

SWT Planning Committee

Thursday, 20th February, 2020,
1.00 pm

The logo for Somerset West and Taunton, featuring the text "Somerset West and Taunton" in white on a teal background with a white swoosh.

The John Meikle Room - The Deane
House

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

Agenda

1. Apologies

To receive any apologies for absence.

2. Minutes of the previous meeting of the Planning Committee

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

(Pages 5 - 16)

3. Declarations of Interest or Lobbying

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

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

4. Public Participation

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

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

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|--|------------------------|
| <p>5. 24/19/0046</p> <p>Erection of 1 No. bungalow with detached garage on land to the rear of 16 Town Farm, North Curry</p> | <p>(Pages 17 - 30)</p> |
| <p>6. 42/19/0045</p> <p>Outline application with all matters reserved, except access, for the erection of 1 No. dwelling on land to the North West of Applecombe Cottage, Wild Oak Lane, Trull (resubmission of 42/19/0022)</p> | <p>(Pages 31 - 40)</p> |
| <p>7. Tree Preservation Order 12 The Avenue, Taunton</p> <p>The Tree Preservation Order protects one Hornbeam tree that is growing as a street tree outside 12 The Avenue.</p> | <p>(Pages 41 - 54)</p> |
| <p>8. Latest appeals and decisions received Lodged</p> | <p>(Pages 55 - 64)</p> |



JAMES HASSETT
CHIEF EXECUTIVE

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Members of the public are welcome to attend the meeting and listen to the discussions. There is time set aside at the beginning of most meetings to allow the public to ask questions. Speaking under "Public Question Time" is limited to 3 minutes per person in an overall period of 15 minutes. The Committee Administrator will keep a close watch on the time and the Chair will be responsible for ensuring the time permitted does not overrun. The speaker will be allowed to address the Committee once only and will not be allowed to participate further in any debate. Except at meetings of Full Council, where public participation will be restricted to Public Question Time only, if a member of the public wishes to address the Committee on any matter appearing on the agenda, the Chair will normally permit this to occur when that item is reached and before the Councillors begin to debate the item.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group. These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room. Full Council, Executive, and Committee agendas, reports and minutes are available on our website: www.somersetwestandtaunton.gov.uk

The meeting room, including the Council Chamber at The Deane House are on the first floor and are fully accessible. Lift access to The John Meikle Room, is available from the main ground floor entrance at The Deane House. The Council Chamber at West Somerset House is on the ground floor and is fully accessible via a public entrance door. Toilet facilities, with wheelchair access, are available across both locations. An induction loop operates at both The Deane House and West Somerset House to enhance sound for anyone wearing a hearing aid or using a transmitter. For further information about the meeting, please contact the Governance and Democracy Team via email: governance@somersetwestandtaunton.gov.uk

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SWT Planning Committee - 30 January 2020

Present: Councillor Simon Coles (Chair)

Councillors Mike Rigby, Ian Aldridge, Sue Buller, Marcia Hill, Martin Hill, Mark Lithgow, Chris Morgan, Simon Nicholls, Craig Palmer, Brenda Weston, Loretta Whetlor and Gwil Wren

Officers: Jo Humble, Tracey Meadows (Democracy and Governance), Rebecca Miller (Principal Planning Specialist), Alex Lawrey, Chris Hall and Roy Pinney

Also Present: Councillors

(The meeting commenced at 1.00 pm)

115. Apologies

Apologies were received from Councillors, Habgood and Tully

116. Minutes of the previous meeting of the Planning Committee

(Minutes of the meeting of the Planning Committee held on 9th January 2020 circulated with the agenda)

The minutes of the Planning Committee held on 9th January 2020 will be confirmed at the next meeting on the 20 February.

117. 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.	Reason	Action Taken
Cllr I Aldridge	Ward Member for Williton Watchet and Sampford Brett	Personal	Spoke and Voted
Cllr S Buller	Correspondence from Collier Planning. Ward member for 36/18/0048	Personal	Spoke and Voted
Cllr N Cavill	Correspondence from Collier Planning	Personal	Spoke and Voted
Cllr S Coles	Correspondence	Personal	Spoke and

	from Collier Planning. Ward Member for 38/19/0154		Voted
Cllr Mrs Hill	Correspondence from Collier Planning	Personal	Spoke and Voted
Cllr M Hill	Correspondence from Collier Planning	Personal	Spoke and Voted
Cllr M Lithgow	Correspondence from Collier Planning	Personal	Spoke and Voted
Cllr C Morgan	Correspondence from Collier Planning. App 3/16/19/005, Ward Member.	Personal	Spoke and Voted
Cllr S Nicholls	Correspondence from Collier Planning	Personal	Spoke and Voted
Cllr C Palmer	Correspondence from Collier Planning	Personal	Spoke and Voted
Cllr B Weston	Correspondence from Collier Planning	Personal	Spoke and Voted
Cllr L Whetlor	Correspondence from Collier Planning. Ward Member for app 3/37/18/015. Lobbied by residents, discretion not fettered and all correspondence declared.	Personal	Spoke and Voted
Cllr G Wren	Correspondence from Collier Planning. Knows one of the objectors. Member of the National Trust.	Personal	Spoke and Voted

118. **Appointment of Vice Chair**

Councillor Coles proposed and Councillor Buller seconded a motion for Cllr Marcia Hill to take the role of Vice Chair for this meeting.

The motion was carried

119. Public Participation

Application No	Name	Position	Stance
06/19/0048	Henry Davenport Chair, Bishops Lydeard & Cothelstone Parish Council Adam Knee (read out by Henry Davenport)	Local residents	Objecting
3/16/19/005	Peter Drummond Peter Granfield Stuart Tavner Jessica Wyatt	Local residents	Objecting
	Nigel Firze	On behalf of Applicant Agent	Infavour Infavour
27/18/0002	Malcolm Marks Caroline Bedford, a statement will be read out on Caroline's behalf by Malcolm Marks	Local Resident local resident local resident	Infavour Infavour Infavour
	Louis Broadbent and applicant Samantha Thomas	First Step Homes WYG and planning agent	Infavour Infavour
	David Mitchell Robert Gully Cllr. Sue Davies,	Applicants	Infavour
	Cllr Chris Hillier	Chair Oake Parish Council Oake Parish Council	Objecting Objecting
3/37/18/015	Phil Gannon Paul Barrell Duncan Robson	Local Resident Local Resident Lorna Doon Management Company	Objecting Objecting Objecting
	Alison Mills Jan Martin Ian Enters Mr Agg The Revd Dr Andrew Tatham	Local Resident Local Resident Local Resident Local Resident Local Resident	Objecting Objecting Objecting Objecting Objecting
	Cllr John Ervin Watchet Town Council Mr M Lee	Watchet Town Council	Objecting
		Agent	Infavour

38/19/0154	Vicki Tripney Mr Dan Foster Cllr R Lees (read out by the Chair, Cllr S Coles)	On behalf of residents of Wintersfield, Taunton Salmon Planning Co Ltd	Infavour
43/19/0075	Kate Holden Dianna Land Caroline Blatch	Agent – Pegasus Group Local resident Local resident	Infavour
46/19/0034	Helen Lane	Local resident	Objecting
36/18/0048			

120. **3/37/18/015**

Outline application with all matters reserved, except for access, for the residential redevelopment of agricultural Land for 136 dwellings with the creation of a new vehicular access (closure of existing), provision of estate roads, pathway, new public rights of way, cycleway and open recreational space. Also, partial re-alignment of existing public highway (Cleeve Hill). Land at Cleeve Hill, Watchet, TA23 0BN

Comments from members of the public included;

- Land stability issues;
- Additional traffic issues;
- Lack of suitable footpath;
- Geotechnical concerns;
- Loss of natural soakaways;
- Impact on views and privacy;
- Concerns with the lack of affordable housing on the site;
- Lack of employment in Watchet;
- Development not needed as there are other residential developments in Watchet;
- Negative impact on tourism;
- Increased risk of landslides;
- Concerns with the impact on existing utilities;
- No provision for refuse collection;
- Historical site needed protecting;
- The site was formally allocated in the Local Plan;
- The site was on an arterial bus route to serve local residents;
- The development would boost the local economy;
- The development would boost the 5 year housing supply;

Comments from members included;

- Concerns with costal erosion and the stability of the land;
- Concerns that the site was the wrong side of town;
- Poor access to the site;
- Concerns with the viability of the site;
- Concerns with water runoff;
- Concerns with the loss of social housing;
- Concerns with the supply of utilities to the site;
- The road should be built by Somerset County Council;
- Concerns that the site was being brought forward prematurely due to no demand for housing in the area;
- Lack of employment in the area;
- Concerns with the loss of green space;
- Concerns with the allocation of this site;
- The historic site needed protection;
- Lack of infrastructure;

Councillor Coles proposed and Councillor Martin Hill seconded a motion for the Outline application to be APPROVED.

The motion failed

Councillor Aldridge proposed and Councillor Buller seconded a motion for the Outline application to be REFUSED.

The motion failed

Councillor Lithgow proposed and Councillor Palmer seconded a motion for the Outline application to be DEFERRED

The motion was carried

Councillors Aldridge, Buller and Wren abstained from the vote

Reasons

Further information including viability report (to include percentage of affordable housing), land stability report and to be presented with option from Somerset County Council.

At this point in the meeting Councillor Martin Hill left the meeting.

A half hour extension was approved

121. **06/19/0048**

**Erection of 20 No. dwellings with associated infrastructure at
The Paddocks, Bishops Lydeard**

Comments made by members of the public included;

- The application will be visually dominate;
- Overbearing;
- Loss of light;
- Impact on the neighbouring properties;
- Concerns that there is no condition requiring boundary treatment;
- Not in keeping for a village location;
- Footpath concerns;
- Concerns with the design of the development;

Comments made by members included;

- Concerns with the biodiversity of the site;
- Drainage issues;
- Contrary to the neighbourhood plan;
- Concerns with the loss of trees;
- Development out of keeping with the area;
- The development was lacking in imagination;
- Concerns with the use of redbrick instead of Sandstone;
- Walnut trees rather than Cyprus should be retained;

Councillor Wren proposed and Councillor Hassell seconded a motion to grant Conditional approval subject to a S106 and new Conditions, condition 22 provided in update report and a grampian condition to secure footpath. A conversation with the developers regarding the treatment of the front facings of the development to be more in keeping with local red sandstone.

The **motion** was carried

A half hour extension was approved

At this point in the meeting Councillor Nicholls left the meeting.

122. **3/16/19/005**

Retention of agricultural building including alterations to existing structure (resubmission of 3/16/18/006) at Strawberry Fields, Combe Lane, Holford

Comments made by members of the public included;

- Concerns that there was not water on site;
- The development was in the ANOB;
- Inappropriate site for this development;
- The barn was needed to store agricultural machinery;

- The domestic features had been removed;
- No conditions given to previous planning permission in 2013;
- The internal area had not being increased;

Comments made by members included;

- No evidence that the barn was used for agricultural use;
- Objections from the ANOB;
- The barn was situated across a bridal way;
- Viability needed to be justified;

Councillor Morgan proposed and Councillor Wren seconded a motion for the application to be REFUSED

Reasons

Reasons included, NPPF, Policy BD6 and the need to meet the functional needs of a farming business

The **motion** was carried

Councillor Cavill abstained from the vote

At this point in the meeting Councillor Martin Hill left the meeting.

A half hour extension was approved.

123. **27/18/0002**

Erection of 18 No. dwellings (9 No. affordable) with pumping station, car parking, landscaping and formation of vehicular access on land to the east of Oake as amended revisions to Plot 18; increase in parking provision, revised visibility splays; provision of motorcycle parking; parking bay for the pumping station

Members of the public made the following comments;

- The application remains non-compliant with Planning Policy;
- Electrical charging points should be supplied to all units;
- The proposal was not in a suitable location in relation to facilities and services within Oake;
- No viability assessment had been submitted;
- Contrary to Policy CP4 and the Affordable Housing SPD;
- Sequential test has not considered any potentially more suitable sites around Cotford St Luke, Milverton and Oake;
- The proposal is not well located to existing bus stop;
- The cost of connecting to foul drainage;

- 18 dwellings of which 7 are affordable;
- There are different number, tenure and mix of affordable homes;

At this point in the meeting Councillor Morgan left the meeting.

Members made the following comments;

- No Sequential test considered;
- Site not located to an existing bus stop;
- Viability issues;

At this point in the meeting Councillor Hassell left the meeting;

A half hour extension was agreed.

Councillor Coles proposed and Councillor Wren seconded a motion that Condition Approval be granted subject to a S106 legal agreement to secure,

- Affordable housing;
- and a financial contribution of £53,248 towards offsite play provision;

The **motion** was carried

At this point in the meeting Councillor Buller left the meeting.

124. **38/19/0154**

Outline planning application with all matters reserved (except access) for the redevelopment of the site for the erection of up to 20 No. dwellings at 82 Priory Bridge Road, Taunton

Comments made by members of the public included;

- Concerns with the loss of light;
- Overbearing;
- Concerns that there was no engagement with local residents;
- Impact on the amenity of local residents;
- Loss of privacy;
- The development was of a high quality design;
- The developer needs to provide a high quality and best designed scheme;
- The developers need to work closely with the Local Planning Authority, Local Residents and the Design Review Group;
- No technical objections have been made;
- This is good use of a brownfield site;

Comments made by members included;

- Concerns that this was a tight site;
- Issues with access and traffic measures for egress in and out of the site;
- Concerns with the layout of the site;
- Concerns that this did not fit in with the garden town theme;

A half hour extension was agreed.

Councillor Coles proposed and Councillor Cavill seconded a motion for Conditional approval to be granted;

The **motion** was carried

125. **43/19/0075**

Approval of reserved matters following outline application 43/17/0002 for the erection of 205 dwellings with public open space, landscaping, drainage and associated and ancillary development on land to the west of Bagley Road, Rockwell Green, Wellington

Comments from members of the public included;

- Overlooking/overshadowing;
- Concerns with the high density of the site;
- Loss of privacy;
- Reduction in gifted land;
- The site was in a sustainable location;
- Improved connectivity;
- Increased greenery;
- Consultation with PC;
- Much needed new homes;

Comments from members included;

- Road safety concerns;
- Street lighting;
- Electric charging points required;
- No provision for cycle ways;
- Open spaces needed protection;

Councillor Coles proposed and Councillor Wren seconded a motion for Conditional approval to be granted.

The **motion** was carried

At this point in the meeting Councillor Cavill left the meeting.

A half hour extension was agreed.

126. **46/19/0034**

Change of use of former village shop store into 1 No. one bedroom dwelling and retrospective reconfiguration at 2a Dyers Close, West Buckland (resubmission of 46/19/0015)

Comments from members of the public included;

- Loss of light;
- Concerns that the development was 3m from the neighbouring back door;
- Loss of privacy;

Comments from members included;

- Intrusive;
- Overdevelopment of the site;
- Concerns with the impact on the street scene;

Councillor Wren proposed and Councillor Lithgow seconded a motion for the application to be REFUSED.

Reasons

1. The proposed development by reason of its design would have an awkward, arbitrary and conspicuous visual and disruptive relationship with neighbouring properties. The narrow frontage together with the incongruous roof would detract discordantly from the design of the neighbouring properties. The proposal would not assimilate successfully with the character and appearance of the area, being a discordant intrusion. The proposal would therefore be contrary to policies DM1 (d), CP1 (g) and CP8 of the Core Strategy and Policy D7 of the Site Allocations and Development Management Plan;

2. The proposal by reason of its position in relation to the flats at 2a Dyers Close and 2 Dyers Close would give rise to a loss of sunlight, daylight, overshadowing and an increased sense of enclosure, thereby resulting in unneighbourly development, harming the residential amenities of the occupiers of 2a and 2 Dyers Close contrary to Policy DM1 (e) of the Core Strategy;

The **motion** was carried

127. **36/18/0048**

Erection of 34 No. dwellings, (7 No. bungalows and 27 No. houses) with associated works including drainage, landscaping and highways works on land adjacent to Willey Road, Stoke St Gregory

No discussion was had on this application

Councillor Wren proposed and Councillor Lithgow seconded a motion for the application to be approved with off-site provision contribution to be used to fund the pavilion, equipment store and multi-use games area as this would provide off site play provision for the local community;

The **motion** was carried

128. **Latest appeals and decisions received**

Two appeals decisions were received which will be noted at the next meeting.

(The Meeting ended at 8.55 pm)

24/19/0046

MR A SALT

Erection of 1 No. bungalow with detached garage on land to the rear of 16 Town Farm, North Curry

Location: LAND TO THE REAR OF 16 TOWN FARM, NORTH CURRY

Grid Reference: 331796.125261

Full Planning Permission

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 16.16.101 Site Location Plan
 (A3) DrNo 16.16.103 Block Plan
 (A3) DrNo 16.16.104 Site Plan
 (A3) DrNo 16.16.105 Bungalow Floor Plan
 (A3) DrNo 16.16.106 Bungalow Elevations
 (A3) DrNo 16.16.107 Garage Plans & Elevations
 (A3) DrNo 16.16.110 Orchard Location Plan
 (A2) DrNo 3039.001 Rev B Landscape Structure Plan

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

3. No removal of hedgerows, trees or shrubs or demolition of structures shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the

ecologist.

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

4. Retained trees and hedgerows shall be protected from mechanical damage, pollution incidents and compaction of roots in accordance with BS5837:2012 during site clearance works and construction and to ensure materials are not stored at the base of trees through the use of protective fencing. The fencing shall be installed prior to any vegetative clearance and maintained throughout the construction period.

Reason: In the interests of protected species, hedgerows and biodiversity generally and in accordance with policy CP8 of the Taunton Deane Local Plan.

5. Prior to occupation, a "lighting design for bats" shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: In the interests of the 'Favourable Conservation Status' of populations of European protected species and in accordance with policy CP8 of the Taunton Deane Local Plan

6. The following will be integrated into the dwelling:
 - a. A Habibat 001 bat box or similar will be built into the structure at least four metres above ground level and away from windows beneath the apex of the southwest elevation.
 - b. A cluster of five Schwegler 1a swift bricks or similar built into the wall at least 60cm apart, at least 5m above ground level beneath the apex on the northeast elevation
 - c. A bee brick built into the wall about 1 metre above ground level on the south-east elevation of the dwelling

Photographs of the installed features will be submitted to the Local Planning Authority prior to the completion of construction works.

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

7. (i) A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior to such a scheme being implemented. The scheme shall include details of the species, siting and numbers to be planted.

(ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development.

(iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species.

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

8. Prior to the construction of the building above DPC level samples of the materials to be used in the construction of the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained as such.

Reason: To safeguard the character and appearance of the area.

- 9.
- i) Before development commences (including site clearance and any other preparatory works) a scheme for the protection of trees to be retained shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location of the protective fencing, and shall specify the type of protective fencing, all in accordance with BS 5837:2012.
 - ii) Such fencing shall be erected prior to commencement of any other site operations and at least two working days' notice shall be given to the Local Planning Authority that it has been erected.
 - iii) It shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities whatsoever shall take place within the protected areas without the prior written agreement of the Local Planning Authority.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase.

Reason for pre-commencement: To ensure protection of trees on site.

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 proposes the erection of a detached single storey dwelling with three bedrooms and a detached double garage. Vehicular access to the site is from an existing private drive which serves one dwelling and a BT exchange building.

Site Description

The site is located within the settlement boundary of North Curry and is surrounded by residential properties in a mix of styles. The site lies to the rear (north-west) of 16 Town Farm and was formerly used as an orchard.

The site measures 1056m² and is relatively flat. The site is well screened from public realm, behind existing dwellings.

Relevant Planning History

24/01/0033 - Erection of three houses and two flats for Social Housing and alterations to existing barn at Town Farm, North Curry - Conditional approval - 8 March 2002

24/01/0034 - Residential development (total of 14 units) including conversion and extension of existing building to form two units at land to the rear of Town Farm, North Curry - Conditional approval - 8 March 2002

24/18/0012 - Erection of bungalow - Refused -

24/19/0021 - Erection of bungalow - Refused - 6 September 2019 - Appeal against the refusal has been lodged with the Planning Inspectorate

Consultation Responses

NORTH CURRY PARISH COUNCIL - Strongly object to this application.

- The Parish Council believes the Section 106 Agreement/Covenant of the Town and County Planning Act 1990 is still binding and would expect Somerset West and Taunton

Council Planning to abide by that.

2.2 “ *the Developer shall not construct or permit to be constructed upon the Public Open Space Land as so defined any building or other structure whatsoever (other than hedges or fences dividing individual garden areas such fencing to be approved in writing to the council)* ”

6. “*The developer hereby agrees (in consideration of the agreement by the Parish Council and the Council in clause 2) that*

6.1 *any area of land retained as paddock will be maintained in good agricultural order*”

- The Parish Council understood that the Planning Authority were not happy with the ecological finding of the previous application. The applicant has now undertaken an ecological survey, which has involved removing all important species, and completely cleared the site to prevent any repopulation of wildlife at all. To emphasise these points raised we refer to the comments made by Mr Gareth Clifford, Planning Officer ‘*The proposed development by reason of the design and location would be an inappropriate development in a backland location on historic orchard land that will result in the permanent loss of an historic orchard area contrary to policy ENV1 of the Site Allocations and Development Management Plan and replacement planting is not*

considered to offset this and it would be detrimental to the character and appearance of the area contrary to policies CP8 and DM1d of the Core Strategy. In summary, the development would result in the loss of an historic orchard area that acts as a green buffer between residential developments within the village. A bungalow here would be backland development out of keeping with the character of the area and while the access is considered suitable for an additional dwelling the harm to the character of the area is not considered to be outweighed by the benefit of a single bungalow.'

- The Parish Council still feels that the visibility splay onto Knapp Lane is substandard, especially now a fence on the Northern side of the entrance has been erected. The PC also notes that a previous application at Knapp Lane Acre was refused partly due to access visibility issues. **24/14/0011 – (Appeal Decision APP/D3315/A/14/2229087)**, comments from Highways Safety, '16. The highway authority seeks visibility spays of 2.4 m x 43 m to the east, and 2.4 m x 59 m to the west.'

... '17. The junction with Knapp Lane lies within an area where the national speed limit applies. For vehicles leaving the site, visibility at the junction with Knapp Lane is severely restricted' The PC feels this site also does not meet these requirements. The traffic flow along Knapp Lane has increased since the Lockyer's Field Development with Strongvox stating the following in relation to adding a footpath to Knapp Lane.

'Following an additional speed survey, undertaken in December 2018 at the location where the footpath connection is due to be made, that 85th % tile of the speed in both directions on Knapp Lane is 25 mph. This is a significant increase on the previous speeds of 18-20 mph, on which the original visibility splays were based'

SCC - TRANSPORT DEVELOPMENT GROUP - Standing advice

TREE OFFICER - The remnant orchard that was present on this site was unfortunately largely felled in April of last year. Of the 14 trees on the site, 10 of them were either felled, or partially felled or ring-barked. A TPO had been served, but the trees were cut before the TPO could be received. After this, it was considered that the site as an orchard was essentially lost, as only the remaining undamaged trees at the northern end were likely to survive. The 10 trees that had been cut were likely to die or would be likely to shed limbs from what remained. The TPO system does not allow for the protection of dead or dangerous trees.

The site is now very overgrown, but it appears that the remains of three trees are present in the middle of the site, one of which appears to have re-sprouted from the stump. These remains would not merit protection by TPO. However, there is a group of trees at the northern end of the site that is shown to be retained. Three of these are apple trees. There's also a birch and a palm tree. I think that these should be protected by a planning condition, and protected carefully during construction in the usual way. Also a good number of new trees should be included in a landscape scheme, as indicated on the current site plan.

SCC FLOOD AUTHORITY - We believe that this application is a minor application and falls below the requirements for LLFA statutory consultation. Therefore, the LLFA has no comments to make regarding this application.

SCC - ECOLOGY -An Ecological Appraisal of the application site was carried out by Blackdown Environmental in October following a Preliminary Ecological Appraisal produced in July 2019 (not submitted with the application)for the same site then known as Land off Knapp Lane.

The report noted that the shed on the site had potential to support nesting birds, e.g. blackbird or robin. The following condition will be required:

No removal of hedgerows, trees or shrubs or demolition of structures shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist

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

Reptile fencing has been installed in anticipation of the previous application, and a translocation exercise carried out of the slow-worm population to a suitable site in North Curry. A destructive search of the site was subsequently carried out in October 2019.

The report recommends that the remaining trees at the boundaries of the site are protected during the construction phase. This should be conditioned as follows:

Retained trees and hedgerows shall be protected from mechanical damage, pollution incidents and compaction of roots in accordance with BS5837:2012 during site clearance works and construction and to ensure materials are not stored at the base of trees through the use of protective fencing. The fencing shall be installed prior to any vegetative clearance and maintained throughout the construction period.

Reason: A pre-commencement condition in the interests of protected species, hedgerows and biodiversity generally and in accordance with policy CP8 of the Taunton Deane Local Plan

Hedgerows around the site were considered potentially to support commuting bats. Lacking evidence to the contrary I have to assume the presence of light sensitive species. Therefore, the following condition is required:

- Prior to occupation, a "lighting design for bats" shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: In the interests of the 'Favourable Conservation Status' of populations of European protected species and in accordance with policy CP8 of the Taunton Deane Local Plan

The National Planning Policy Framework (170d) requires biodiversity enhancement to be provided within development. A bee brick would contribute to the Somerset Pollinator Action Plan. Research shows that bees will live in the bricks and there is no risk associated with their installation as solitary bees do not live in hives or have a queen, and do not sting. The bricks have a solid back with the cavities placed on the outside wall. I recommend that the following is conditioned.

The following will be integrated into the dwelling:

- a. A Habibat 001 bat box or similar will be built into the structure at least four metres above ground level and away from windows beneath the apex of the southwest elevation.
- b. A cluster of five Schwegler 1a swift bricks or similar built into the wall at least 60cm apart, at least 5m above ground level beneath the apex on the northeast elevation
- c. A bee brick built into the wall about 1 metre above ground level on the southeast elevation of the dwelling

Photographs of the installed features will be submitted to the Local Planning Authority prior to the completion of construction works.

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

SOUTH WEST HERITAGE TRUST - No objections on archaeological grounds

Representations Received

Representations have been received from 33 local residents objecting to the proposal on some or all of the following grounds:

- principle of development has previously been rejected by the Council
- backland development, which would set a precedent
- development would require an ancient orchard of apple trees to be removed
- any replacement orchard should be on additional land not already part of an existing development
- access to the site is dangerous
- increased traffic along narrow lane
- lack of footpath along Knapp Lane
- increased noise and disturbance for local residents during construction
- village is being over-developed and becoming a commuter belt
- valuable green spaces within the village should be retained
- habitat for wildlife and biodiversity will be lost
- used to provide a buffer between open countryside and housing, but now provides space between 14 houses
- trees should be replanted
- land has been cleared
- the alternative orchard site is in a neglected state
- land protected as a green buffer through a S106 agreement and covenant

One representation received in support of 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.

SD1 - Presumption in favour of sustainable development,
SP1 - Sustainable development locations,
DM1 - General requirements,
A1 - Parking Requirements,
D7 - Design quality,
D10 - Dwelling Sizes,
D12 - Amenity space,
ENV1 - Protection of trees, woodland, orchards and hedgerows,
ENV2 - Tree planting within new developments,
ENV4 - Archaeology,
CP8 - Environment,

Local finance considerations

Community Infrastructure Levy

Creation of dwelling is CIL liable.
Proposed development measures approx. 160sqm.

The application is for residential development outside the settlement limits of Taunton and Wellington where the Community Infrastructure Levy (CIL) is £125 per square metre. Based on current rates, the CIL receipt for this development is approximately £20,000.00. With index linking this increases to approximately £26,750.00.

Determining issues and considerations

The proposal is for the erection of a single bungalow on land to the rear of existing two storey development at Town Farm and Sycamore Row within the historic village of North Curry. The land is within the settlement boundary identified in the local plan and surrounded by residential development. The main issues are suitability of the site in terms of location, character and design, biodiversity and the access.

The location is within the settlement limits of the village where development in principle is considered acceptable. It is in a backland position and was originally designated open space and possible allotment land for the Town Farm development granted in 2002. This land was referred to in the original Section 106 agreement for the site and was subsequently amended to paddock land with a clause in the legal agreement that it not be built on. Circumstances have clearly changed since the agreement was completed as the site no longer forms a buffer between development and open countryside and is now surrounded by residential development. This however is a legal issue that would need to be relaxed if

development was to be granted. The covenant is not a relevant planning issue in the consideration of the application.

The land itself has been an undeveloped orchard area historically as evidenced from historic maps. The character of the area is as an overgrown orchard and a number of trees on the site have been subsequently felled prior to a TPO being formally served. The character of the surrounding area is of mainly two storey dwellings and while a bungalow design could be argued to be out of keeping with the general character of the village, there is a bungalow immediately to the east. However this site is not in the conservation area and has no specific designation and a bungalow would not have any adverse impact on the amenity of neighbours.

Policy ENV1 of the SADMP seeks to minimise the loss of trees and orchards among other natural features and seeks a net gain where possible. Replacement trees are proposed to be replanted within the site, and an alternative public orchard area planted on open space in the village has been provided to compensate for the loss of the area. The site is privately owned and trees will be planted to supplement those already on the site which would result in a net gain. This being the case the impact of a single storey property and tree planting is not considered to adversely impact on the character of the area to warrant a refusal of the proposal and it is considered to comply with policies ENV1 and ENV2.

The access to the site is proposed via an existing access onto Knapp Lane in a location around 45m with the junction with Queen Square. The access serves existing properties and the addition of a single dwelling is not considered to generate significant traffic to warrant a highway concern, particularly as the visibility in both directions is considered adequate. The proposal has parking and turning within the site which complies with policy A1 of the SADMP. The Highways Authority has raised no objection. Given the concerns raised by local residents further comments has been requested from the Highway Authority.

A number of representations have been received objecting to the proposal on a number of grounds. However, with the exception of the ecological grounds (and the reason for refusal), the issues have been addressed in the assessment of the previous application and not considered to be grounds for refusal. The current application is a duplicate of the previously refused application and there have been no changes in circumstances.

To address the environmental aspects, the applicants have submitted an Ecological Appraisal prepared by Blackdown Environmental and dated October 2019. The Appraisal has been reviewed by an ecologist on behalf of the Council, who has raised no objection to the proposal subject to the inclusion of a number of conditions, including biodiversity enhancements.

In summary the development would result in the provision of a bungalow that would not impact on the amenity of neighbouring dwellings. The access is suitable to serve a single dwelling and the main issue is the loss of an historic orchard area. A replacement public orchard area has been provided and replacement tree planting for those previously lost can be conditioned as well as the protection of those trees to remain on the site.

The proposal complies with the adopted policies and approval is recommended.

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

Contact Officer: Denise Grandfield

APPENDIX A

Background

The application was deferred from the Planning Committee meeting on 9 January 2020 for the following reason:

Justification required from the Highway Authority as to why evidence submitted by an objector does not change the Highway Authority's advice on this application.

The report to Planning Committee on 9 January 2020 is attached (Appendix A)

Consultation responses

SCC Highway Authority –

I appreciate that you have contacted us for further comment following a request from your planning committee members, however, this application was initially referred to the Highway Authority's Standing Advice and as such further involvement would not normally be provided.

For this application further comments have already been requested and provided in December. We are currently at a point where further comments have again been requested, even though the Highway Development Control Service Manager has attended and addressed the committee on this site due to local member involvement.

Whilst I accept and understand the local resident's concerns the Highway Authority is obliged to consider the policies as set out within the National Planning Policy Framework (NPPF) when assessing the impact of a proposed development. Paragraph 109 of the NPPF states that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe". The NPPF also has a strong presumption in favour of development, it is not believed by the Highway Authority that any adverse impacts from the proposed development outweigh the benefits of the proposal.

The development proposed to the rear of 16 Town Farm is 1 No. dwelling that would be served from an existing access to Knapp Lane. The proposal includes sufficient turning and parking space to enable a vehicle to enter and egress the site in a forward gear. The proposed development is therefore considered to be a low-level development.

The Highway Authority understands that the primary concern of SWT members, with regard to highway impact, is the visibility at the point of access to the adopted public highway as such visibility splays are considered herein so that everybody can be clear what is required.

Visibility splays are measured 'x' metres back from the main carriageway on the centre line of the access and form a triangle known as the visibility splay which should accord with the appropriate guidance.

When considering the 'x' distance Paragraph 7.7.7 of Manual for Streets (MfS) states – 'A minimum figure of 2m may be considered in some very lightly trafficked and slow-

speed situations, but using this value will mean that the front of some vehicles will protrude slightly into the running carriageway of the major arm. The ability of drivers and cyclists to see this overhang from a reasonable distance, and to manoeuvre around it without undue difficulty, should be considered.'

The Highway Authority considers that this location is appropriate to use the lower figure of 2m. When measured 2 metres back from the running edge of the carriageway visibility in both directions is available in excess of that which would be required for the speed of travelling vehicles around the bend and to the north west is available in excess of the 43m required for the posted speed limit of the highway.

A consideration for the Highway Authority must be whether visibility at the junction is such that the additional vehicular movements associated with the development would pose a significant risk to highway safety.

Due to the low-level of development proposed, and the resultant low-level of additional traffic movements, the Highway Authority does not believe that this development poses a risk to highway safety. It would therefore be unreasonable for the Highway Authority to raise an objection on highway safety grounds particularly as the access already exists.

Whilst not specifically referenced the Highway Authority has considered the content of the additional information that we were requested to.

The above is the opinion of the Highway Authority and nothing within the additional information changes our recommendation.

For your further information I would direct you to a recent appeal decision in Somerset that addresses similar concerns, APP/R3325/W/16/3152198, the decision of which I have attached for your convenience.

Conclusion

In light of the above response, it is considered that there are no highway grounds for refusal and as previously reported. The proposal complies with NPPF and adopted policies and approval is recommended subject to conditions.

42/19/0045

MR & MRS N & R MOBERLY

Outline application with all matters reserved, except access, for the erection of 1 No. dwelling on land to the North West of Applecombe Cottage, Wild Oak Lane, Trull (resubmission of 42/19/0022)

Location: LAND TO THE NORTH WEST OF APPLECOMBE COTTAGE, WILD OAK LANE, TRULL, TAUNTON, TA3 7JS

Grid Reference: 321742.122884 Outline Planning Permission

Recommendation

Recommended decision: Conditional Approval

Recommended Conditions (if applicable)

1. Approval of the details of the (a) layout (b) scale (c) appearance and (d) landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Application for approval of the reserved matters shall be made to the Local Planning Authority not later than the expiration of two years from the date of this permission. The development hereby permitted shall be begun not later than the expiration of two years from the approval of the reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: This is an outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority, and as required by Section 92 of the Town and Country Planning Act 1990 (as amended).

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

(A4) Site Plan
(A4) Block Plan

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

3. Prior to the construction of the dwelling, samples of the materials to be used in the construction of the external surfaces of the development shall be

submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained as such.

Reason: To safeguard the character and appearance of the dwelling and surrounding area.

4. Prior to occupation of the building(s), works for the disposal of sewage and surface water drainage shall be provided on the site to serve the development, hereby permitted, in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be retained and maintained in that form.

Reason: To prevent discharge into nearby water courses / To ensure the adequate provision of drainage infrastructure.

5. The development hereby approved shall not be occupied or the use commenced until space has been laid out, drained and surfaced within the site for the parking and turning of vehicles, in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority, and such area(s) shall not thereafter be used for any purpose other than the parking, turning, loading and unloading of vehicles associated with the development.

Reason: To ensure that sufficient provision is made for off-street parking and turning of vehicles in the interests of highway safety.

6. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority by the ecologist.

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

7. Retained hedgerows and trees shall be protected from mechanical damage, pollution incidents and compaction of roots in accordance with BS5837:2012 during site clearance works and construction and to ensure materials are not stored at the base of trees, hedgerows and other sensitive habitats through the use of protective fencing. The fencing shall be installed prior to any vegetative clearance and groundworks and maintained throughout the construction period.

Reason: in the interests of protected species, hedgerows and biodiversity generally and in accordance with policy CP8 of the Taunton Deane Core

Strategy.

8. Prior to occupation, a “lighting design for bats” shall be submitted to and approved in writing by the local planning authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

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

9. The following will be installed into or on to the design of the dwelling accordingly unless otherwise agreed in writing by the local planning authority:
 - a. A Habitat 001 bat box or similar will be integrated into the structure at least 4 metres above ground level and away from windows of the west or south west elevation
 - b. Four Vivra Pro Woodstone House Martin nest cups or similar will be mounted directly under the eaves and away from windows of the north or north east elevation
 - c. A bee brick built into the wall about 1 metre above ground level on the southeast or south elevation

A plan showing the installed features will be submitted to and approved in writing by the local planning authority.

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.

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 negotiated amendments to the application to enable the grant of planning permission.
2. Thank you for the consultation in respect of the above. Please find attached a map showing the approximate location of our services near the site.

Wessex Water has no objections to this application and can advise the following information for the applicant:

The Planning Application

The application form suggests that it is unknown how the foul sewerage will be disposed of. In this instance we believe that a connection to the public foul sewer would be feasible, subject to Building Regulations. Location of this foul sewer can be viewed on the attached map. Rainwater running off new driveways and roofs will require consideration so as not to increase the risk of flooding. The current planning submission indicates that rainwater (also referred to as "surface water") will be disposed of via sustainable drainage systems and soakaway.

Applying for new drainage and water supply connections

If your proposals require new connections to the public foul sewer and public water mains, notes and application forms can be found at:
<https://www.wessexwater.co.uk/services/building-and-developing/connecting-to-a-network>

Are existing public sewers or water mains affected by the proposals?

According to our records there are no recorded public sewers or water mains within the red line boundary of the development site. Please refer to the notes on the attached map for advice on what to do if an uncharted pipe is located.

Is the surface water strategy acceptable to Wessex Water?

One of our main priorities in considering a surface water strategy is to ensure that surface water flows, generated by new impermeable areas, are not connected to the foul water network which will increase the risk of sewer flooding and pollution.

You have indicated that surface water will be disposed of via sustainable drainage systems and soakaway.

The strategy is currently acceptable to Wessex Water, subject to agreement to detail with the local planning authority.

Our records indicate that ground conditions for this area may be unsuitable for SuDS infiltration methods. If soakaway tests are not successful, your contractor will need to consider a point of discharge to watercourse or the public surface water system. We will assist as appropriate please contact our development team email below.

There must be no surface water connections to the foul network.

Proposal

Permission is sought for outline permission with all matters reserved, (except access), for the erection of No. 1 dwelling.

Site Description

The site is approximately 0.34ha in area. Residential development lies to the north and west, with Applecombe House to the south, and open field to the east. The site is accessed east of Wild Oak Lane, via a private track. The site is bound by hedging on the North, West and South, whilst the East boundary is open.

The site lies within the settlement limit of Taunton, is adjacent to the green wedge designation to the East of the site and is adjacent to the Trull Meadow local green space of the Trull Neighbourhood Plan.

Relevant Planning History

42/19/0022 Outline planning permission with all matters reserved, except for access, for the erection of 1 No. dwelling on land to the rear of Applecombe Cottage was refused on 01/08/19. The reason for refusal being:

“The proposed development is located within the Vivary Green Wedge and within the Local Green Space. No very special circumstances have been demonstrated to outweigh the potential harm and as such the development would be contrary to the NPPF and to adopted local plan policies DM1d, and CP8 of the Taunton Deane Core Strategy and policy E1 of the Trull Staplehay Neighbourhood Plan”.

Since the refusal was issued in August 2019 an error was identified in the Trull Neighbourhood Plan, relating to the map identifying the Local Green Space designation at Trull Meadow.

The draft Neighborhood Development Plan (NDP) submitted for examination to the former TDBC council contained a plan showing Local Green Spaces (LGS). The examiner made no recommendations relating to the extent of the Trull Meadow LGS therefore legally the map submitted for examination is the one which defines the extent of the LGS. However, as part of the Independent Examiner's recommendations more detailed plans of the LGS were requested, produced and inserted into the NDP. It was during this transposing to a more detailed plan that the error appears to have occurred.

The Council has corrected this error by publicising the change and amending the Trull Neighbourhood Plan through a Decision by an Executive Councillor.

Somerset West and Taunton Council (SWT) are allowed to modify a neighbourhood development plan for the purpose of correcting errors under the Section 61M(4) of the Town and Country Planning Act 1990 (TCPA 1990) as amended by Section 38C of the Planning and Compulsory Purchase Act 2004 (PCPA 2004).

The process therefore for correcting this error was to publicise the correction of the error through a portfolio holders decision which has been appended to the plan on the Council's website and the LGS plan in the document amended.

The decision was published on the 11th of October 2019 and was subject to a 'call in' period of a week.

Consultation Responses

WESSEX WATER - Wessex Water has no objections to this application and has provided advice for the applicant which has been added as an informative.

TRULL PARISH COUNCIL - objection:

- NPPF para 122. This proposal is an inefficient use of land
- Core Strategy DM1a. This proposal does not demonstrate an effective and efficient use of land
- Core Strategy DM1c. This development has the potential to cause harm to protected wildlife species. Specifically it is believed that there is a badgers sett in the north west corner of the site that has not been identified in the ecology report
- The proposed development also fails to meet standard Highways advice on access and suitability and viability

SCC - TRANSPORT DEVELOPMENT GROUP - Initially recommended standing advice. As such, the agent was asked to clarify if standing advice could be achieved. The additional information received the following comments from highways:

- Access off Wild Oak Lane appears constrained in both directions and largely confined to the width of the access.
- Limited opportunity for the applicant to improve vehicle visibility
- Increase in vehicle movements from a constrained access in terms of width and visibility.

SCC - ECOLOGY - A number of conditions have been recommended by the ecological officer and included in the recommendation.

Representations Received

9 objections were received regarding concerns relating to:

- Highways and access
- Safety
- Development of open green space
- Ecology
- Design, visual and amenity impact
- Floodplain

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.

Trull Neighbourhood Plan Policy E1 Local Green Space
CP8 - Environment,
DM1 - General requirements,
SP1 - Sustainable development locations,
DM4 - Design,
D12 - Amenity space,
D10 - Dwelling Sizes,
A1 - Parking Requirements,

Local finance considerations

Community Infrastructure Levy

Creation of dwellings is CIL liable.

There are no proposed plans of the dwelling as outline application. Therefore I have used the Residential Testing Assumptions for a 4+ bed dwelling at 125sqm.

The application is for residential development in Taunton where the Community Infrastructure Levy (CIL) is £70 per square metre. Based on current rates, the CIL receipt for this development is approximately £8,750.00. With index linking this increases to approximately £11,750.00.

Determining issues and considerations

Having rectified the error within the Neighbourhood Plan, the proposed development site clearly falls within the settlement limits of Trull which is an area identified for growth within the Core Strategy 2011-2028 and therefore the principle of development is considered acceptable by Policies DM1 and Policy SP1 of the Core Strategy.

As all matters are reserved for subsequent approval, the main consideration is therefore the principle of development. The report however identifies the main determining issues which would be assessed in greater depth at reserved matters stage when a detailed design is submitted.

Design and Amenity

Policy DM4 states that development should "Respect the amenity of its site and neighbouring area in terms of scale, height, layout, architectural style and materials, and impact on highway safety".

The dwelling would be located north of an existing cottage and east of a row of development along Wild Oak Lane. If appropriately designed a new dwelling here, could fit well into the surrounding landscape and existing village character.

Criterion (d) of Policy DM1 states:

“The appearance and character of any affected landscape, settlement, building or street scene would not be unacceptably harmed by the development”

A Landscape and Visual Impact Assessment has been submitted which concludes that the development of the site would meet the special circumstances cited in the policy through not impacting on the overarching purpose of the Policy E1 (Local Green Space) of the Neighbourhood Plan.

When approaching the site from south the proposed dwelling would appear to be nestled in-between the existing dwellings, Applecombe Cottage and Applecombe and so would not have a negative impact on this viewpoint. When approaching from the north the proposed site would be well screened from view by Wild Oak Cottage, Lanacre and The Paddock. The true impact however in terms of both design and residential amenity, will depend on the design of the dwelling and will be assessed at reserved matters stage.

Highways and Access

The means of access onto the site is the only matter being considered at this outline stage.

Criterion (b) of Policy DM1 states:

‘Additional road traffic arising, taking account of any road improvements involved, would not lead to overloading of access roads, road safety problems or environmental degradation by fumes, noise, vibrations or visual impact’

The plot will be accessed via an entrance onto the unclassified road to the west of the site on Wild Oak Lane, within the 20mph zone.

During the initial consultation Somerset County Council Highways Team recommended ‘Standing Advice’. It has since come to light that the recommendation that Standing Advice be applied in this situation was actually incorrect as the access details provided by the transport consultant correctly point out that in fact the Standing Advice Manual for Streets reference document only applies to proposed accesses and not in assessing existing ones as in this case. Therefore the council was wrong to assess the application against Standing Advice in the first instance.

Nonetheless, the additional information is useful as it has pointed out that the access can accommodate more than two passing vehicles at a time.

Although the additional traffic created by 1 dwelling would be minimal and therefore unlikely to lead to overloading of the wider road network, a site visit revealed the access track to the site is narrow and therefore concerns were raised regarding its ability to let two vehicles pass and the provision of visibility splays.

As such, further information was requested. The LPA are now satisfied with the justification received which sufficiently explains how two cars could pass.

Returning to the use of Standing Advice in assessing this application, it is important

to draw attention to a former appeal decision APP/R3325/W/16/3152198 which the applicant identifies in support of this application. The appeal decision is considered to be relevant, particularly in respect of the inspector's interpretation of the SCC Standing Advice guidance. The inspector considered that the visibility guidance within the Standing Advice document did not apply in the case of the appeal as the proposal sought to utilise the existing access and no new junction was to be formed. As such the inspector considered the pivotal question to be whether the additional vehicle movements would pose a significant risk to highway safety.

The LPA considers that the additional traffic created by 1 dwelling would be minimal and therefore would not be likely to have an adverse impact on the safety of other road users and pedestrians. This view is in line with a further appeal reference APP/D3315/W/18/3196961, also highlighted by the applicant, which was allowed as the existing access which was deemed by the LPA not to comply with the recommended standards was found to be acceptable by the Inspector.

Full details of both aforementioned appeals can be found within the Transport Statement prepared by Bellamy Transport Consultancy and submitted in support of this application.

Policy A1 of the Site Allocations and Development Management Plan 2016 sets out car parking requirements. Whilst the detail of the dwelling is not known, the application form states 2 parking spaces would be required. It is considered that the size of the site should be sufficient to accommodate this.

Ecology

Criterion (c) of Policy DM1 states:

"The proposal will not lead to harm to protected wildlife species and their habitats"

The scheme has been submitted with an Ecological Impact Assessment that identified the site comprised of poor semi-improved grassland with a small area of hawthorn and bramble scrub in the north west corner. The site surround is managed defunct hedgerows on three sides, two of which are species rich, and a fence overgrown with vegetation of the western boundary. As such, conditions are recommended by the Council's Ecological advisor should planning permission be approved.

Conclusion

In light of the assessment above, it can be determined that the principle of the development is acceptable. The only matter being determined at this stage is means of access, which has been shown to be satisfactory. The proposed development, at the scale proposed, will also not result in any significant adverse impacts upon highway safety. Matters relating to the design, appearance, and layout of the development are reserved, but these matters are thought to be capable of being achieved in a suitable manner in principle.

Taking the above matters into consideration, it is recommended that planning permission be granted subject to conditions.

In preparing this report the planning officer has considered fully the implications and

requirements of the Human Rights Act 1998.

Contact Officer: Abigail James

**REPORT FOR THE SOMERSET WEST AND TAUNTON PLANNING COMMITTEE,
20th FEBRUARY, 2020**

**Objection to Somerset West and Taunton (Taunton No.1) Tree Preservation
Order SWT01, to the front of 12 The Avenue, Taunton**

The Tree Preservation Order protects one Hornbeam tree that is growing as a street tree outside 12 The Avenue.

RECOMMENDATION

It is recommended that the Tree Preservation Order is confirmed, unmodified.

Background

The Tree Preservation Order (TPO) was served on 19th September 2019.

The grounds for serving the TPO were stated on the notice as follows:

A Section 211 notification has been submitted to this council proposing to fell the hornbeam tree (38/19/0263T). The tree has high amenity value, and contributes to the character of the conservation area. The council currently considers that insufficient evidence has been provided to justify removal of this tree.

Procedure

A Tree Preservation Order comes into force on the day that it is served for a period of 6 months. The TPO lapses after that date unless it has been confirmed by the Council. If there are no objections to the TPO, it can be confirmed. If any objections are received, the points raised must be considered and a decision made as to whether to confirm the TPO, either with or without modification. The decision whether to confirm a TPO that raises objections is taken by members of the Planning Committee.

When deciding whether to serve and confirm a TPO, the present or future public amenity value of the trees must be considered. Tree Preservation Orders are served to protect selected trees if their removal would have a significant impact on the local environment. TPO trees should therefore be visible from a public place, such as a road or footpath.

In assessing a tree's amenity value, consideration must be paid to its visual impact, its health and structural integrity, its life expectancy and its suitability to the location. The tree's potential impact on highways, services and structures should be considered.

Representations

Two objections to the TPO have been received, one from the person that made the initial 211 notification to fell, the other from his neighbour at 13 The Avenue.

A representation in support of the TPO has been received from Somerset County Council's Tree Officer.

The reasons given for the objections can be summarized as follows:

- a) The tree is the 'wrong species' of tree, in that it has grown larger than intended;
- b) The tree has caused damage to the concrete surface of the front gardens, and may cause damage to the house itself;
- c) The tree will require constant managing;
- d) Why has only one of the street trees been protected?
- e) As the trees are protected by the conservation area, the TPO is superfluous;
- f) The tree's roots have caused damage to drainage pipes;
- g) The tree has a co-dominant stem which may be a weak point in the future.

In support, SCC's Tree Officer has stated that:

- a) The tree is worthy of retention;
- b) Unless there is a claim of subsidence, the tree should be retained and the damage repaired in such a way as to prevent its re-occurrence.

Determining Issues and Considerations

The tree is within Staplegrove Road Conservation Area. The TPO was served in response to a section 211 notification being submitted by Mr Reid of 12 The Avenue, proposing that the tree is felled. The reason given on the notification is that the tree is 'damaging the driveway, as confirmed by Somerset County Council's (previous) Tree Officer'. In fact, there is no driveway but a small front garden.

The tree is a 'fastigiate' hornbeam, a cultivar that has a narrower form than the native tree. According to the RHS, it is a 'medium-sized deciduous tree, crown narrow when young, becoming compact and ovoid and turning yellow in the autumn'.

It is owned by Somerset County Council, and is one of numerous street trees that line the roads of this attractive, leafy conservation area. The trees are at the edge of the pavement, immediately adjacent to the road.

The tree in question is approximately 7.5 metres from the front of 12 The Avenue. This distance is no closer than street trees and houses elsewhere on the road, as the front walls of nearly all the houses along The Avenue follow the same line.

The tree appears to be a healthy specimen, with no obvious defects, disease or decay. It contributes to the leafy character of the area, is highly visible to the public and therefore can be considered to have a high amenity value.

In response to the points raised by the objectors to the TPO:

- a) Although narrow when young, these hornbeams do become quite broadly ovoid in shape. As to whether they have become larger than SCC intended when they were planted several decades ago is not considered relevant in this case. They are not very large trees such as lime or beech, generally not excessively large for the area and if certain trees grow more quickly they can be pruned if necessary.
- b) The front garden of 12 The Avenue, on the north side of the path to the house, is covered with a layer of concrete. This has been cracked by roots underneath and close to the surface. Tree roots can damage light structures such as paving slabs and tarmac, through physical action as they grow, being generally close to the surface. However, this damage can be easily repaired, and its re-occurrence avoided by altering the design and materials of the garden. For instance, gravel could be used instead of concrete, as on the south side of the footpath, or better still, soil and planting.

The house is 7.5 metres away from the tree. At that distance, the roots, if any, will be minor feeding roots of small diameter. They are extremely unlikely to do any physical damage to the foundations of this Victorian house. There is no known history of subsidence in this area, and there is currently no evidence of it.

- c) The tree is within the conservation area. We do not have a record of numerous applications over the years to prune it, or other similar trees in the area. Over the last year or two, the council has received a small number of notifications to prune similar trees where they were almost touching the houses. Although not the easiest trees to prune successfully because of their form and habit, it can be done by the best tree surgeons if considered necessary.
- d/e) Tree Preservation Orders are generally served when it is thought that trees are under threat. In this case a conservation area notification was made to fell the tree (38/19/0263T). The council's options were either to 'raise no

objection' or to serve a TPO to ensure the tree's retention and to demonstrate that the council does object to its removal, as in this case. If further notifications were submitted to fell other trees in the area, it may be necessary to serve further TPOs, subject to assessment of the details of each case.

- f) Drainage pipes and particularly unions between them can be affected by growing tree roots. The houses are Victorian and some of the pipes may be considerably old. It is possible for these pipes to be cleared of roots and either repaired or replaced in such a way that the roots do not re-enter and cause further damage.
- g) Although no tree can be considered 100% 'safe', this tree's current physical structure does not suggest that it is likely to fail in the foreseeable future. Its growth and health can be monitored by SCC's Tree Officer and SWT's Tree Officer, who will react to any changes if necessary.

In conclusion, it is considered that the benefits of this tree to the environment, the conservation area and the street scene outweigh the disadvantages, particularly given Taunton's new Garden Town status and the nation's renewed interest in increasing its tree canopy cover. The damage caused to minor structures such as concrete and tarmac can be repaired or altered to avoid re-occurrence.

There is no evidence that the tree is damaging the house itself, or is likely to. It should be noted that the front garden wall, which is apparently about 10 years old, is showing no signs of damage, despite sizeable roots passing underneath it.

It is understood that SCC have agreed to pay for the works to repair the damaged surface of the front garden. The case officer has been liaising with SCC's Tree Officer Ben Coles and Mr Reid to resolve the issues, including the possibility of cutting the minor roots close to the house, which is unlikely to cause undue harm to the tree and would be outside of the notional Root Protection Area as given by BS5837 (Trees in relation to buildings and construction).

It is therefore recommended that the Tree Preservation Order is confirmed, unmodified.

Note: Dead or imminently dangerous branches can be removed from the trees, subject to written notice to the council, giving the council up to 5 days to respond.

Applications can be made for the pruning of TPO trees if necessary, using the standard form on the Planning Portal, accessed via the Somerset West and Taunton website.

This is to certify that this is a true and correct copy
of the Somerset West and Taunton (Taunton No.1)
Tree Preservation Order 2019



D Galley for Legal Services Manager

Town and Country Planning (Tree Preservation) (England) Regulations 2012

Town and Country Planning Act 1990

Somerset West and Taunton (Taunton No.1) Tree Preservation Order, 2019

The Somerset West and Taunton in exercise of the powers conferred on them by Sections 198 of the Town and Country Planning Act 1990 make the following Order:-

1. Citation

This Order may be cited as the Somerset West and Taunton (Taunton No.1.) Tree Preservation Order 2019 (SWT01).

2. Interpretation

(1) In this Order "the authority" means the Somerset West and Taunton.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

3. Effect

(1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of Section 198 (Power to make Tree Preservation Orders) or subsection (1) of Section 200 (Tree Preservation Orders: Forestry Commissioners) and, subject to the exceptions in Regulation 14, no person shall:-

- (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of, any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with Regulations 16 and 17, or of the Secretary of State in accordance with Regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

4. Application to trees to be planted pursuant to a condition

In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of Section 197 (Planning permission to include appropriate provision for

preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 19th day of September 2019

The Common Seal of the SOMERSET WEST AND TAUNTON
was affixed to this Order in the presence of: –

 PP
Duly Authorised Signatory

Schedule 1

Reference on Map	Description	Situation (See accompanying map)
T1	Hornbeam	Street tree to front of 12 The Avenue, TA1 1EA

Trees specified by reference to an area (within a dotted black line on the map)

Reference on Map	Description	Situation
None		

Groups of Trees (within a broken black line on the map)

Reference on Map	Description	Situation
None		

Woodlands (within a continuous black line on the map)

Reference on Map	Description	Situation
None		

THE AVENUE

El Sub Sta

Chip Lane

T1 Hornbeam

Somerset West and Taunton Council
Town and Country Planning Act 1990
Tree Preservation Order Regulations 2012

(Taunton No.1)
12 The Avenue, Taunton
Tree Preservation Order 2019

Ref: SWT01

Date: September 2019

Drawn: DG

scale 1:500

The material contained in this plot has been reproduced from an Ordnance Survey map with the permission of the Controller of Her Majesty's Stationary Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Town and Country Planning Act 1990, Section 198

Town and Country Planning (Trees) Regulations 2012

Somerset West and Taunton (Taunton No.1) Tree Preservation Order 2019

To:

Somerset County Council (Highways)
County Hall
Taunton
TA1 4DY

TAKE NOTICE that the Somerset West and Taunton in pursuance of their powers as Local Planning Authority under Section 198 of the Town and Country Planning Act 1990 has this day made a Tree Preservation Order (a copy whereof together with the map included therein is enclosed herewith) in respect of:-

A tree to the front of 12 The Avenue, Taunton, TA1 1EA.

The said Order contains a direction under Section 201 of the Town and Country Planning Act 1990, the effect of which is explained overleaf.

The grounds for making the said Order are as follows:-

A Section 211 notification has been submitted to this council proposing to fell the hornbeam tree (38/19/0263T). The tree has high amenity value, and contributes to the character of the conservation area. The council currently considers that insufficient evidence has been provided to justify removal of this tree.

A certified copy of the Order and the map included therein may be inspected without charge at The Deane House, Belvedere Road, Taunton, between the hours of 8.30 am and 5 pm, Mondays to Fridays with a late opening of 9.30 on a Wednesday.

Should you wish to raise any objections or make any representations with respect to the Order they should be made in accordance with Regulation 4 of the said Regulations (a copy of which is also printed overleaf) and then sent to Planning, Somerset West and Taunton, The Deane House, Taunton, within 28 days from the date of the service of the notice of the making of the Order. Every objection or representation shall be made in writing and shall state the grounds thereof and specify the particular tree, group of trees, or woodlands in respect of which it is made.

Signed: *pp David Galley*

Performance and Governance

Dated: *19th September 2019*

Notes

Town and Country Planning Act 1990

Section 201(2) of the Town and Country Planning Act 1990 provides that:-

"Notwithstanding Section 199(1), an Order which contains such a direction (a) shall take effect provisionally on such date as may be specified in it; and (b) shall continue in force by virtue of this Section until:-

- (i) the expiration of a period of six months beginning with the date of which the Order was made; or
- (ii) the date on which the Order is confirmed;

whichever first occurs."

The Town and Country Planning (Tree) Regulations 2012

"Objections and representations

- 4. (1) Subject to paragraph (2), objections and representations:-
 - (a) shall be made in writing and:-
 - (i) delivered to the authority not later than the date specified by them under regulation 3(2)(c); or
 - (ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;
 - (b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made; and
 - (c) in the case of an objection, shall state the reasons for the objection.
- (2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected."

12 The Avenue
Taunton TA1 1EA

9th October 2019

RECEIVED

14 OCT 2019

SOMERSET WEST
and TAUNTON

David Galley
Somerset West and Taunton
Performance and Governance
PO Box 866
Taunton
TA1 9GS

Dear Mr Galley,

Your ref: DG/SWT01/ 12 The Avenue

I am writing in response to your letter of 19th September 2019 informing us that you have served a Tree Preservation Order on a hornbeam tree near our property in order to set out my objections.

From discussions amongst residents, it has been known for some time that this hornbeam was initially wrongly planted with the result that at both 12 and 13 The Avenue, we are now suffering damage from an oversize tree which will need constant managing to stop it growing out of control. It is clear that the right course of action would be to fell the hornbeam and to replace it with a more suitable tree so it is not easy to see how serving a TPO is an appropriate course of action under these circumstances.

Can I please make it clear that in the event of the TPO being confirmed, I will be appealing against that decision.

Meanwhile there is a need to proceed with repairs to the damaged concrete as set out in the quotation from Hillview Landscapes of which you have a copy. Can you please confirm a number of points about this work:

- (a) that we have permission to instruct the contractor to start on this project (is this permission to come from yourself or SCC?)
- (b) that this work will be carried out at the expense of the party giving permission
- (c) that as the work continues, you will advise on the procedure for investigating / inspecting the trees roots as they become exposed so that clear instructions can be given to the contractor.

[REDACTED]

[REDACTED]

[REDACTED]

From: whitworth [REDACTED]
Sent: 03 October 2019 18:20
To: Planning <planning@somersetwestandtaunton.gov.uk>
Subject: Yr ref DG/SWTT01 TPO 12/13 The Avenue TA1 1EA

Dear Mr Galley,

Ref your letter of 19 Sept, I wish to object to this TPO on the following grounds:

1. Somerset County Council have long since acknowledged that the wrong cultivar of hornbeam was chosen when these trees were planted in The Avenue. Instead of the intended fastigate growth habit, the consequence of their error has been to blight many of the properties with outsize trees with excessively bushy canopies In these circumstances how can a TPO be appropriate?
2. This individual tree is only an 'amenity' (if it is at all, which I strongly dispute) in the context of all the other trees which together make logical sense of calling a road 'The Avenue'. Why is this tree being singled out for a TPO? Should not all the other trees be treated similarly?
3. Since this tree is in a Conservation Area, so that your authority's permission is already required before work is carried out on it (as was the case some years ago), I submit that the TPO is superfluous.
4. This tree has long been the cause of serious problems. Wessex Water have on several occasions had to come and deal with blockages in sewers for which they are responsible. Each time these been caused by tree roots. On the last occasion six foot deep excavations in both pavement and road were necessary. Now the same tree is causing damage to the front garden of No.12, and threatening the structural integrity of the house itself. What steps are proposed to prevent ongoing problems of this nature. How is a TPO going to help?
5. About ten years ago I was advised by the then Arboricultural Officer of Somerset County Council, that its bi-dominant growth habit means that this tree is inherently unstable. Far from being preserved, it should be removed and replaced forthwith.

I look forward to receiving your observations on the above.

Yours sincerely,

Ben Whitworth

DECISIONS – 20 FEBRUARY 2020

Site: HOLIDAY UNITS AT, PIPISTRELLE HOUSE, SMEATHARPE ROAD, CHURCHSTANTON, TAUNTON, HONITON, EX14 9RE

Proposal: Variation of Condition No. 07 (restriction of letting period) to allow for the 3 No. units to be residential at Pipistrelle Holiday Units, Smeatharpe (retention of works already undertaken)

Application number: 10/18/0033

Reason for refusal: Appeal – Dismissed
Costs -



Appeal Decision

Site visit made on 17 December 2019

by L McKay MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 22nd January 2020.

Appeal Ref: APP/W3330/W/19/3237811

Pipistrelle Holiday Units, Pipistrelle House, Smeatharpe, Honiton, Devon EX14 9RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Robin Lockyer against the decision of Somerset West and Taunton Council.
 - The application Ref 10/18/0033, dated 30 January 2019, was refused by notice dated 17 April 2019.
 - The application sought planning permission for 'Change of use of barn to 3 holiday units at Barn C, Lower Sothey Farm, Smeatharpe as amended by agent's letter and plan received 5th July 1991' without complying with a condition attached to planning permission Ref 10/91/020, dated 16 July 1991.
 - The condition in dispute is No 7 which states that: The occupation of the holiday accommodation shall be restricted to bona fide holidaymakers for individual periods not exceeding 4 weeks in total in any period of 12 weeks. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.
 - The reason given for the condition is: The accommodation provided is unsuitable for use as a permanent dwelling because of its limited size, and inadequate facilities on site and the Local Planning Authority wish to ensure the accommodation is available for tourism.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Robin Lockyer against Somerset West and Taunton Council. This application is the subject of a separate Decision.

Procedural Matter

3. The reason for imposing the disputed condition included reference to the limited size of the accommodation and inadequate facilities available on site. The Council has not pursued these issues in this appeal and I have not been directed to any relevant policies on them. I have not therefore considered these matters further.

Main Issue

4. The main issue is whether the disputed condition is necessary and reasonable having regard to the location of the appeal premises in the open countryside and access to services and facilities.

Reasons

5. The appeal is seeking the removal of the disputed condition in order that Pipistrelle Holiday Units can be used as permanent residential dwellings rather than as holiday accommodation. The Units are part of a small group of dwellings with Pipistrelle House and Lower Sothey Farm, set approximately 300m from the small settlement of Smeatharpe. The appeal site is outside of the settlement boundary of any settlement defined in the Taunton Deane Core Strategy 2011-2018 (CS) and therefore, in planning policy terms, it is in the open countryside.
6. Policy DM2 of the CS supports conversion of existing buildings in the countryside subject to a sequential approach setting out the priority of uses that will be permitted. Community and employment uses are given highest priority, then holiday/tourism use, with residential uses lower priority. As the Units have already been converted to holiday accommodation, it is reasonable to assess the proposal from this point in the sequence.
7. The appellant's evidence is that the Units were converted in the early 1990s and operated as holiday units for 10-12 years, after which short term lettings were taken as a means of keeping the accommodation occupied during the quieter winter months. Due to the appellant's ill health they continued to be occupied as short term lets. There is no substantive evidence before me of a lack of current demand for holiday or tourism accommodation in the area, or that the Units are not viable for such use. Accordingly, there is no compelling justification to move from holiday/tourism use to any other type of residential use.
8. Even if there were such justification, Policy DM2 requires priority to be given to affordable, farm or forestry dwellings or community housing before any other residential use. The appellant is not proposing to secure the Units as affordable housing or as any of the other types listed. No substantive evidence has been provided to demonstrate that the Units would not be suitable for other types of housing or that there is no demand for them locally. Therefore, the proposal fails to comply with the sequential approach in CS Policy DM2 and conflicts with that Policy.
9. The appellant suggests that the sequential approach in Policy DM2 is at odds with the National Planning Policy Framework (the Framework). The CS was adopted after the original Framework was published in 2012 however, so would have been

consistent with its principles and policies. The revised Framework published in 2019 supports rural community, business, tourism and leisure uses and rural housing to meet local needs, particularly for affordable housing. It also allows re-use of redundant or disused buildings in the countryside but only where it would enhance the immediate setting¹. Accordingly, the approach taken in Policy DM2 is consistent with that of the revised Framework and, having regard to paragraph 213, the Policy carries full weight.

10. Framework paragraph 79 states that decisions should avoid the development of isolated homes in the countryside except in specified circumstances. The small group of dwellings that includes the appeal site is surrounded by open, relatively undeveloped agricultural land and is readily perceived as occupying an isolated position separate from the settlement. Given this physical separation, it follows that removal of the condition would result in the creation of 3 isolated permanent homes in the countryside.

¹ Paragraph 79.

11. Framework Paragraph 79d) allows such development where it would re-use redundant or disused buildings and enhance their immediate setting. The Units are not disused and, although not currently in that use, no evidence has been provided to demonstrate that the buildings are now redundant for holiday accommodation. Nor is there any evidence that permanent residential use would lead to an enhancement of the setting of the buildings. Therefore, neither d) or any of the other circumstances in Framework paragraph 79 apply. Accordingly, national policy directs that such proposals should be avoided.
12. Smeatharpe has a farm shop and a small village hall which holds some events, but otherwise has very little in the way of services and facilities. Residents of the Units would be reliant on the larger village of Churchinford or the towns of Taunton or Honiton for day-to-day services and facilities including schools and shops. Churchinford is approximately 1.5 miles from the site and is designated in the CS as a Minor Rural Centre.
13. The evidence indicates that the No 387 bus service from Taunton to Sidmouth via Smeatharpe travels on Mondays and Thursdays. While the appellant refers to a daily service from Churchinford to Taunton, I have no evidence this passes through Smeatharpe. It has not been demonstrated that either route would provide suitable times to travel to work or school.
14. Furthermore, to access bus stops in Smeatharpe, residents of the Units would walk the paved public footpath to the village hall but then have to walk some distance along the main road, which has no footway or lighting and narrow, uneven verges. This would not provide a safe or attractive route for pedestrians. Although the appellant suggests that there is a bus stop at the village hall, I saw no signage, notices or other evidence of this at my site visit.
15. While Churchinford is within cycling distance of the appeal site, the unlit routes are unlikely to be attractive for use outside daylight hours. Accordingly, although there are some options for sustainable transport modes from the site, these are limited. Framework paragraph 103 recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Nevertheless, the isolated location of the appeal site significantly compromises the ability to access such modes.

16. Both permanent residents and holidaymakers would be likely to support some local services such as shops, therefore the removal of the condition would have limited benefits for such services. Although the appellant contends that residents would be more likely to use local services than drive to Honiton or Taunton, this would be influenced by personal preference and convenience, so cannot be guaranteed.
17. Permanent residents could also support playgroups and schools, however the relatively small size of the Units means there are unlikely to be many children resident, so the potential benefit would be limited. Permanent residents could use community and social facilities such as the village hall, but again this would be influenced by personal preference and lifestyle, so the social benefits in this regard would be limited. It has not therefore been demonstrated that the proposal would enhance or maintain the vitality of rural communities as required by paragraph 78 of the Framework.
18. Accordingly, the removal of the condition would result in permanent dwellings in a location with limited access to public transport, facilities and services, where future residents would be largely reliant on the private motor car. It would therefore lead to conflict with Policies CP1 and CP6 of the CS, which require, amongst other things, that locational decisions reduce the need to travel, improve accessibility to jobs, services and community facilities. It would also conflict with Policy A5 of the Taunton Deane Adopted Site Allocations and Development Management Plan 2016 (SADMP) which, amongst other things, sets out that residential development should be within walking distance of, or should have access by public transport to, employment, convenience and comparison shopping, primary and secondary education and health care, leisure and other essential facilities.
19. Consequently, the proposal would also conflict with Policies SP1 and CP8 of the CS and Policy SB1 of the SADMP, which seek to focus development on the most accessible and sustainable locations, and to strictly control development outside of settlement boundaries unless it is in accordance with national, regional and local policies for development within rural areas. As the proposal would not accord with development plan policies the presumption in favour of sustainable development in Policy SD1 of the CS does not apply. Furthermore, it would not accord with paragraphs 78 or 79 of the Framework. The condition therefore remains reasonable and necessary having regard to the location of the appeal premises in the open countryside and access to services and facilities.

Other Matters

20. The Units make effective and efficient use of the land as they have been converted into holiday accommodation. The site is now previously developed land, however as it is already in use no benefit would accrue from the proposal in this regard. The proposal would not harm highway safety, have an adverse visual impact or result in additional pollution. As such, the impacts would be neutral in relation to these matters and I therefore find no conflict with Policy DM1 of the CS. This does not however outweigh the harm that I have identified above.
21. The appellant contends that it is inappropriate to withhold planning permission for a proposal that would have been acceptable if it were the subject of an application now. There is no compelling evidence that the conversion of the barns in the early 1990's led to an enhancement of the immediate setting as now required by Framework paragraph 79d). If another local barn were to be proposed for

conversion, the circumstances would be considered on their own merits and may not be comparable with the appeal site. As such, it has not been demonstrated that current national policy would support conversion of the barns to permanent dwellings. Nor does a decision from another authority, under different development plan policies, justify development outwith the policies of the development plan.

22. The appellant also contends that permitted development rights for conversion of agricultural buildings to dwellings² are an example of the Government's more permissive stance towards dwellings in the countryside now, compared to when the original permission was issued. As such rights can only be applied to agricultural buildings they would not now apply to the appeal site. Nor is there any evidence that the barns, before conversion, would have met all necessary criteria to have been permitted development. Therefore, this change in legislation does not justify the appeal proposal.
23. The proposal would contribute to the supply of housing, which is encouraged by the Framework. However, very little evidence of local housing need or house price affordability has been provided to support the appellant's suggestion that the proposal would meet a local need for modest dwellings that are relatively affordable. Given the modest number of permanent dwellings being proposed, in the context of the Council having a Framework compliant supply of housing land,

² Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

the benefits would be commensurately modest, such that they would be comfortably outweighed by the significant harm and associated development plan conflict identified above.

24. Although the appellant refers to getting constant requests for short term lets, the Units are not proposed to be restricted to rented tenure. Therefore, the demand for rental properties can be afforded minimal weight.
25. The appellant contends that dismissal would lead to the existing tenants being given notice and the site becoming vacant due to their ill health. There is however no evidence that the Units could not be managed as holiday accommodation by someone else, therefore the potential for them to be left vacant carries little weight.
26. The Council has suggested an alternative condition to increase the permitted occupancy of the Units for holidaymakers to up to 3 months in any 12 month period. While this would be more flexible, no justification for this change has been submitted. In any event the appellant is clear that they are seeking planning permission without any such restriction. On balance therefore, it has not been demonstrated that the revised condition would be reasonable or necessary.

Conclusion

27. For the reasons given above, and taking into account all matters raised, I find that the proposal would conflict with the development plan when read as a whole. There are no other considerations, including the Framework, that outweigh the conflict. I therefore conclude that the appeal should be dismissed.

L McKay

INSPECTOR



Costs Decision

Site visit made on 17 December 2019

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 22 January 2020.

Costs application in relation to Appeal Ref: APP/W3330/W/19/3237811 Pipistrelle Holiday Units, Pipistrelle House, Smeatharpe, Honiton, Devon EX14 9RE

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Robin Lockyer for a full award of costs against Somerset West and Taunton Council.
 - The appeal was against the refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 applicant contends that the Council failed to consider a number of matters when determining the application: national policy and permitted development legislation in relation to conversion of rural buildings; the presence of local facilities; rural travel patterns; the contribution of the site to housing supply and mix; and the contribution of residential use to supporting local services and facilities. They suggest that the Council overstated the isolated location of the appeal site and that, had the Council taken a more wide-ranging view of the proposal, it could have taken a more balanced consideration of the benefits and lack of harm to the wider public good and the appeal could have been avoided.
4. Paragraph 49 of the PPG sets out examples where local planning authorities may be at risk of a substantive award of costs, including preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
5. Local policies for the location of housing are consistent with national policy in seeking to direct residential development to sustainable locations. There is no moratorium in local policy on development outside towns, with many smaller settlements in rural areas identified as suitable for housing. The appeal site

lies outside of these settlements however, in the open countryside. Therefore, the Council's consideration of the proposal in relation to local and national policies which seek to restrict development in the countryside was not unreasonable.

6. The Council acknowledged the changes in local and national policy since the original decision and considered the proposal against the policies of the development plan and the provisions of the National Planning Policy Framework (the Framework), both of which were referenced in the reason for refusal. In particular, it considered whether the appeal site was isolated for the purposes of Framework paragraph 79 and concluded that the requirement of paragraph 79d) was not met as the proposal would not enhance the immediate setting.
7. The Council went on to assess the sustainability of the location in relation to day-to-day services and public transport. It considered the proposal in relation to local policies which seek to reduce the need to travel. Its conclusion was supported by clear reasoning, with particular reference to Framework paragraph 103 which recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. The Council's behaviour was not therefore unreasonable in this regard.
8. The Council also considered the benefits to the local economy and services of permanent occupation of the Units compared to holiday occupation. It further considered whether the proposal would meet the needs of rural workers, eligible local needs or provide key worker accommodation. It therefore took into account material considerations, including the Framework.
9. While the Council did not consider the proposal in relation to Class Q of the General Permitted Development Order¹ this was because the buildings are no longer in agricultural use. In these circumstances, the absence of consideration of this national legislation by the Council was not unreasonable.
10. The proposal would have resulted in 3 permanent dwellings, making a contribution to the local housing market. The Council made no assessment of this issue, which, given the clear emphasis on boosting housing supply in the Framework, was unreasonable behaviour. The applicant provided limited information on local housing need however, with references to demand for rental properties, high house prices and affordability supported by very little detailed evidence. Given the limited amount of information provided on this issue, I find that no wasted expense or effort has been demonstrated.
11. The applicant's contention that a more balanced consideration could have been given suggests that they consider different weight should have been accorded to the various benefits and harm resulting from the proposal. It is a well-established principle in planning law that the attribution of weight is a matter for the decision maker. The Council considered the proposal in relation to the development plan and other material considerations, including changes in national policy, and reached a reasoned and balanced conclusion that the disputed condition remained necessary.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, an award of costs is not justified.

L McKay

INSPECTOR

¹ Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

APPEALS RECEIVED – 20 FEBRUARY 2020

Site: AIRFIELD STABLES, MOOR LANE, CHURCHINFORD, TA3 7RW

Proposal: Erection of dog kennel and log store at Fairfield Stables, Moor Lane, Churchinford

Application number: 10/19/0011

Appeal reference: APP/W3330/W/19/3243730

Enforcement Appeal:

Site: HOLIDAY UNITS AT, PIPISTRELLE HOUSE, SMEATHARPE ROAD, CHURCHSTANTON, TAUNTON, HONITON, EX14 9RE

Proposal: Alleged unauthorised use of three holiday let properties for domestic use at Pipistrelle House, Smeatharpe Road, Churchstanton, Taunton, Honiton, EX14 9RE.

Application number: E/0190/10/18

Appeal reference:

Enforcement Appeal: APP/W3330/C/19/3242305
APP/W3330/C/19/3242309
APP/W3330/C/19/3242311
