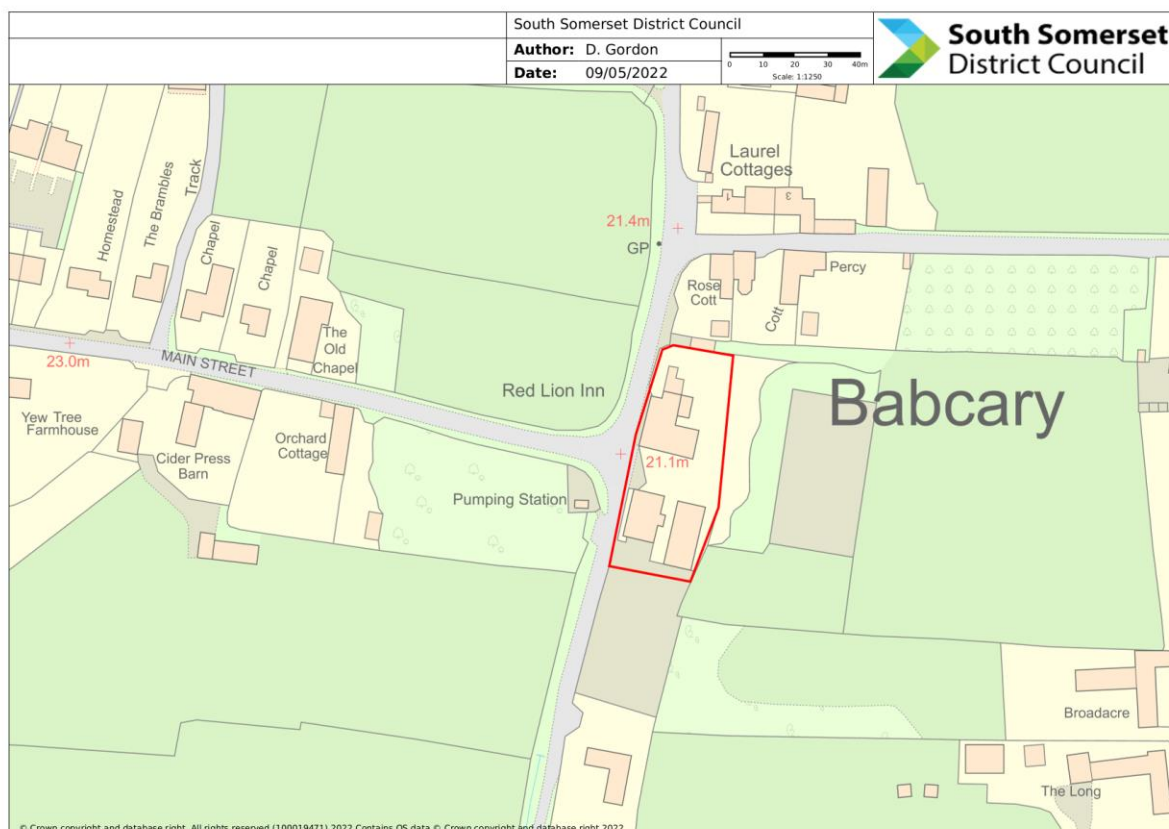


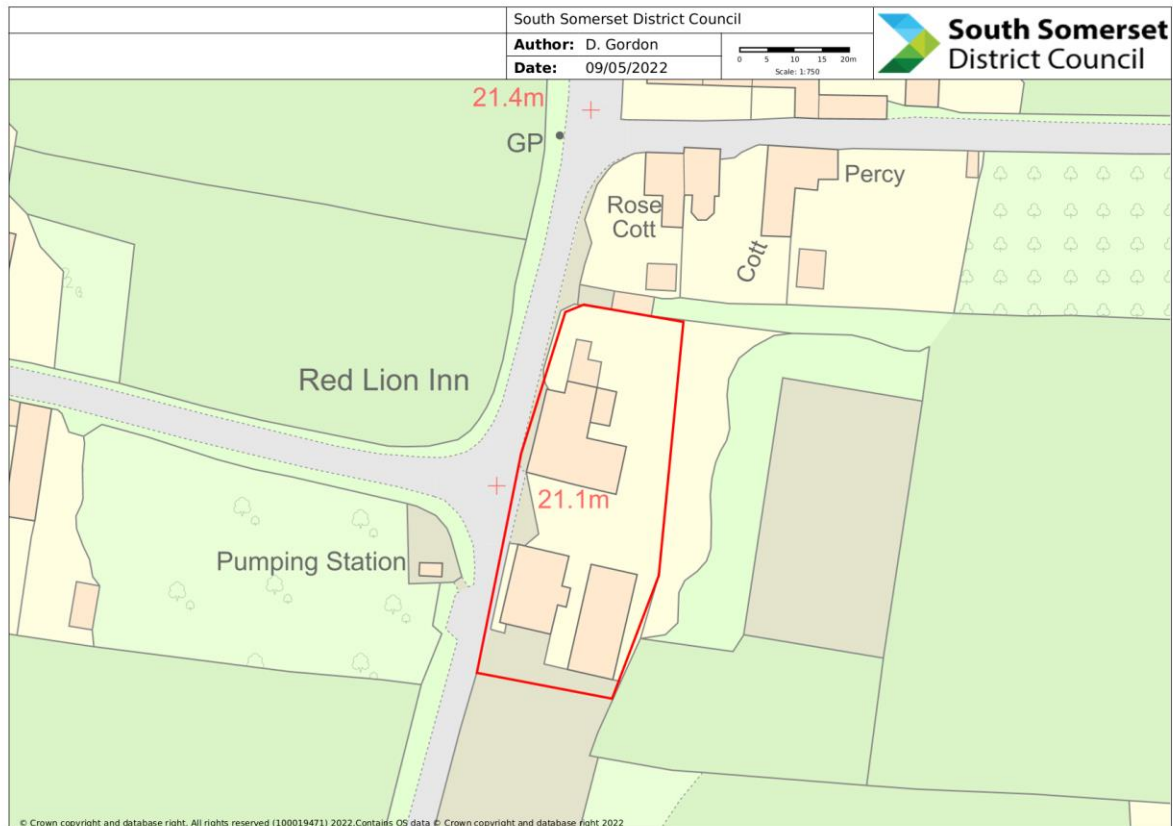
## Officer Report On Planning Application: 21/01052/LBC

<b>Proposal :</b>	Partial re-building and partial re-alignment of front boundary wall adjoined to the north end of the west elevation of the Red Lion Inn
<b>Site Address:</b>	The Red Lion Inn , Main Street, Bab Cary, Somerton, TA11 7ED
<b>Parish:</b>	Bab Cary
<b>CARY Ward (SSDC Member)</b>	Cllr K Messenger Cllr H Hobhouse
<b>Recommending Case Officer:</b>	David Kenyon (Principal Specialist) Tel: 01935 462091 Email: david.kenyon@southsomerset.gov.uk
<b>Target date :</b>	13th July 2021
<b>Applicant :</b>	Mr & Mrs C Garrard
<b>Agent: (no agent if blank)</b>	Mr Jonathan Lovelace Della Valle Architects Lake View Charlton Estate Shepton Mallet BA4 5QE
<b>Application Type :</b>	Other LBC Alteration

### REASON FOR REFERRAL

This application is referred to the Ward Members as the officer recommendation is contrary to the views received from third parties in support of the proposal and does not fully reflect all the reasons set out by the Parish Council and those third parties who are raising objections to the application.





## SITE DESCRIPTION AND PROPOSAL

This application seeks Listed Building consent for the partial re-building and partial re-alignment of the front boundary wall adjoined to the north end of the west elevation of the Red Lion Inn. In effect this seeks to allow the creation of a new vehicular access and visibility splay onto the County highway to serve a new car park to the rear of the public house.

The Red Lion is designated as a Grade II Listed Building and lies at the eastern end of Bab Cary, opposite the junction of Main Street and North Street, which are the two main thoroughfares through the village. The western end of Main Street merges onto Church Street where the Church of the Holy Cross is located, a Grade II\* Listed Building.

Immediately to the east of the main public house building is the open 'beer garden' with a small timber shed in situ.

Immediately to the south, and in close proximity to The Red Lion Inn, are located two buildings, comprising a recently modernised building with letting rooms associated with the public house (known as 'The Barn') and another recently modernised building used to provide functions at the public house (known as 'The Den'). 'The Barn' is a two storey building with a pitched roof containing 6 bedrooms used as guest accommodation in association with the public house.. External finishing materials comprise a mix of natural stone and timber cladding with clay roof tiles. 'The Den' is a single storey building with a high, steeply pitched roof, with external finishing materials of timber clad walls over a low stone wall and clay roof tiles. A marquee has been pitched alongside 'The Den'.

Further to the south of these outbuildings lies the main public house car park with a compacted hardened surface, accessed off North Street, and to the south of the car park lies the dwelling known as 'Bab Cary House' which is resided in by the applicants.

To the north, the public house borders two residential garages while there is open land beyond

the eastern boundary.

On 14th July 2020, Babcary Parish Council applied to the District Council to have the Red Lion Inn listed as an Asset of Community Value (ACV) under section 87 of the Localism Act 2011. Having assessed the nomination, the Council added the building and its associated land to its list on 3rd September 2020. An appeal against this listing by the applicants was subsequently dismissed on 1st July 2021, the Tribunal Judge concluding that The Red Lion Inn, including the public house, the Barn, the Den, the marquee area, the garden including the outside pizza area and the whole car park, was correctly listed as an ACV.

Included within the application submission are the following documents:

Design and Access Statement (March 2021) prepared by Della Valle Architects  
A Heritage Statement (26 November 2020) prepared by C1 Context One Heritage and Archaeology

The following drawings have been submitted:

Drawing no. F1574/LocPlan1: Location Plan  
Drawing no. F1574/001/A: Existing Site Survey  
Drawing no. F1574/100/E: Proposed Site Plan and Street Elevation  
Drawing no. F1574/013: Existing and Proposed Street Scene - New Entrance

Three other applications have been submitted in respect of the Red Lion Inn and its curtilage. Whilst each are to be considered on their own merits, they are nevertheless 'linked' in various ways. These other three concurrent applications are as follows, and are subject to separate officer reports and recommendations.

21/01051/FUL. Changes of use of the existing outbuildings from 6 short term letting units and garden/function room/store currently used in connection with the adjoining public house into a single independent, self-contained dwelling unit and ancillary annex accommodation to that dwelling unit, and provision of new vehicular access and relocation of public house car park to the rear of the public house.

21/01053/OUT. Outline application for the erection of 2no. detached new dwellings within the Red Lion Inn car park and adaptation of existing vehicular access, with some matters reserved except for access, layout and scale.

21/01054/DPO. Application to vary the Section 106 Agreement dated 7th October 2011 between South Somerset District Council and The Red Lion Inn (Babcary) Ltd in association with planning permission 10/05151/FUL to remove the requirements for (i) the outbuildings to be used in connection with the adjoining public house, and (ii) for purposes solely limited to short term letting rooms and as a garden/function room/store.

## **HISTORY**

02/02225/FUL & 02/02228/LBC. The demolition of toilet blocks and the erection of an extension to form dining room and new toilet facilities  
Planning permission and Listed Building consent granted 29.10.2002.

09/01417/LBC: Listed building consent granted (21/05/09) for the re-thatching of front and side roof with combed wheat and re-ridge.  
Listed Building consent granted 21.05.2009.

10/05151/FUL. Demolition and re-building of existing outbuilding to provide six en-suite letting rooms, construction of garden function room/store, and erection of staff/manager's dwelling.

Conditional planning permission granted 11.10.2011.

10/05155/LBC. Demolition and re-building of existing outbuilding to provide six en-suite letting rooms, construction of garden function room/store, change of use of first floor staff flat to family letting suite and erection of staff/manager's dwelling.

Listed Building consent granted 27.07.2011.

14/01868/FUL. Erection of a dwelling.

Refused 27.06.2014.

Subsequent appeal dismissed 7th November 2014.

15/01007/FUL. Erection of a dwelling and village shop.

Planning permission granted 19.01.2016.

16/00780/S73. S73 application to vary condition 2 of approval 15/01007/FUL, to allow the substitution of plans. Amendments to the design of the dwelling. Revision of the access way to ensure the orientation of the dwelling maximizes amenity space, and privacy for the pub users and occupants of the dwelling.

Planning permission granted 18.04.2016.

20/01967/OUT. Outline application with some matters reserved for the erection of 3 No. detached new dwellings within Red Lion Inn car park, conversion of 2 No. buildings into dwellings (5 No. total), provision of new vehicular access and relocating car park associated with Red Lion Inn.

Withdrawn.

20/03350/PREAPP. Proposed residential development of 3 dwellings (1 conversion and 2 new building), creation of replacement car park and new vehicular access and general consolidating of Public House.

21/01051/FUL. Changes of use of the existing outbuildings from 6 short term letting units and garden/function room/store currently used in connection with the adjoining public house into a single independent, self-contained dwelling unit and ancillary annex accommodation to that dwelling unit, and provision of new vehicular access and relocation of public house car park to the rear of the public house.

Pending consideration.

21/01053/OUT. Outline application for the erection of 2no. detached new dwellings within the Red Lion Inn car park and adaptation of existing vehicular access, with some matters reserved except for access, layout and scale.

Pending consideration.

21/01054/DPO. Application to vary the Section 106 Agreement dated 7th October 2011 between South Somerset District Council and The Red Lion Inn (Babcary) Ltd in association with planning permission 10/05151/FUL to remove the requirements for (i) the outbuildings to be used in connection with the adjoining public house, and (ii) for purposes solely limited to short term letting rooms and as a garden/function room/store.

Pending consideration.

#### *OTHER RELEVANT HISTORY*

19/03381/OUT. Outline application with all matters reserved except access for the erection of 3 dwellings. Land OS 3461, Adjacent North Street, Babcary

Outline planning permission 08.04.2020.

20/03299/REM. Reserved Matters application (pursuant to Outline application 19/03381/OUT) to include details of appearance, landscaping, layout and scale for the erection of 3 dwellings.

Pending consideration.

## **POLICY**

Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:  
"In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

For the purposes of determining current applications the Local Planning Authority considers that the adopted development plan comprises the policies of the South Somerset Local Plan 2006-2028 (adopted March 2015).

### **Policies of the South Somerset Local Plan (2006-2028)**

EQ3 - Historic Environment

### **National Planning Policy Framework - July 2021**

Chapter 16 - Conserving and enhancing the historic environment

### **National Planning Practice Guidance, including National Design Guide - September 2019**

#### **Additional Guidance**

HE Advice Notes 2: Making Changes to Heritage Assets

Conservation Principles

BS: 7913 Conservation of Historic Buildings

HE GPA 3: Setting of Heritage Assets

HE GPA 2: Managing Significance in Decision Taking

## **CONSULTATIONS**

### **Bab Cary Parish Council**

A very detailed response dated 30th June 2021 was received from the Parish Council following its meeting on 14th June 2021 to discuss this particular application as well as the separate applications 21/01051/FUL, 21/01053/OUT and 21/01054/DPO. The one comprehensive response from the Parish Council applies to all four applications and has been included in full on the District Council's website for public consideration. The full response will not be reiterated in this report but specific extracts will be set out below to provide an indication and explanation of the Parish Council's objections to this proposal.

The specific objection in respect of this particular proposal is as follows:

- Listed building - gross over development and seriously detrimental to the rustic character and setting of the listed building and would put at risk its future as a working pub. Moving the car park to the north of the pub moves the noise and light of the car park into the middle of the village and is detrimental to the adjoining houses including Percy House, also Grade II listed.

### **SSDC Conservation Specialist**

Comments received from the Council's Conservation Specialist relate solely to that part of the proposal to allow the changes of use of the existing outbuildings from 6 short term letting units and garden/function room/store currently used in connection with the adjoining public house into a single independent, self-contained dwelling unit and ancillary annex accommodation to that dwelling unit. He concluded that the change would have no impact on heritage assets and offered no formal objection.

### **SSDC External Heritage Consultant**

An external Heritage Consultant was appointed to act on behalf of the Council due to the Council's own Conservation Specialist being absent on long-term sick leave. Comments were sought about the application proposal as a whole, including that part of the application relating to the proposed new access and parking area with due regard being given to the various heritage documents and comments submitted on behalf of the applicants and also by or on behalf of third party objectors, including a Heritage Appraisal and Impact Assessment that was submitted to the Council, as an objection to the proposal (and also the other concurrent applications) on 1st July 2021.

Following a site visit carried out by the Heritage Consultant on 25th October, a detailed response dated 15th December 2021 was submitted to the Council. The recommendation was that "great weight" should be given to the safeguarding of the designated and undesignated heritage assets and their settings in any planning balance, as required under the NPPF. It was considered that the proposed scheme would contribute to a high level of less-than-substantial harm and the Heritage Consultant was unable to offer support from a heritage impact perspective.

### **South West Heritage Trust**

There are limited or no archaeological implications to this proposal and therefore no objections are raised on archaeological grounds.

### **REPRESENTATIONS**

This application ref. 21/01052/LBC (and the three other concurrent applications refs 21/01051/FUL, 21/01053/OUT and 21/01054/DPO) have attracted many letters/emails of representation from residents both within the village and from elsewhere, raising objections and offering support for the development proposals as a whole. All representations received can be viewed on the Council's website but can be summarised as follows, in no particular order:

#### Support

- Covid restrictions have not helped the viability of pubs on a national basis. The proposals are more than reasonable solutions to help preserve the Red Lion Inn as an on-going commercial asset for the long term future and to avoid its premature closure.
- The viability report submitted with the application shows the pub would be sustainable without the letting rooms and 'The Den'.
- The proposals seek to conserve the listed character of the Red Lion Inn.
- All villages are having to accommodate extra housing - this development is small and in line with current housing policy and is not unjustified.
- The current car park is very unsightly - its relocation and development would be a visual improvement.
- The proposals would result in no worse impacts on visual appearance and highway safety than the approved new housing on the opposite side of the lane.

#### Objections

- The Red Lion Inn is an important village asset and its viability and retention must be protected and preserved at all costs. The proposals would result in a material adverse impact on the viability of the public house business.
- The existing signed S106 Agreement must be honoured and retained to ensure continued viability of the public house.
- Reduction in size of the beer garden would be unacceptable and be less attractive to customers.
- The proposals will result in detriment to the character and appearance of the Listed Building and would detract from its significance.
- Overdevelopment of the site as a whole.

- There would be a material loss of employment.
- Unacceptable resultant impact on highway safety - poor visibility, insufficient on-site turning.
- Insufficient on-site parking being proposed. No safe on-street parking nearby.
- Unacceptable resultant impact on flooding and flood risk in the immediate and wider area.
- Inadequate sewerage system in village. Increased foul sewage problems as a result.
- Adverse resultant impact on residential amenities of neighbouring properties - construction traffic, additional noise, spill-over of cars, headlights and door slamming by users of proposed car park.
- Unsatisfactory living conditions for occupiers of the proposed converted dwelling due to proximity to public house.
- Adverse resultant impact on the local ecosystems and possible harm to habitats of protected species.
- Unacceptable diversion of public footpath.
- No need for further housing in the village.
- Non-compliance with economic, social and environmental objectives of sustainable development.
- Phosphate restrictions.

## **CONSIDERATIONS**

The main consideration is the impact of the proposal on the character and appearance of the public house, which is a Grade II Listed Building, and thus whether substantial or less than substantial harm is caused to the setting of this designated heritage asset.

Local Plan Policy EQ3 states that all new development proposals relating to the historic environment will be expected to:

- Safeguard or where appropriate enhance the significance, character, setting and local distinctiveness of heritage assets;
- Make a positive contribution to its character through high standards of design which reflect and complement it and through the use of appropriate materials and techniques;
- Ensure alterations, including those for energy efficiency and renewable energy, are balanced alongside the need to retain the integrity of the historic environment and to respect the character and performance of buildings, adopting principles of minimum intervention and reversibility.

The National Planning Policy Framework Chapter 16 'Conserving and enhancing the historic environment' requires local planning authorities to assess the impact that development will have on a heritage asset.

Paragraph 197 states:

In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 199 states:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

In particular paragraph 202 states:

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The Council's appointed Heritage Consultant has visited the site and has offered detailed comments which are set out below.

The proposal seeks to create a new 6 metres wide vehicular access within the wall to the northern end, close to the existing "layby" created by the previous loss of the continuation of the original historic wall shown in the archive photos and the setting back of two driveway gates serving the neighbouring unlisted properties. This would result in all of the wall from the far northern elevation of the Inn to the party boundary with the cottages being completely removed, including a short section to the west end of the party boundary, so as to amalgamate the existing layby and set back appearance of the new access with that of the existing neighbouring gateways into one large visibility splay.

Furthermore, the remaining section of stone wall along the street, is also to be demolished and realigned 1.2 metres back from its historic location to further extend the visibility splay, resulting in a wider pavement and increase width in the public domain and homogenised appearance of the frontage due to the loss of the present staggered building line of wall and inn.

The submission makes reference to the wall being in a poor state of repair, listing toward the street. However, NPPF paragraph. 196 states that *"Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision."*

In this specific case it is not implied that deliberate neglect or damage has occurred but similarly a lack of maintenance or remedial repairs should not be given great weight in terms of justification for alteration, especially when considered to impact on the setting of the Listed Building and hence its significance, despite the true provenance of the wall being uncertain.

The setting of a heritage asset, as defined by Historic England, being not just the curtilage but all the land from which the heritage asset can be experienced, whether public or private land hence the street. Such "settings" are defined in the NPPF's Glossary as being a source of a heritage asset's significance.

Reference is also made to a former consent in regards to the siting of a five-bar gate (2/02225/FUL & 2/02228/LBC). From plans this shows the gate located within the existing alignment of the wall, with no setting back or associated visibility splays. It could be considered that, although this does constitute a visual change which may not be considered an enhancement, there is evidence of a historic gate and the level of impact is to a degree limited to this precise position and if executed appropriately, has no overall impact on the historic character of the street scene or the overall setting of the Listed Building.

The proposed scheme in contrast contributes a major alteration to both of these, and cannot be considered to have taken the opportunity for the development to preserve or enhance as required by the NPPF, but rather to introduce an overly modern highway arrangement that results in the cumulative erosion the historic, rural street scene, impacting on the wider setting of the Listed Building and the neighbouring undesignated heritage assets.

The creation of the new access is associated with the proposed creation of a relocated car park which, although not in itself requiring Listed Building Consent and will be considered in more detail under the linked planning application ref. 21/01051/FUL, will further exacerbate the detrimental impact on the more immediate setting of the Listed Building and that of the neighbouring heritage asset's amenity areas, due to the proximity to the party boundary.



## **Summary**

The proposed creation of the new access is in itself unjustified, as at present a well sized accessible car park is located at the southern end of the plot. However, this present facility would be highly compromised by a separate proposed development currently being considered under an independent outline planning application (ref. 21/01053/OUT) for the erection of two new dwellings, which is outside of the content and considerations of this Listed Building consent application and the linked planning application ref. 21/01051/FUL.

Therefore, considering the impact of the proposed access and wall alignment in its own right, it is considered that the form, scale and location of the proposed opening and associated loss of front boundary enclosure to the plot would impact detrimentally on the Historical, Aesthetic, Evidential and Group value of the Grade II Red Lion Inn and the setting of the neighbouring heritage assets, where their rear elevations will be clearly seen juxtaposed with this development from North Street.

Despite the former loss of the most northern section of the stone wall (as evidenced from comparison with the archive photos) having already occurred and the previous construction of a similar visibility splay in the street, these works appears to have been carried out a number of years ago, prior to the introduction of the NPPF and subsequent changes in national and local policy and guidance and cannot be considered to act as a benchmark. Instead today, following the development of the understanding of significance, the existing "layby" and loss of historic boundary is considered to be of a negative feature within the lane.

The new opening would not be seen in isolation but instead to combine with the existing highway construction, exacerbating the level of impact on the setting of an overly suburban and engineered appearance, which together with the widened pavement of 2 metres would be out of keeping with the rural village scene. In addition, there are concerns relating to the facilitation of the relocated car parking, the new access providing direct views into the carpark, which again will be viewed in connection with the main heritage asset, rather than in its present detached position to the south and will also bring added impact of noise, smell, light from traffic movement into much closer contact with the main listed building and its associated listed stone privy at the rear, and the settings of the neighbouring listed building and undesignated cottages.

Therefore, the scheme is not considered to safeguard the setting of the various heritage assets, and to impact on special architectural character and historic interest of the Red Lion, due to the changes to the appearance of the frontage and the extensive loss of the historic enclosure.

There is insufficient justification for the works, no Options Appraisal has been submitted to confirm that all other options have been assessed against their related impact on the significance of the heritage asset or that the one submitted is the one of least impact.

## **Conclusion**

The proposals are considered to contribute a high level of impact on the significance of the Red Lion and its curtilage listed boundary wall, and to a lesser degree on the adjacent heritage assets. As such, "*great weight*" should be given to the safeguarding of the Aesthetic, Historical, Evidential and Communal Value of a heritage asset and its setting in any planning balance, as required under the NPPF (para 199-203), as the proposed scheme is considered to contribute a high level of less-than-substantial harm and officer support cannot therefore be forthcoming. The proposal is not in accordance with Section 16 of the Planning (Listed Building and Conservation Areas) Act 1990, Policy EQ3 of the South Somerset Local Plan and Chapter 16 of the NPPF.

## **RECOMMENDATION**

That Listed Building consent be refused.

**SUBJECT TO THE FOLLOWING:**

01. The proposed development would neither preserve nor enhance the character and appearance of the Listed Building and its setting and would cause less than substantial harm to the significance of the designated heritage asset. As such, the proposal conflicts with Section 16 of the Planning (Listed Building and Conservation Areas) Act 1990 and is contrary to Policy EQ3 of the South Somerset Local Plan 2006-2028 and Chapter 16 of the National Planning Policy Framework (2021), in particular paragraphs 197, 199 and 202.

**Informatives:**

01. This decision has been taken having regard to the following submitted drawings and documents:

Drawing no. F1574/LocPlan1: Location Plan

Drawing no. F1574/001/A: Existing Site Survey

Drawing no. F1574/100/E: Proposed Site Plan and Street Elevation

Drawing no. F1574/013: Existing and Proposed Street Scene - New Entrance

Design and Access Statement (March 2021) prepared by Della Valle Architects

A Heritage Statement (26 November 2020) prepared by C1 Context One Heritage and Archaeology

02. In accordance with the NPPF the Council, as Local Planning Authority, takes a positive and proactive approach to development proposals focused on solutions. The Council works with applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions. In this case, there were no minor or obvious solutions to overcome the significant concerns caused by the proposals.