

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.

---

## **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 carers. 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 outbuildings 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 as 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 a 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**