

## Officer Report On Planning Application: 18/01071/S73A \*\*

<b>Proposal :</b>	Section 73a application to vary condition 2 (approved plans) of planning approval 09/03037/FUL to allow for revised plans, to replace on Plot 1 a single storey dwelling with a two storey dwelling.
<b>Site Address:</b>	Land Rear Of 18 To 24 Westcombe Templecombe
<b>Parish:</b>	Abbas/Templecombe
<b>BLACKMOOR VALE Ward (SSDC Member)</b>	Cllr William Wallace Cllr Hayward Burt
<b>Recommending Case Officer:</b>	Alex Skidmore Tel: 01935 462430 Email: alex.skidmore@southsomerset.gov.uk
<b>Target date :</b>	3rd July 2018
<b>Applicant :</b>	Mr R Thorner
<b>Agent: (no agent if blank)</b>	Mr Steven Moyse Lake View Lower Charlton Trading Estate Martins Lane Shepton Mallet BA4 5QE
<b>Application Type :</b>	Major Dwlgs 10 or more or site 0.5ha+

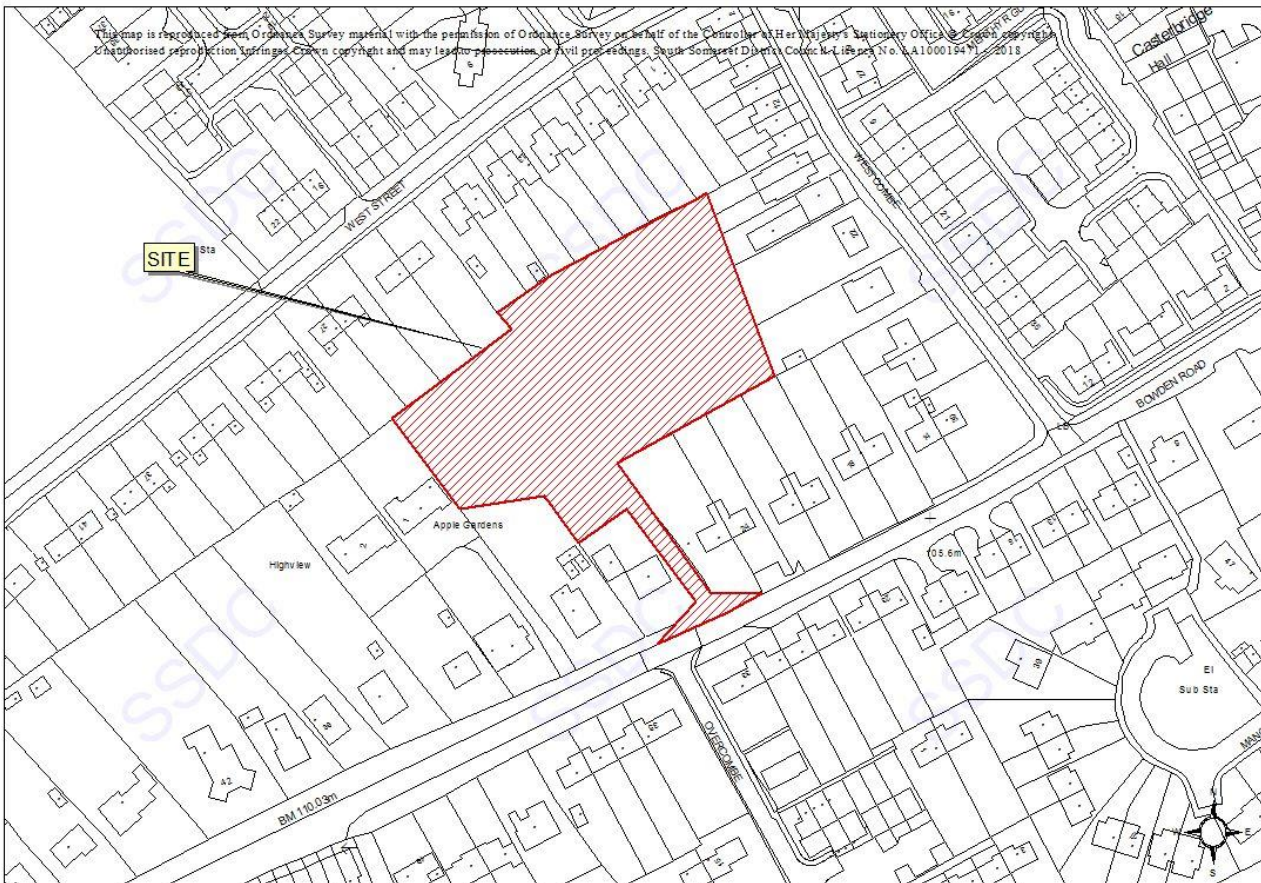
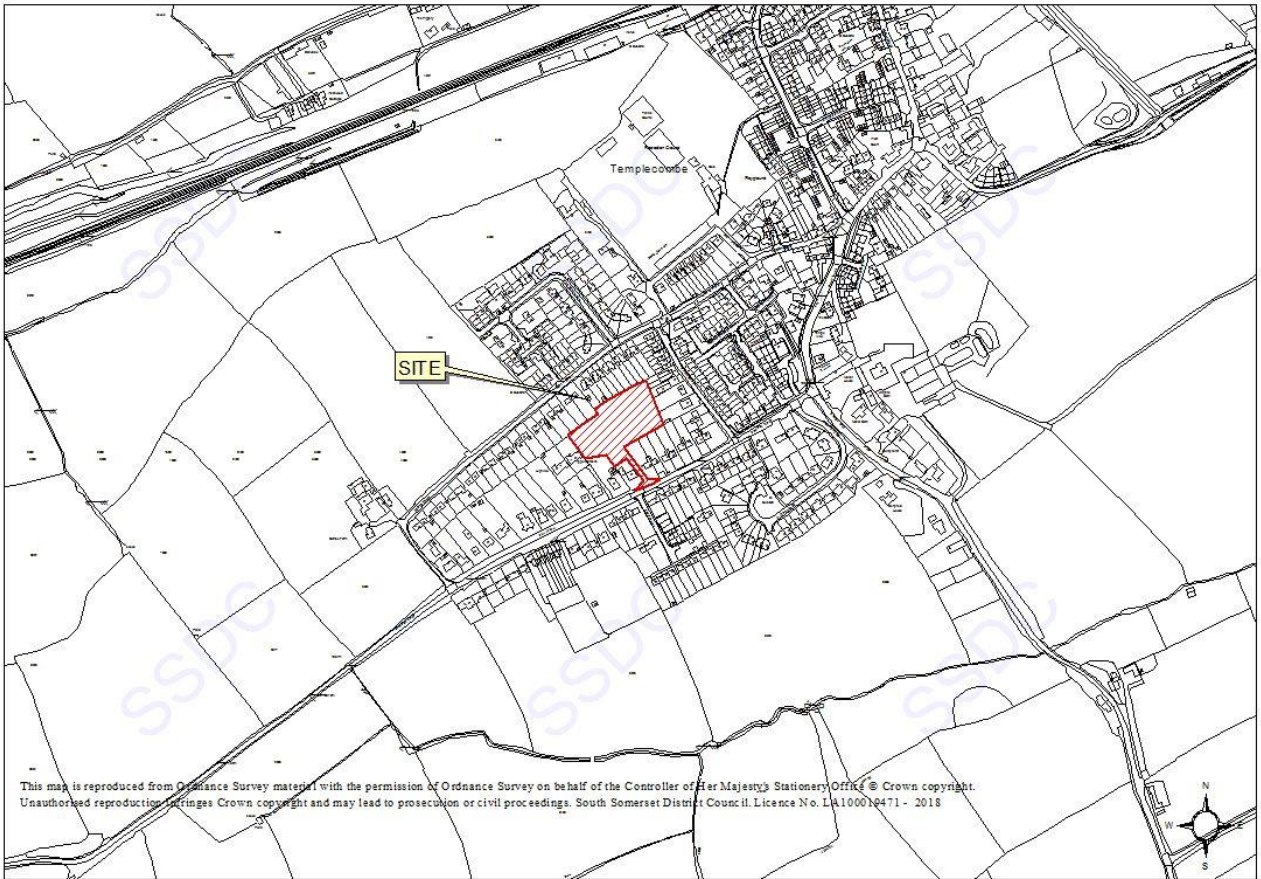
### REASON FOR REFERRAL

The application has been referred to Area East Committee at the request of the Ward Members and with the agreement of the Area Chair to allow the local concerns raised during the course of the application, in particular the impact the proposal will have upon the amenity of surrounding properties, to be considered further.

This application has also been 2-starred under the Scheme of Delegation - referral of applications to the Regulation Committee for determination. In collective agreement with the Leader, Portfolio Holder, Area Chairs, Director (Service Delivery), Monitoring Officer, and Lead Specialist (Planning) all major applications will be 2-starred for the immediate future to safeguard the Council's performance, pending a more substantive review.

The Area Committees will still be able to approve and condition major applications. However, if a committee is minded to refuse a major application, whilst it will be able to debate the issues and indicate grounds for refusal, the final determination will be made by the Regulation Committee.

### SITE DESCRIPTION AND PROPOSAL



This application is seeking to vary the approved plans condition (condition 2) of planning approval 09/03037/FUL, and subsequent Section 73 applications 11/02147/S73 and 16/03330/S73A, in order to amend Plot 1 from a single storey bungalow to a two-storey dwelling. The application follows a previous Section 73 application (17/04047/S73a) which sought to amend Plots 2 and 3 from single storey bungalows to two-storey dwellings. This application was refused earlier this year for reasons relating to harm to neighbour amenity and inappropriate and unusable parking layout.

The original consent for this site was application 09/03037/FUL which granted permission for the erection of thirteen dwellings, which included a mixture of two-storey and single-storey houses. This original scheme has since been varied by two separate Section 73 applications, the first of which was approved in 2011 (11/02147/S73) and permitted amendments to the site plan including changes to the positions of Plots 1, 2 and 3. The second Section 73 (16/03330/S73A) application permitted changes to the approved plans and floor level details in order to address final road and drainage issues and to make some slight changes to the fenestration detailing of a number of the plots.

The works to the development are now at an advanced stage with a number of the approved dwellings now complete and being occupied. The application site is former garden land that belonged to several neighbouring properties. The site is a relatively flat and level with adjacent development and is surrounded by residential properties to all sides including bungalows to the west (known as Collingham Close) immediately to the rear of Plots 1,2 and 3, a bungalow to the north and two-storey dwellings to the east and south. An access road to serve the development runs between 26 and 28 Bowden Road.

## **HISTORY**

17/04047/S73a: Application to vary condition 2 (approved plans) of planning approval 09/03037/FUL, 11/02147/S73 and 16/03330/S73a to substitute with revised plans. Refused at Committee for the following reason:

01. The proposed alterations to plots 2 and 3 would, by reason of their resultant height, size, and position, result in an unacceptable impact on the residential amenity of the occupiers of neighbouring properties by way of overlooking and the resultant loss in privacy, contrary to policy EQ2 of the South Somerset Local Plan (2006-2028) and the policies contained within the National Planning Policy Framework.
02. The proposed alterations to plots and 2 and 3 would, by reason of the increase in size and numbers of bedrooms, result in an inappropriate and unusable parking layout contrary to policies TA5 and TA6 of the South Somerset Local Plan and the policies contained within the National Planning Policy Framework.

16/03330/S73a: Section 73a application to amend conditions 2 (approved plans) and 9 (finished floor levels) of planning approval 09/03037/FUL following level changes arising from final road and drainage designs. Permitted.

11/02147/S73: Application to vary condition 2 of planning approval 09/03037/FUL (revised site plan). Permitted.

10/02561/FUL: Erection of six bungalows with garages on former garden land (revised application). Pending consideration.

09/03037/FUL: The erection of thirteen dwellings. Permitted April 2010.

08/04307/FUL: Erection of six dwellings on former garden land. Application withdrawn 2008.

06/01540/FUL: Erection of a bungalow with detached garage. Permitted 2006.

05/02627/FUL: Alterations to garages for plots 9 and 10. Permitted 2005.

03/01480/FUL: Erection of twelve dwellings and access road. Permitted 2003.

01/00341/OUT: Erection of fourteen dwellings. Refused 2001.

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the NPPF states that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

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)

SD1 - Sustainable Development

SS2 - Rural Settlements

SS6 - Infrastructure Delivery

HG4 - Provision of Affordable Housing - Sites of 1-5 Dwellings

TA5 - Transport Impact of New Development

TA6 - Parking Standards

HW1 - Provision open space, outdoor playing space, sports, cultural and community facilities in new development

EQ2 - General Development

EQ4 - Biodiversity

National Planning Policy Framework

Part 4 - Promoting sustainable transport

Part 6 - Delivering a wide choice of high quality homes

Part 7 - Requiring good design

Part 8 - Promoting healthy communities

Part 10 - Meeting the challenge of climate change, flooding and coastal change

## **CONSULTATIONS**

**Templecombe Parish Council:** Object. Made reference to their comments for the previous application namely:

- The replacement of a single storey dwelling with a two-storey dwelling on plot 1 is not acceptable. This will result in the proposed dwelling overlooking the neighbouring property and result in a loss of privacy.
- The Parish Council understood that there was a specific need for bungalows within the area highlighted in advice given for Slades Hill.

**County Highways:** Referred to their standing advice.

**SSDC Highway Consultant:** If the proposed alteration increases the number of bedroom within the dwelling the on-site parking provision should accord with the optimum standards set out in the Somerset Parking Strategy.

## **REPRESENTATIONS**

Written representations have been received from six adjacent households raising the following objections and concerns:

- The development was approved as a mixed development of single and two storey houses, there is now a creep in house heights. The density of the housing is too high for the location and the access road (which is a narrow road onto a narrowish road, opposite a narrow road). Increasing the number of potential residents will make this worse.
- If the property needed to be two-storey then this should have been applied for at the outset.
- The developer has made a mess of 28 Bowden Road's boundary fence.
- A two-storey dwelling would be obstructive and block our view (30 Bowden Road). Despite the changes to the design, with obscure glass windows facing our property and roof windows, our property can still be overlooked.
- The proposed building is encroaching upon our neighbour's land and therefore does not have the required space to be built.
- We hope this will be the last application and shall be glad when all the noise and traffic finally ceases.
- I purchased my property (6 Collingham Close) on the understanding that the left hand of the development would be three detached bungalows (not houses) which was visually acceptable and gave a more open aspect and balance to the small development. Their replacement with two-storey dwellings would make a significant impact both visually and practically.
- The house will block most of the natural light from our garden (28 Bowden Road) from 3pm onwards. We will have no privacy in our garden. The upper rear windows will have clear visibility across one half of our garden and the front windows would have a clear view over the other half. We have had no privacy over the last two years due to builders overlooking our garden. The house will also destroy any outlook we currently have.
- Plot 1 is drawn into our boundary by 1.4m (28 Bowden Road). The developer is summoned in court in November to defend their actions having already destroyed parts of our property. We have a letter from the developers solicitor stating they will not construct a house within our rear boundary, therefore this application is a complete waste of time and resources.
- The land was sold purely on the basis that bungalows would be built here.
- We bought plot 7 due to its proximity to our son who lives at 28 Bowden Road and because it guaranteed to be in line of sight in case of emergency.
- The developer must be made to honour their agreement made years ago when buying the land and build the approved development which we all liked and paid good money to enjoy.

## **CONSIDERATIONS**

Planning permission for the erection of 13 dwellings on this site, including a mix of bungalows and two-storey houses, was granted in 2010 under application 09/03037/FUL. The current application follows several previous Section 73 applications that permitted various minor amendments to the original scheme, including alterations to some of the fenestration details and internal floor levels and agreement of some of the detailed condition details. The application also follows application 17/04047/S73a which sought to amend Plots 2 and 3 from single storey bungalows to two-storey dwellings, however, this application was refused earlier this year for reasons relating to harm to neighbour amenity and inappropriate and unusable parking layout.

The key considerations with regard to this current scheme is the impact the proposal will have upon the visual amenity and the character and quality of the overall development and upon the residential amenities of neighbouring properties and highway safety.

### **Visual amenity**

The approved development comprises a mix of two-storey and single storey dwellings and is surrounded by a mixture of two and single storey dwellings. It is considered that the proposed

amendment to Plot 1 to change it to a two-storey dwelling, will be in keeping with the wider scheme as well as surrounding existing development and to therefore cause no new substantive harm to visual amenity or the character of the area.

### **Residential amenity**

Objections have been raised by both the Parish Council and a number of surrounding householders raising concerns that the proposal will result in harm to neighbour amenity with particular concerns relating to loss of privacy and loss of light to their homes.

The raising in height of Plot 1 will undoubtedly result in it having a more imposing presence to the immediate neighbours than if it were single storey however due to its juxtaposition with surrounding properties and the intervening distance it is not considered to cause any substantive overbearing concerns. It is noted that the occupiers of 28 Bowden Road are concerned that this will adversely affect their outlook and cause them loss of light. Again it is accepted that this will impact on their outlook and may in the height of summer take away a very limited amount of light to their garden close to sunset, however, due to the open aspect to either side of their garden and the fact that Plot 1 sits to the north of them will ensure that the increased height of this unit will not impact on them substantively in this way.

The occupiers of 28 Bowden Road have also raised concern that the revised design and height of Plot 1 will result in loss of privacy to their property, in particular to their rear garden. There are no openings proposed within the south elevation of the new dwelling and as such this revised proposal will not result in any new direct overlooking or loss of privacy issues to this neighbour.

The addition of a first floor does with first floor openings to the front and rear does have the potential to increase overlooking of the private rear garden areas associated with No's 30 and 26 Bowden Road. In regard to No 30, it is noted that there are numerous mature trees (a mix of deciduous and evergreen) growing within their garden along the rear boundary of Plot 1 which blocks much of the view of the far end of No 30's rear garden during the summer months and to a lesser degree in the winter months and in any case does not appear to directly overlook any private seating area. Whilst the proposal will afford some views towards the rear of the house at No 30 these are very oblique and as such are not considered to constitute a demonstrable loss of amenity to this neighbour. With regard to No 26, such views are across a public highway and due to the intervening distance, and oblique nature of the views to the more private area towards the rear of the house, the proposal is also not considered to cause any demonstrable loss of privacy to this neighbour.

Due to the position of the plot, its layout, design and intervening distance this revised proposal is not considered to cause any new demonstrable harm to any other neighbouring property.

### **Parking and highway safety**

The proposed amendments will amend Plot 1 to a three-bedroom house, which under the County Parking Strategy should be served by a minimum of 2.5 parking spaces, i.e. 3 parking spaces. The scheme as initially submitted had a poor parking layout with substandard parking spaces, however, amended plans have since been submitted fully addressing this concern and ensuring that the parking provision and layout accords with the highway authority's standing advice. The proposal is therefore not considered to give rise to any substantive highway safety concerns.

### **Other matters**

There has been a claim that the position of Plot 1 encroaches on to land belonging to the neighbour at 28 Bowden Road, although it is unclear how this is the case as the redline area for the site has not changed from the original application and the dwelling clearly sits within the redline area. It should be noted however that the granting of planning consent does not then grant the right for a development to encroach upon someone else's land without the separate agreement of that third party.

Several neighbours have also objected on the basis that they bought their properties with the understanding that this plot would be single storey. Whilst there may have been legal restrictions of this nature that formed part of the sales agreement for their properties, such restrictions are wholly separate to the planning system and as such should not influence the outcome of this application. It should be noted however that should this application be approved then the resulting permission does not override such legal matters, rather they will still need to be resolved separately between the relevant parties through the appropriate legal channels.

### **CIL (Community Infrastructure Levy) and S106 contributions**

The original 2009 permission included a Section 106 Agreement which secured a financial contribution towards sports, arts and leisure facilities, due to the size of the development and the local plan policies at the time there were no affordable housing obligations. This S106 Agreement is still current and due to the clause set out under paragraph 1.14 it continues to apply to any subsequent amendments or modifications to the original consent, including the current application. The additional floor area that will result from this application, should it be approved, will be liable for CIL. A CIL liability form (Form 0) has been provided with the application.

### **Conclusion**

For the reasons set out above, the proposed amendments are not considered to give rise to any new demonstrable harm to visual amenity, residential amenity, highway safety or other environmental concerns. The application is therefore recommended for approval.

### **RECOMMENDATION**

Grant consent for the following reason:

The proposed development, by reason of its context, density, scale, layout, design and materials, respects the character of the area, causes no demonstrable harm to visual amenity, residential amenity or highway safety and is considered to constitute an appropriate sustainable form of development that accords with the aims and objectives of policies SS2, SS6, TA5, TA6, HW1, EQ2, EQ4 and EQ5 of the South Somerset Local Plan and the provisions of the National Planning Policy Framework.

### **SUBJECT TO THE FOLLOWING:**

01. The development hereby permitted shall be carried out in accordance with the following approved plans numbered F1325/217S, F1325/205E, F1325/216, F1325/212C, F1325/214C, F1325/215, F1325/200B, F1325/203B, F1325/206C, F1325/207C, F1325/208C and F1325/210C.

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

02. The external wall, roof and chimney materials, the materials and external finish for all external windows and doors, internal and external boundary treatments and surfacing materials for the access drive, paths, turning and parking areas shall accord with those detailed agreed under discharge of condition application 13/00878/DOC, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the character and appearance of the area to accord with policy EQ2 of the South Somerset Local Plan.

03. Prior to any other works commencing in respect of the development hereby permitted the visibility splays shown on drawing no. F1325/217D shall be provided in full and shall thereafter be permanently maintained in this fashion.

Reason: In the interests of highway safety to accord with policy TA5 of the South Somerset Local Plan.

04. The proposed roads, including footpaths and turning spaces where applicable shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

Reason: In the interests of highway safety to accord with policy TA5 of the South Somerset Local Plan.

05. At the proposed access there shall be no obstruction to visibility greater than 300mm above adjoining road level within the visibility splays shown on the submitted plan F1325/217D, such visibility splays shall be permanently retained and maintained thereafter.

Reason: In the interests of highway safety to accord with policy TA5 of the South Somerset Local Plan.

06. The foul and surface water drainage details to serve the development shall accord with the details set out on drawing number F1325/225B received 29/07/2016, unless otherwise agreed in writing by the local planning authority. Such approved drainage details shall be completed and become fully operational before the development hereby permitted is first brought into use. Following its installation such approved scheme shall be permanently retained and maintained thereafter.

Reason: To ensure the site is adequately drained to accord with policy EQ7 of the South Somerset Local Plan.

07. The development shall be carried out in accordance with the internal ground floor levels set out on drawing number F1325/217S, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential and visual amenity to accord with policy EQ2 of the South Somerset Local Plan.

08. The development shall be carried out in accordance with the landscaping scheme detailed on drawing number J46-01A received 31/01/2013. All changes to existing ground levels and all planting, seeding / turfing comprised in the approved details shall be carried out in the first planting and seeding season following the first occupation of the dwellings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To safeguard the character and appearance of the area and to protect the trees on the site subject to a Tree Preservation Order to accord with policy EQ2 of the South Somerset Local Plan.

09. The tree protection measures detailed on drawing number J46/-01A received 31/01/2013 shall be implemented and kept in place until the approved development is completed, unless otherwise agreed in writing by the local planning authority.

Reason: To protect the trees on the site subject to a Tree Preservation Order to accord with policy EQ2 of the South Somerset Local Plan.



10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a road.

Reason: To safeguard the character and appearance of the area to accord with policy EQ2 of the South Somerset Local Plan.

11. Prior to plot 16 (as identified on drawing number F1325/217D received 19/07/2016) being first brought into use the first floor window in the south elevation shall be fitted with obscure glass (and fixed closed) and shall be permanently retained and maintained in this fashion thereafter.

Reason: In the interest of residential amenity to accord with policy EQ2 of the South Somerset Local Plan.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), there shall be no openings within the south elevation of Plot 1 without the prior express grant of planning permission.

Reason: In the interest of residential amenity to accord with policy EQ2 of the South Somerset Local Plan.

**Informatives:**

01. The applicant is reminded that no consent is hereby granted for the installation of Air Source Heat Pumps (ASHPs). If the applicant wishes to install such equipment without the need for planning permission it will need to comply with the requirements of Class G, Part 14, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
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