

Officer Report on Planning Application: 14/00479/FUL

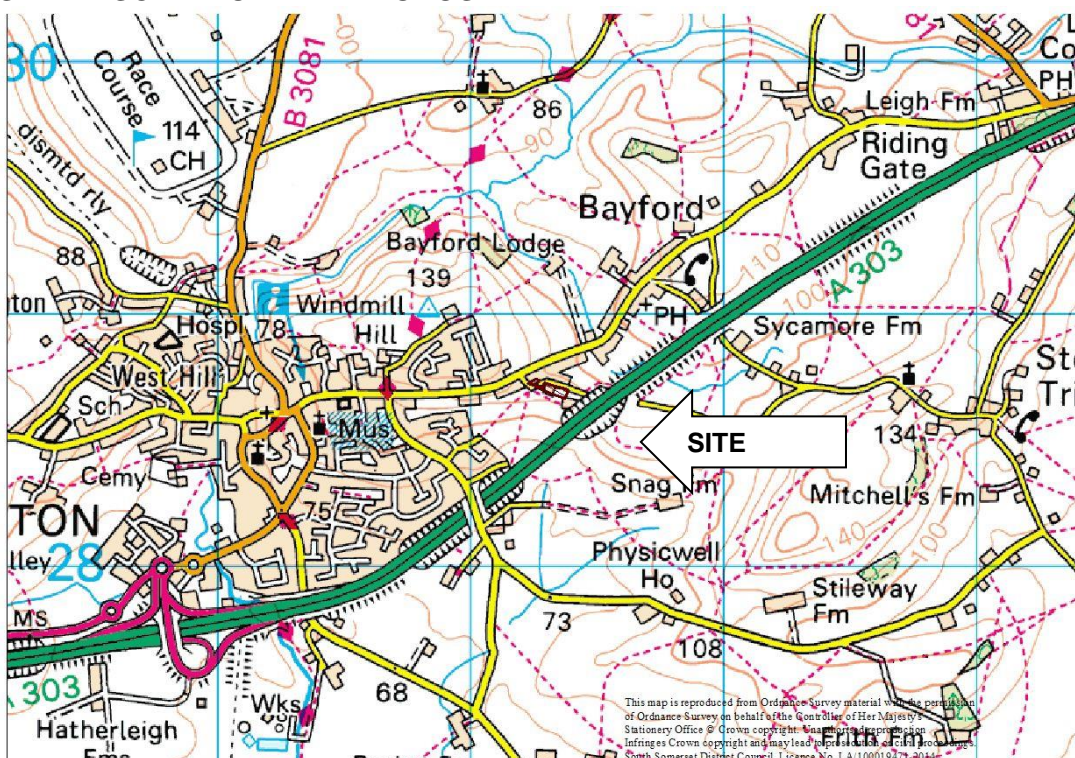
Proposal :	Proposed erection of 3 detached dwellings and ancillary works-resubmission (GR 372358/128701)
Site Address:	Land Os 3969 Part Devenish Lane Bayford
Parish:	Stoke Trister
TOWER Ward (SSDC Member)	Cllr Mike Beech
Recommending Case Officer:	Lee Walton Tel: (01935) 462324 Email: lee.walton@southsomerset.gov.uk
Target date :	25th March 2014
Applicant :	Hopkins Developments Ltd
Agent:	Mr Matthew Kendrick Grass Roots Planning Ltd 11 Olveston Road, Ashley Down, Bristol, BS7 9PB
Application Type :	Minor Dwellings 1-9 site less than 1ha

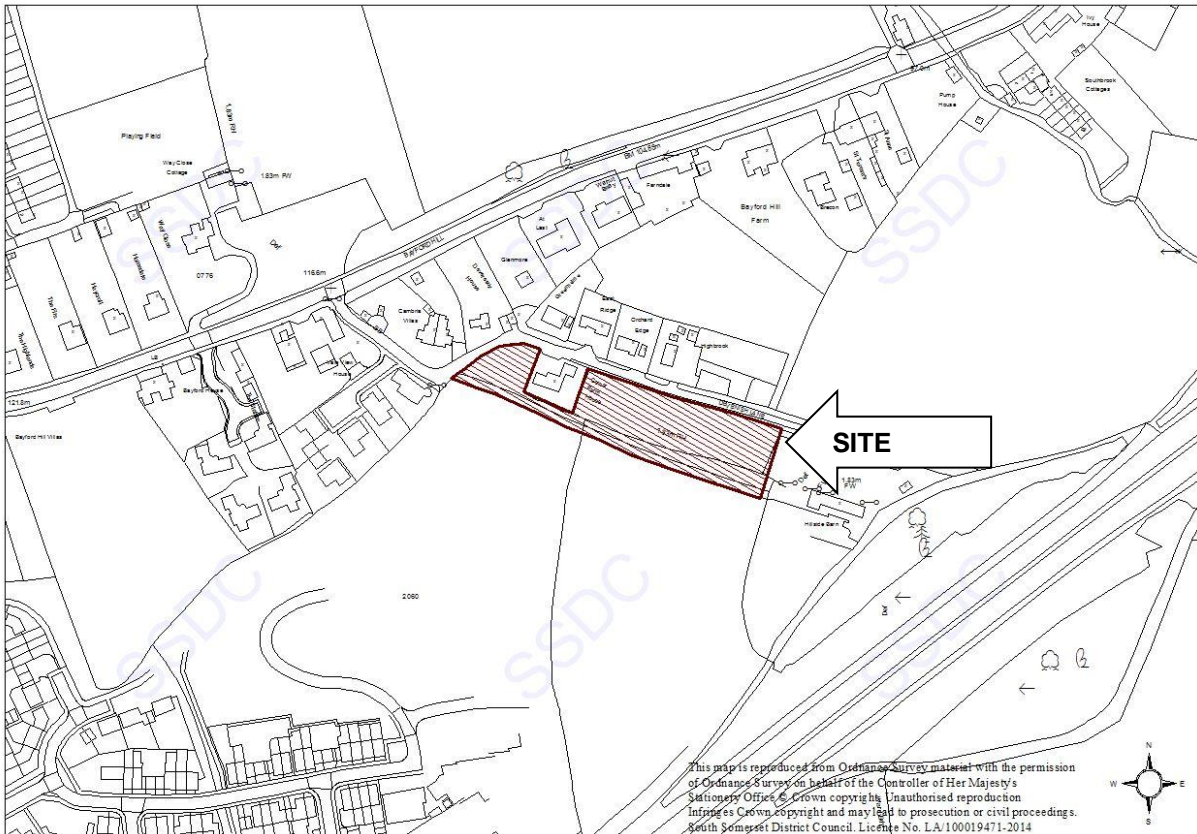
REASON FOR REFERRAL TO COMMITTEE

This application was considered by Members at their September meeting at which time it was deferred for a Members' site visit to consider the highway issues raised by neighbours.

This application is recommended for approval as a departure from saved policy ST3 of the South Somerset Local Plan which seeks to constrain development within Development Areas. However, the adopted local plan is increasingly out-of-date and policy ST3 is not consistent with the NPPF, as it is overly restrictive particularly in light of Paragraphs 54 and 55 of the NPPF, which aims to facilitate appropriate and sustainable housing to meet local need. Accordingly the application is referred to committee to enable the justification for the development to be considered in light of the issues raised locally.

SITE DESCRIPTION AND PROPOSAL





The application site is located to the east side of the Wincanton built up area, on high ground north of the A303 and the Blackmore Vale. The site lies to the south of Devenish Lane, and north/ north-west of the Deansley Way development that is near completion. The site comprises a rectangular piece of land divided up by an existing house - Corner Farmhouse that does not form part of the subject land, and at which point the site adjoins the development area. The site is agricultural land and is contained by field hedgerows. A public right of way runs along the southern boundary of the site and crosses the site to join with Devenish Lane. The parish boundary between Wincanton and Stoke Trister divides the site.

The application comprises a re-submission of an earlier refusal ref: 12/04649/FUL that proposed the erection of 4 detached dwellings. The current application is amended to remove one of the dwellings (plot 1) where this plot conflicts with the public right of way and therefore the application now seeks 3 dwellings. The submission is supported by additional information that seeks to address the earlier reasons for refusal. This includes a Dormice Survey Report (refusal reason 3) and an Access Technical Note (refusal reason 2).

The documents supporting this application include: a Planning Statement, a Design and Access Statement, an Ecological Survey, Transport Statement, Dormice Survey report and Access Technical Note.

HISTORY

12/04649/FUL - Erection of 4 no. detached dwellings and ancillary works. Refused 30/11/12 for the following reasons:

01. The proposed development by reason of proximity of the proposed dwellings to the hedgerow to the South of the site and the lack of a secure method for retaining this hedgerow

would lead to pressure from future residents to either remove or cut back this important feature which is considered necessary to mitigate the visual impact of the development and to maintain the semi-rural character and appearance of the area. As such the proposals are contrary to the aims and objectives of the NPPF and saved Policies ST5 and EC3 of the South Somerset Local Plan 2006.

02. Devenish Lane by reason of its restricted width, poor alignment, lack of pedestrian facilities and sub-standard junction with Bayford Hill is considered unsuitable to serve as a means of access to the proposed development. The proposal is therefore contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review, NPPF and saved Policy ST5 of the South Somerset District Local Plan.

03. The proposal is not supported by any information to enable the Local Planning Authority to conclude that existing rights of way can be maintained across the site. Accordingly the application as submitted would result in the closure of two public rights of way contrary to the aims and requirements of the NPPF and saved Policy CR9 of the South Somerset Local Plan 2006.

04. The proposal is not supported by an appropriate and up to date survey of the site, which is considered to have a reasonable likelihood of containing dormice, to demonstrate that dormice are not present or using the site. Accordingly it cannot reasonably be concluded that the Favourable Conservation Status of this protected species would be maintained. As such the proposal is contrary to the aims and objectives of the NPPF and Saved Policy EC8 of the South Somerset Local Plan.

11/00780/FUL - Erection of 4 no. detached dwellings, new access and associated infrastructure and landscaping - Refused - 05/08/11

870246: outline proposal for the erection of a bungalow on the western part of the site. Refused March 1987, and dismissed on appeal.

870247: outline proposal for the erection of two bungalows on eastern part of the site. Refused March 1987 and dismissed on appeal.

Both 1987 applications were considered at the same appeal and both dismissed on 8 October 1987: unacceptably extending development into open countryside; limited highway visibility - prejudicial to highway safety.

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

The policies of most relevance to the proposal are:

Saved policies of the South Somerset Local Plan (Adopted April 2006):

Policy ST3 - Development Areas

Policy ST5 - General Principles of Development

Policy ST6 - The Quality of Development

Policy EC3 - Landscape Character

Policy EC8 - Protected Species

Policy CR9 - Public Rights of Way

Policy EU4 - Drainage

National Planning Policy Framework - March 2012

Chapter 4 - Promoting Sustainable Transport

Chapter 6 - Delivering a Wide Choice of High Quality Homes

Chapter 7 - Requiring Good Design

Chapter 8 - Promoting Healthy Communities

Chapter 10 - Meeting the Challenge of Climate Change, Flooding and Coastal Change

Chapter 11 - Conserving and Enhancing the Natural Environment

South Somerset Sustainable Community Strategy

Goal 3 - Healthy Environment

Goal 4 - Services and Facilities

Goal 8 - High Quality Homes

Somerset Parking Strategy (September 2013)

Stoke Trister with Bayford Parish Plan - Draft, May 2014

CONSULTATIONS

Stoke Trister with Bayford Parish Council object most strongly to this application and see no reason to change its opinions from the previous application.

- The access onto Bayford Hill is substandard and poor visibility at that point we feel was a contributory cause of a fatal road accident. There have been other minor bumps.
- Devenish Lane is blind enough at the moment with blind corners and no walkways.
- When the Deansley Way development is finished it is feared that occupants closest to Devenish Lane will use the lane for parking. This will not only cause a hazard on the S bend of the lane but also block the emergency access to Deansley Way.
- It is reasonably certain that there will be loss of hedgerows and wildlife habitat and will cause a diversion of a footpath.
- The design of the houses is totally out of keeping with the area.

Wincanton Town Council: To be reported to committee, following the Town Council's meeting on the 9 September 2014.

Landscape Officer: This is a site where I have previously advised against development, as it occupies the 'watershed' ridge that separates Wincanton from Bayford, and has some prominence when viewed from land to the south. As such, I regard the location as having a degree of sensitivity in landscape terms. However, I would also acknowledge the growing presence of the Deansley Way development to the southwest, and the current presence of properties to the northern side of the road, which lay opposite plots 1-3, to thus provide a built context for development. I also note that the design of the houses has a strong vertical emphasis, with the majority of the buildings being single storey only, with low-angled roofs, such that they will not appear overtly prominent on the hilltop.

Whilst still wary of development in this location, given the built surround and low-profile proposal intended here, then providing the site boundary hedges are retained, then I am no longer inclined to raise an objection to development here.

And in response to the proposed highway condition to limit overall hedge height in Devenish Lane: 'Given that this is a residential frontage, I do not see this to be problematic.'

SSDC Area Engineer - I note the concerns expressed regarding potential flood risk, etc.

The previous application (12/04649/FUL) specified use of soak-a-ways for disposal of surface water which should effectively resolve the flooding concerns. The correspondent states that soil conditions here is of a clay nature and the applicant would need to demonstrate, via percolation tests, that use of soak-a-ways is an option and the design of these would need to be in accordance with BRE Digest 365. Alternatively the applicant would need to come up with a solution that doesn't increase run-off.

SDDC Ecologist: I have no objection to the principle of developing this site, subject to conditions requiring a Method Statement detailing precautionary measures to minimise the risk of harm to dormice, and the retention and management of the hedges.

And in response to the proposed highway condition to limit overall hedge height in Devenish Lane: 'I have no objection to the imposition of a condition. Whilst this may limit the potential wildlife value of the hedge, I don't consider it will result in any significant harm to wildlife, and hence I don't consider there's any justification for objection on this issue.'

SDDC Trees Officer - I do not regard the trees on site as constraining development, nor would the extent of the tree felling require a Felling Licence from the Forestry Commission.

County Rights of Way Officer: Confirms that a footpath (WN 28/17) crosses the site. Any works should not encroach upon this footpath. If any development obstructs a Public Right of Way a diversion will be necessary. The Right of Way will need to remain open and available until any Order has come into effect.

District Rights of Way Officer: Took issue with the alignment of the public right of way where this crossed plot 1 and its encroachment by the private amenity space of the future occupants. OFFICER NOTE: In response the applicant removed plot 1 to be considered by a future application.

County Highways: This is a re-submission however the developer provides additional information in the form of an Access Technical Note produced by AWP Highway consultants that addresses the various concerns expressed previously by the Highway Authority. As such I would not wish to raise a highway objection to the current application subject to conditions. OFFICER NOTE: the conditions would be attached to any permission.

REPRESENTATIONS

In addition to the original consultations there were two further consultations undertaken on receipt of the Access Technical Note and realignment of the PROW, and amendment of the layout to remove plot 1.

Original consultation: 13 householder responses received that object for the following reasons:

- There is already a surfeit of housing in the town
- The site is outside the development area
- Sustainability is interesting but sadly flawed. I would balk at walking to Wincanton Business Park and back in less than an hour.
- The mention of buses and their lack of frequency and convenience is a matter of public concern.
- The train is over six miles away!
- Occupants of these properties will be driving everywhere
- Devenish Lane is very narrow with no footpath or lighting or passing places
- This could more than double the number of vehicles using the lane

- Substandard junction with Bayford Hill
- Concerns over additional traffic
- This application has previously been rejected at least twice and as nothing has changed in the application that will improve the access problems in Devenish Lane it should be rejected again
- Personal experiences of near misses when turning in to Devenish Lane from Bayford Hill and conflict with drivers travelling behind and not adapting to the conditions of the road, and conflict with oncoming cars exiting Devenish Lane
- Traffic on Bayford Hill rarely observes the 30mph speed limit.
- TRICS database is flawed. Local conditions include many of the inhabitants such as our elderly neighbours visited by carers, nurses, doctors and pharmacists on a daily or even twice daily basis. They are not typical residents.
- A fatality occurred on 22 August 2013 when a motorcyclist hit a tractor and trailer as it turned into the field directly opposite the junction.
- Concerns over construction and the blocking of the road
- Do not consider enough parking is proposed on site
- children's safety
- Increased surface water run-off causing soil erosion and destroying slow worm habitat, and possible land slip
- Design is out of keeping with existing housing
- There are large housing developments in Wincanton that have not been completed
- Overlooking and overshadowing of existing properties
- An application on land at Cambria was refused and dismissed at appeal on highway grounds
- Impact of large houses on the retained hedgerows
- Removal of hedgerows
- Impact on wildlife
- Dormice do exist on site

Amended Plans (in response to receipt of the Access Technical Note and realignment of PROW): There were 6 householder responses received including a petition signed by 87 people and an additional petition of 135 names, objecting on the basis of

- The Technical Note contains many incorrect assumptions and measurements and makes very biased conclusions
- I can see no changes or valid information that overcomes the danger threatening issues that the two previous applications were refused on.
- The passing places referred to are private entrances to existing properties and frequently occupied by owners cars
- Too much emphasis and reliance is placed on the Highway Code in order to control traffic speeds
- There are no changes regarding the junction with Devenish lane and Bayford Hill.
- The Highway Authority in two previous applications refused on the basis that the junction was substandard, and also refused because of the restricted width, poor alignment and lack of pedestrian facilities. This has not changed.
- There are often near collisions in the lane on the first bend
- Plot 4 would completely face our house and this take away our privacy

Amended Plans (in response to amended layout removing plot 1 that gave rise to PROW issue): There have been 7 Householder responses received objecting on the basis of:

- The traffic flow figures supplied in the TRICS are flawed, showing very low traffic usage figures
- There is obvious subjectivity employed

- The theoretical traffic flow data lacks any relationship to actual usage
- I dispute the figure of 3 more vehicular journeys during peak hours generated by 4 new large family homes, the figure would be at least double
- If the original data is flawed any product of subsequent calculations would be corrupted and meaningless.
- The low probability of meeting another vehicle on the lane (1:289) used by AWP bears no relationship to reality due to this flawed initial data
- The passing places are all private driveways and often have occupants and visitors cars parked in them. This information should not have been used to support the development and is another irrelevance.
- I question the validity of using the Highway Code. The use of rule 146 was used to try and argue that the lane was suitable for access to the proposed development. It is guidance for drivers to drive appropriately and was not intended as a rule to support developers. If that were allowed as justification then no access would be unsuitable anywhere in the world for any development as the responsibility for safety would always be with the driver!
- The Manual for Streets was drawn up as a template for street design in urban settings. (Section 2.2.7 refers to 'Lanes in rural areas can provide other functions than just movements, including various leisure activities such as walking, cycling and horse riding'. I conclude by making the point that these new houses would have a detrimental impact on this principle yet the AWP report chose to ignore this.
- Contrary to paragraph 32 of the NPPF their development will only add to the dangers by significantly increasing the traffic flow at the narrowest parts of the lane.
- The previous developments off Devenish Lane have seen slight improvement to the junction notwithstanding this remains a substandard junction. The proposed new houses will see an increase in traffic using the junction to be over 100%
- The dwellings are totally out of character

Following September's Area Committee meeting traffic speed data collected during August 2014 was submitted. This has been forwarded to the Highway Authority for their response that at the time of drafting this report it is still awaited and is hoped their response can be reported verbally to Committee.

CONSIDERATIONS

Principle of Development:

With or without a five-year housing land supply it is important to judge an application on its merits, taking account of the impacts and benefits that the scheme provides. In this context the application must be considered in light of the existing Local Plan, the National Planning Policy Framework, and the emerging Local Plan.

The policy framework provided by the extant Local Plan (1991 - 2011) is increasingly out-of-date. The proposal is contrary to Policy ST3 however Policy ST3 is not consistent with the NPPF, as it is overly restrictive particularly in light of Paragraphs 54 and 55 of the NPPF, which aim to facilitate appropriate housing to meet local need.

The policies within the emerging Local Plan have weight and should be borne in mind, in particular where there are concerns as to the out-of-date nature of existing policies. Under Policy SS5 Wincanton has a housing requirement of at least 703 dwellings, with commitments of up to 698 dwellings. The Council's position is that there are substantial existing residential commitments in Wincanton, which results in only a small residual housing requirement (5 dwellings) over the rest of the Local Plan period. However, there is a permissive approach for considering housing growth in Wincanton and proposals adjacent to the development area

can be considered while taking account of the overall scale of growth and the wider policy framework in the Local Plan. As one of the four Primary Market Towns in South Somerset, further housing growth in Wincanton cannot be ruled out in principle.

Particular reference should be made to NPPF Paragraph 14 where it states that where the development plan relevant policies are out of date, there should be a presumption in favour of sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Accordingly the main considerations include the reasons given for the previous refusal, namely; character and appearance, highway safety, rights of way and Ecology, with others being the design and neighbour amenity.

Character and Appearance:

The proposed layout shows the 3 dwellings in relation to the hedgerow aligned with the public footpath on the south side of the application site. The relevant officers have not objected to the relationship with the dwellings that had been previously a reason for refusal. A condition requiring the hedgerow's retention at a certain height to be agreed is proposed. Its retention is considered would maintain the semi-rural character and appearance of the site. Notwithstanding the encroachment by nearby built form the previous reason for refusal is considered to have been addressed by the latest drawings.

Highways

The Access Technical Note produced by AWP Highway consultants seeks to address the previous refusal reason (2); namely, restricted width, poor alignment, lack of pedestrian facilities and sub-standard junction with Bayford Hill. The Technical Note states that the development gives rise to very limited trip generation that does not have a material impact, either at the Bayford Hill junction or within Devenish Lane. It acknowledges that Devenish Lane is available for single way working only, although the probability of two vehicles using the narrowest section at the same time is small, and given the tidal nature of residential traffic it is unlikely that two vehicles could be travelling in the same direction. In such an event there are at least 5 passing places, with inter-visibility between vehicles travelling in opposite directions reasonable along the majority of the route, while visibility at the left/ right hand bend is limited, the Note argues that this provides a means of traffic calming and would serve to reduce vehicle speed. The Note refers to the obligation on all road users in the Highway Code that requires drivers to adapt behaviour given the road conditions, while the extent of visibility splays to each proposed private driveway along Devenish Lane is consistent with guidance contained in Manual for Streets. Further, the absence of a footway over the majority of Devenish Lane is proposed results in a shared surface street, and over short lengths, as with Devenish Lane, given the anticipated volume of traffic, the arrangement is consistent with current design guidance. The Technical Note was prepared for a scheme for 4 dwellings, while the amended scheme seeks 3 dwellings.

Notwithstanding the lack of physical changes since the last refusal the Highway Authority, having considered the Technical Note, no longer maintain a reason to refuse. Neighbours have questioned the basis of the argument, and the nature of the initial data arguing that a number of the occupants rely on health visitors who come and go far more often. They observe that the passing places are private accesses that should not be relied on; the use by the applicant of the Highway Code in particular is acknowledged as guidance for drivers, but if it were allowed as justification in this case then no access would be unsuitable anywhere in the world for any development. Other concerns include the recent fatality on Bayford Hill and local experience accessing and egressing Devenish Lane. The neighbour concerns are noted, however the Highway Authority is supportive of the proposal and on the basis of their technical response a highway reason for refusal is considered cannot be maintained.

Following September's Area Committee meeting traffic speed data collected during August

2014 was submitted. This has been forwarded to the Highway Authority for their response that at the time of drafting this report is still awaited and it is hoped their response can be reported verbally to Committee.

Rights of Way

The application site encompasses two rights of way: WN 30/13 and WN 28/17. One footpath crosses the site close to the eastern elevation of the proposed dwelling on plot 4. The alignment of the footpaths is shown on the proposed plans and the District Rights of Way Officer does not raise issue following removal of plot 1 that lays between the Corner Farm House and the Bayford Hill junction. On this basis of the three dwellings that are sought it would not be reasonable to sustain refusal reason 3.

Ecology

A dormice survey was submitted and considered by the Ecology Officer who has been to site and proposes a condition having removed their previous objections. Refusal reason 4 is considered to have been addressed.

Design

Neighbours have raised concerns over the design of the dwellings. The dwellings in Devenish Lane are a mix of ages, sizes and styles. There is no clear building form. The Landscape Officer is supportive of the development given the built surround and low profile proposal intended that they will not appear overly prominent in this location.

Impact on Residential Amenity

Nearby residents are concerned that the proposed dwellings would overlook and overshadow the existing dwellings. However, it is considered that the new dwellings are sited at sufficient distance from the existing dwellings, and that the fenestration is designed in such a way, that this would not be the case.

Neighbour comments:

All neighbour responses have been considered and where appropriate dealt with under the relevant sub-heading of the officer report. Comments otherwise not dealt with include:

- Notwithstanding the perceived extent of a surfeit of housing planning permissions in the town it remains to consider the proposal that is before us, the site's location, and the impact of the proposal.
- It is sometimes inevitably that there will be inconvenience arising from the development phase but this is not a planning reason to refuse an application.
- Surface water and drainage matters are addressed by the proposed condition.

Concluding Remarks:

A dormouse survey (reason 4) and a drawing to show the relationship between hedgerow and dwellings (reason 1) and that the existing right of way can be maintained (reason 3) were submitted as part of the application, but an amended drawing received to remove plot 1 and in consequence the proposal fully addresses the earlier reasons for refusal. The Technical Note submitted with the application sets out an argument in favour of a safe access that is accepted by the Highways Authority and this effectively deals with refusal reason 2. Having overcome the four reasons for refusal, there are no other planning concerns that are raised in terms of design and neighbour amenity.

RECOMMENDATION

Subject to confirmation by the Highway Authority to APPROVE

01. The proposal, by reason of its size, design, materials and location, represents appropriate infills which is designed to respect the character of the area, causes no demonstrable harm to residential amenity and highway safety and does not foster growth in the need to travel in accordance with the aims and objectives of policies ST2 and ST6 of the South Somerset Local Plan (Adopted April 2006) and the NPPF.

SUBJECT TO THE FOLLOWING:

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To accord with the provisions of section 91(1) of the Town and Country Planning Act 1990.

02. The development hereby permitted shall be carried out in accordance with the following approved plans: LO_10_002; 003 and 004; LO_13_002; 003 and 004; and LO_01_001 received 28 January 2014; and LO_01_007 RevC received 12 May 2014.

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

03. No removal of bramble, scrub, hedges, trees or other vegetation shall commence until a Method Statement detailing precautionary measures to minimise the risk of harm to dormice, has been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details and timing of the Method Statement, unless otherwise approved in writing by the local planning authority.

Reason: For the conservation and protection of legally protected species of recognised nature conservation importance in accordance with Policy EC8 of the South Somerset Local Plan, and to ensure compliance with the Wildlife and Countryside Act 1981 and The Habitats Regulations 2010.

04. The development hereby permitted shall not be commenced (including any ground works or site clearance) until a mitigation plan or method statement detailing measures to avoid harm to reptiles, has been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details and timing of the mitigation plan / method statement, unless otherwise approved in writing by the local planning authority.

Reason: For the protection of a legally protected species to accord with policy EC8 of the South Somerset Local Plan, and to ensure compliance with the Wildlife and Countryside Act 1981 (as amended).

05. No development shall take place before a detailed landscape proposal that should include prescriptions for hedge management at all boundaries and include heights to be maintained has been submitted to and agreed in writing by the LPA. Such details as shall be agreed shall be undertaken on site as part of the development hereby permitted.

Reason: In the interests of character and appearance further to policy ST5 of the South Somerset Local Plan.

06. The development hereby permitted shall not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority (in consultation with Somerset County Council). The plan shall include construction vehicle movements, construction operation hours, construction vehicular routes to and from site, all vehicles leaving the site are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. construction delivery hours, expected number of construction vehicles per day, car parking for contractors, specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice and a scheme to encourage the use of public transport amongst contractors. The development shall be carried out strictly in accordance with the approved Construction Management Plan.

Reason: In the interests of highway safety further to policy ST5 of the South Somerset Local Plan and the NPPF.

07. Before the development, hereby permitted, is commenced a drainage scheme designed to avoid any increase in run off from the sites shall be submitted to and agreed in writing by the LPA. Such details as agreed shall be under taken as part of the development and thereafter retained.

Reason: In the interests of highway safety further to policy ST5 of the South Somerset Local Plan and the NPPF.

08. The areas allocated for parking and turning on the submitted plan shall be kept clear of obstruction at all times and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of highway safety further to policy ST5 of the South Somerset Local Plan and the NPPF.

09. There shall be no obstruction to visibility greater than 900mm above adjoining road level forward of a line drawn 2.0m back and parallel to the nearside carriageway edge over the entire Devenish Lane site frontage. Such visibility shall be fully provided before works commence on the development hereby permitted and shall thereafter be maintained at all times.

Reason: In the interests of highway safety further to policy ST5 of the South Somerset Local Plan and the NPPF.
