enforcement Appeal:**

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**Site:** 45 NORTHGATE, WIVELISCOMBE, TAUNTON, TA4  
2LF

**Proposal:** Alleged unauthorised fence along front boundary at 45 Northgate, Wiveliscombe N

**Application number:**

**Appeal reference:** APP/W3330/W/21/3276435

**Decision:**

**Enforcement Appeal:** E

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