

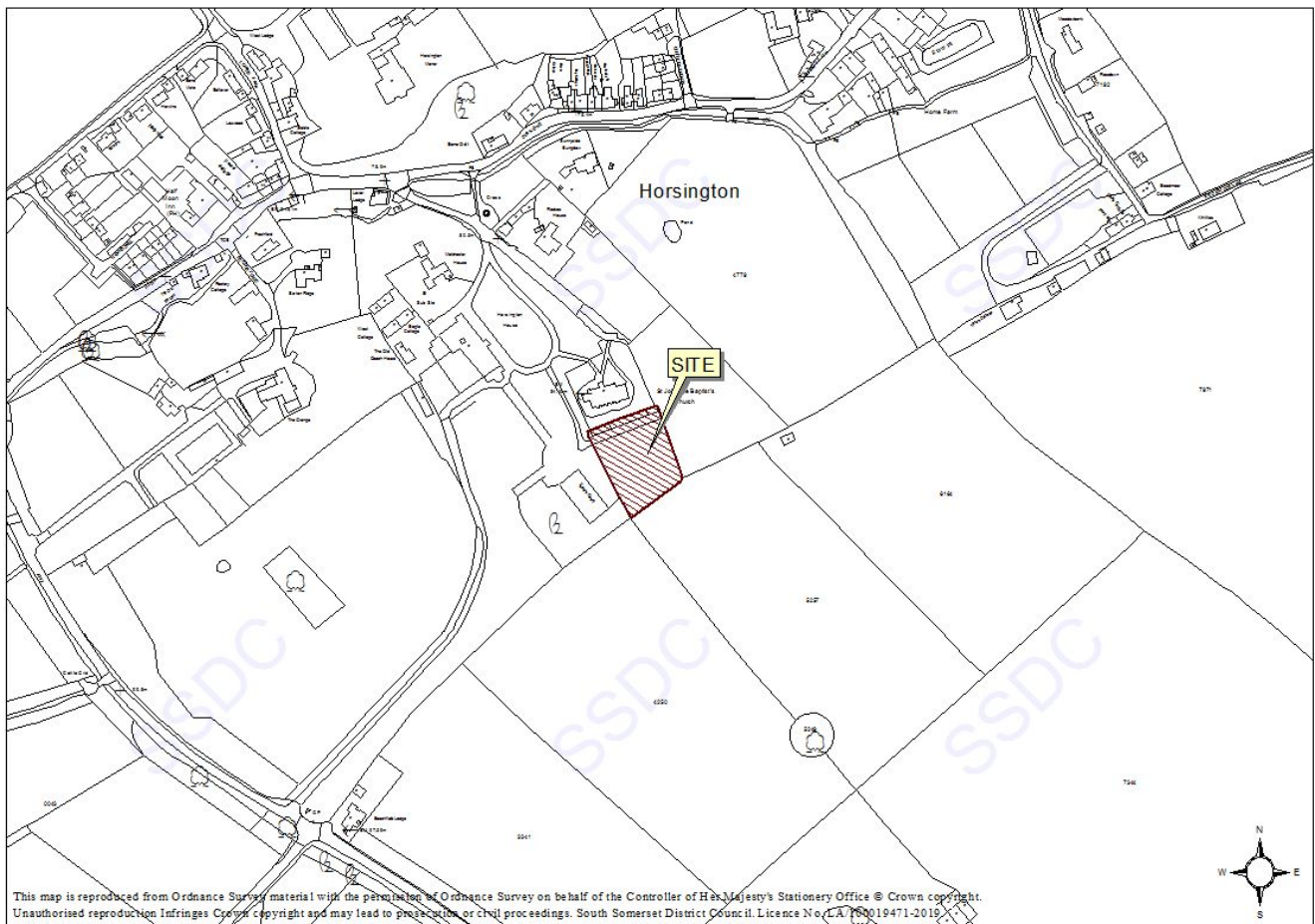
Officer Report On Planning Application: 18/02218/FUL

Proposal :	The erection of a dwelling together with associated landscaping
Site Address:	Land South Of St John The Baptist Church Church Lane Horsington
Parish:	Horsington
BLACKMOOR VALE Ward (SSDC Member)	Cllr William Wallace Cllr Hayward Burt
Recommending Case Officer:	Dominic Heath-Coleman Tel: 01935 462430 Email: alex.skidmore@southsomerset.gov.uk
Target date :	17th September 2018
Applicant :	Mr C Godson
Agent: (no agent if blank)	Mr Philip Brown Wykeham House 3 Station Road Okehampton EX20 1DY
Application Type :	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL

The application is before the committee at the request of the ward member, and with the agreement of the area chair, in to allow local concerns to be debated.

SITE DESCRIPTION AND PROPOSAL





The proposal seeks permission for the erection of a dwelling together with associated landscaping. The site is a walled garden in the grounds of a large country house (now subdivided), containing several outbuildings but otherwise empty and currently uncultivated. The walls of the garden are made of brick and natural stone. The main house is a grade II listed building and, as such, the structures of the walled garden are considered to be listed in association. Immediately to the north of the walled garden is a grade II* listed church. To the east and south of the site is open countryside, with the grounds of the main house immediately to the west. The site is adjacent to a conservation area, and not within a development area as defined by the local plan. There is a public footpath adjacent to the western boundary of the site.

The proposed development consists of the erection of a single storey dwelling of modern design, to be finished in natural stone, glass, and standing seam zinc cladding, all under a living 'green' roof. It is proposed to access the site through the existing northern access into the grounds of the main house, along an existing unaltered driveway, and then a long short section of improved and re-aligned driveway into the walled garden itself.

RELEVANT HISTORY

18/02220/LBC - Demolition of outbuildings, the erection of a dwelling with associated works and landscaping - Pending consideration

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, and 12 of the NPPF indicate it is a matter of law that applications are 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) and any adopted neighbourhood plans.

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

Policy SD1 - Sustainable Development
Policy SS1 - Settlement Strategy
Policy EQ2 - General Development
Policy EQ3 - Historic Environment
Policy EQ4 - Biodiversity
Policy TA5 - Transport Impact of New Development
Policy TA6 - Parking Standards

National Planning Policy Framework

Chapter 2 - Achieving Sustainable Development
Chapter 5 - Delivering a Sufficient Supply of Homes
Chapter 12 - Achieving Well-Designed Places
Chapter 16 - Conserving and Enhancing the Historic Environment

Other Material Considerations

None

CONSULTATIONS

Horsington Parish Council - Initially:

"The remaining Councillors took note of the neighbours' concerns and are unanimously opposed to the proposed development for the following reasons:

- the property is out of keeping with the area - a modern building in a listed wall and listed house environment.*
- too close to the Church. Also the Churchwardens feel that the residents of the new home would complain about the bells.*
- under policy SS2 it does not meet an identified housing need.*
- the access to the proposed house is past a private apartment but access to all the existing properties is along a drive from the main road. The proposed access would lead to a loss of privacy."*

On the receipt of amended plans:

"The remaining Councillors are opposed to the applications and feel that the amendments do not address the concerns that the Parish Council has already raised.

Councillors are particularly concerned about the access from Church Lane.

It is also understood that there is some ambiguity regarding the right of way on the property."

County Highway Authority - Refers to standing advice

SSDC Highway Consultant - Initially raised concerns. On the receipt of additional information, he stated:

"I have reviewed the amended plan showing the junction visibility splays on to Duck Lane and the initial

width of the Church Lane. I am satisfied with the details submitted and therefore raise no highway objection to the scheme."

SSDC Conservation Officer [in response to the concurrent application for listed building consent] -

"The proposed dwelling is in the setting of the GII listed Church of St John the Baptist, the site is surrounded on four sides by a high wall and as the Heritage Statement points out this area would once have formed a kitchen garden, the only visible remains are the wall and traces of pathways. The proposed dwelling has undergone several design alterations in order to ensure that it does not impact on the Church and wider setting including long distance views which would could potentially experience a level of light pollution.*

The design is high quality and well considered and because of this will not detract from the setting of the Church, subsequently the proposed new dwelling will be an attractive addition to the area, albeit largely hidden from view. The low roof sits just beneath the level of the surrounding wall, so the building would physically be subservient to the church. Views to the building will be limited by the high wall which surrounds the site.

I think that the proposed house, will be innovative, responsive and sensitive. It represents a kind of design that works because of the careful thought that goes into understanding the requirements of the site and mitigating against perceived impacts. Which is perfectly illustrated in this instance by the considerate response to both climate and concerns.

I am very happy to support this application."

SCC Archaeology - Initially requested the submission of a geophysical survey of the site. On receipt they confirmed that they have no objection on archaeological grounds.

SSDC Ecologist - Notes the submitted ecology reports and survey. Recommends the use of conditions to:

- 1) Ensure a European protected species license is submitted to the LPA prior to work commencing on site
- 2) Secure the submission of an appropriate lighting scheme to prevent disturbance to bats
- 3) Ensure any demolition works are appropriately supervised
- 4) Appropriate gaps in left in re-pointing to allow bat roosting
- 5) Ensure nesting birds are protected and to secure bird boxes
- 6) To secure appropriate reptile protection

Historic England - Initially raised concerns. On the receipt of amended plans, they offered the following comments:

"We note the alteration to the roofline, namely the lowering of the pavilion section by 580mm. Whilst minimal, we nevertheless consider this a welcome amendment which breaks up the overall bulk and height, and lessens any conflict in views of the church. Likewise any visible light will be necessarily reduced.

The additional lighting explanation in the accompanying email and updated Lighting Strategy is likewise welcomed; this provides assurance that all effort has been made (with regards to luminaires, glazing, lowering the pavilion, and external mitigating screening) to minimise any effect of lighting. As far as we are qualified to comment, we accept that lighting controls have been fully explored and assessed, and as such find no reason to contend the assertion that 'the experience of the church will not be adversely affected during low light levels, nor will light from the 'pavilion' glazing be highly visible from the PROW to the south.'

Recommendation

Historic England has no objection to the application on heritage grounds. We consider that the issues and safeguards, as set out in our letter dated 12 September 2018, have been satisfactorily addressed.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

Your authority should take these representations into account in determining the application."

REPRESENTATIONS

Letters of objection were received from the occupiers of seven neighbouring properties. Objections were raised in the following areas:

- Access arrangements would open private gardens to public and would cause disturbance and loss of privacy to existing residents
- Access arrangements would be dangerous during construction and afterwards
- Adverse impact on heritage assets and character of area
- Principle of development
- Future occupiers may complain about church bells
- Proposal could set a precedent for further infilling
- No right of access to proposed development site
- Proposal necessitates new building for jointly owned machinery and tools

CONSIDERATIONS

Principle of Development

Horsington is defined in the local plan as a Rural Settlement, where development will be strictly controlled. The starting point for considering development in Rural Settlements is policy SS2 of the South Somerset Local Plan. The proposal is contrary to that policy, as it does not provide employment opportunities, create or enhance community facilities and services, or meet an identified housing need. However, as SSDC cannot currently demonstrate a five year supply of housing land, elements of that policy must be considered out of date. As such, it is considered that the LPA cannot rely on the proscriptions of that policy in regard to what the development must provide (e.g. meeting an identified housing need), but must accept that the settlement is broadly sustainable and capable of supporting some residential development. As such, although the proposal is contrary to policy SS2 of the local plan, only limited weight can be applied to this adverse impact in the planning balance.

Visual Amenity

The proposal involves the erection of a new dwelling close to a conservation area, a grade II listed building, and a grade II* listed building. It will also involve alterations to structures listed in association. As such, the SSDC Conservation Officer, and Historic England were consulted. Historic England raised some initial concerns but, on the receipt of amended plans and additional information, they raised no objections to the scheme. The SSDC conservation officer was very positive about the scheme and raised no objections. On this basis, it is considered that there will be no harm to the character or setting of the nearby heritage assets. The proposed design and materials are considered to be of a high standard, and have been well-considered.

As such, notwithstanding local concerns in regard to visual amenity, the visual impacts of the scheme area considered to be acceptable in accordance with policies EQ2 and EQ3 of the local plan and the aims and objectives of the NPPF.

Residential Amenity

The proposal would have no impact on neighbouring amenity by way of overlooking, overshadowing, or overbearing.

A concern has been raised that the proposal will have an adverse impact on the amenity of neighbouring properties by way of disturbance due to the increased use of the northern access into the grounds of the listed house. It is evident that currently only the applicants and one other property use this access, with all other properties in the grounds using an alternative means of access along 'the long drive' onto the A357 to the south of the village of Horsington. The proposal will therefore increase the use of the northern access from two properties to three. Clearly there will be an increased level of disturbance during the construction phase of the development. However, such disturbance will be transitory and therefore would not be a reason to constrain development. Once the construction phase has finished, it is not considered that the use of the access by a third dwelling is likely to cause significant enough harm to residential amenity to warrant refusal of the scheme. The direct route from the point of access to the application site does not pass in close proximity to the habitable areas of any third part properties. Whilst vehicle movements across the grounds will be visible, they are unlikely to cause significant disturbance through increased noise and will, in any case, be relatively infrequent, as they will serve only one additional dwelling. For similar reasons, it is not considered that there will be any significant loss of privacy for existing residents.

As such, notwithstanding local concerns, it is considered that there would be no demonstrable harm to the residential amenity of surrounding occupiers in accordance with policy EQ2 of the local plan and the aims and provisions of the NPPF.

Local concerns have also been raised as to the potential for future occupiers of the dwelling to be disturbed by the bell ringing at the nearby church. However, the church and its bells are an established existing feature of the locality, which any future occupiers of the proposed dwelling would be well aware of. Somebody who felt that they were likely to be disturbed by church bells would be unlikely to occupy a house next door to a church. The proximity of the dwelling to the church is not unusually close, when compared to thousands of similar situations elsewhere in the country.

Highways

The highway authority was consulted and referred to their standing advice. As such, the SSDC planning consultant reviewed the scheme in detail. On the receipt of additional information from the applicant, he confirmed that he had no objections to the scheme.

As such, it is considered that the impacts on highway safety are acceptable in accordance with policies TA5 and TA6 of the South Somerset Local Plan.

Local concern has been raised regarding the safety implication of the increased use of the existing access, particularly in regard to the children of one of the affected dwellings using the area to play. However, it is noted that the access rights are not currently exclusive to the occupiers of any single dwelling. Presumably, therefore, any playing children must already be appropriately supervised and the increased use of the access by another single dwelling is unlikely to have significant implications on the way that space can be used.

Ecology

The SCC Ecologist was consulted and raised no objections subject to a variety of detailed conditions on any permission issued. Such conditions are considered to be reasonable and necessary.

Other Matters

A concern has been raised locally as to whether the appropriate rights of access exist. However, the applicants maintain that they do. It is not for the planning system to arbitrate on any such disputes and the granting of planning permission would not override any other legislation. If the necessary access rights do not exist then it will not be possible to implement the permission. This would not, however, be a reason to withhold granting planning permission.

A concern has been raised locally that the proposal could set a precedent for further infilling in the village. However, the circumstances of this application are unique, and there is no reason to assume that granting permission would set any undesirable precedents.

A further concern raised locally is that the proposal necessitates a new building for housing jointly owned machinery and tools. The concern is noted. However, any application for future buildings on the site would be considered on their own merits. The SSDC conservation officer and Historic England have not raised the loss of existing outbuildings as a concern.

Conclusions and Planning Balance

With no five year supply of housing land in South Somerset, footnote 7 to paragraph 11 of the NPPF is engaged, which explains that, for applications involving the provision of housing, relevant policies are considered out-of-date where "*...the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.*" As such the tilted balance set out in paragraph 11 of the NPPF is the measure against which the development should be assessed. This states that "*For decision-taking this means...where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

In this case there are no specific policies in the NPPF that indicate development should be restricted, so an assessment must be made as to whether the adverse impacts of the development significantly and demonstrably outweigh the benefits.

The benefits of the proposed development are relatively modest, and would be that the proposal would contribute to the shortfall of housing land supply in South Somerset, which is benefit that must be afforded significant weight.

Weighed against the benefit outlined above, the scheme will also cause some harm. The policy is contrary to policy SS2 of the South Somerset Local Plan. However, as highlighted above this particular harm can only be afforded limited weight as policy SS2 must be considered out of date in the absence of a five year supply of housing land. Notwithstanding local objections, no other areas of harm have been identified by statutory consultees, notably the by any of SSDC's officers consulted or Historic England.

Given all of the above, it is considered that, on balance, the identified harm does not significantly and demonstrably outweigh the benefits of the scheme and, as such, planning permission should be granted.

RECOMMENDATION

Permission be granted for the following reason:

The proposal is considered to be acceptable in principle and, by reason of its size, scale and materials, respects the character of the area, and causes no demonstrable harm to residential amenity, biodiversity, the character and setting of the listed buildings, and highway safety in accordance with the aims and objectives of Policies SD1, SS1, EQ2, EQ3, EQ4, TA5, and TA6 of the South Somerset Local Plan and the aims and provisions of 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 and documents:

Site Location Plan labelled "Phillip Brown Associates"
Lighting Strategy - Revised Version 1
GDN/P.01D
GDN/P.02A
GDN/S.03B
GDN/P.04B

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

03. The area allocated for parking and turning on the submitted plan, drawing number GDN/P.02A, shall be kept clear of obstruction 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 and in accordance with policy TA5 of the South Somerset Local Plan.

04. No work shall be carried out in relation to any of the below elements until particulars of that element have been submitted to and approved in writing by the Local Planning Authority:

- a) materials (including the provision of samples where appropriate) to be used for the external walls and roofs;
- b) the mortar mix and coursing of the external walls (best illustrated through the provision of a sample panel);
- c) the recessing, materials and finish (including the provision of samples where appropriate) to be used for all new windows (including any rooflights) and doors;
- d) all hardstanding and boundaries
- e) the rainwater goods and eaves and fascia details and treatment.

Once approved such details shall be fully implemented unless agreed otherwise in writing by the Local Planning Authority.

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

05. A copy of the European protected species licence will be submitted to South Somerset District Council prior to work commencing on site.

Reason: To ensure that no harm would come to roosting bats. The Habitats Regulations requires a system of "strict protection" for European protected species including through the planning system effectively preventing harm occurring to such protected wild animals.

06. No artificial lighting associated with the development will illuminate the northern boundary of the walled garden and scattered trees beyond the western boundary. A lighting scheme showing how this would be achieved should be submitted to South Somerset District Council before work on site commences for approval.

Reason: All bats are afforded protection under the Habitats Regulations 2017 by which populations are to be maintained at Favourable Conservation Status as defined under Article 1 of the Habitats Directive 1992. Lacking evidence to the contrary it must be assumed the boundary hedgerow forms part of the habitat available to maintain local bat populations. Bat species are adversely affected by the introduction of artificial lighting on commuting routes, which in effect can cause severance between roosts and foraging areas. A dark boundary area will also help maintain other light sensitive species on site and contribute towards conserving biodiversity.

07. During any stone wall dismantling works, an experienced and qualified bat ecologist should be present in case any bats are found. In the event that bats are located works must stop, the area cordoned off with a 5m buffer zone, appropriate bat care administered and Natural England contacted regarding the requirement for a European Protected Species Licence. In the event that basic wall repairs, comprised of repointing, are to be carried out to the boundary stone wall, to retain potential bat access into the wall cavities, during re-pointing a 25mm section of wooden dowel is to be inserted into the gaps between stone work, the area re-pointed around the dowel, then after 5 minutes of setting the dowel is to be twisted and removed to leave a 25mm round entrance and exit hole. This method will allow the wall to be re-pointed and secured and will retain the access into the potential bat roosts.

Reason: All bats are afforded protection under the Habitats Regulations 2017 by which populations are to be maintained at Favourable Conservation Status as defined under Article 1 of the Habitats Directive 1992. Lacking evidence to the contrary it must be assumed the boundary hedgerow forms part of the habitat available to maintain local bat populations. Bat species are adversely affected by the introduction of artificial lighting on commuting routes, which in effect can cause severance between roosts and foraging areas. A dark boundary area will also help maintain other light sensitive species on site and contribute towards conserving biodiversity.

08. No building demolition works and vegetation, including mature tree, scrub and tall ruderal herbs, removal work shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the buildings to be demolished and trees, scrub, grassland and tall ruderal vegetation to be cleared for active birds' nests immediately before works proceed 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.

As an enhancement and compensation measure, and in accordance with National Planning Policy Framework (NPPF), the following shall be carried out:

- Installation of 1x RSPB artificial house martin nesting cups under the eaves on the north or east elevation of the new dwelling.
- Installation of 1x passerine bird nest on the northern or eastern elevation of the new dwelling or retained shed at a height above 3 metres.

Reason: Nesting birds are afforded protection under the Wildlife and Countryside Act 1981 (as amended). Although this is a legal obligation the law does not specify a time period - some species can breed outside the time frame given. To ensure the proposal meets the requirement within the National Planning Policy Framework 2017 (NPPF)*, allowing the development to contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.

*NPPF 2017 Section "170. Planning policies and decisions should contribute to and enhance the natural and local environment by: d) minimising impacts on and providing net gains for biodiversity".

09. Any features such as rubble, stone and log piles which potentially afford resting places for reptiles will be dismantled by hand by a suitably qualified ecologist between April, May and October and any individuals found translocated to an appropriate location prior to works commencing on site.

Any vegetation in the construction area should initially be reduced to a height of 10 centimetres above ground level, cleared towards the northwest boundary of the wall garden to allow any reptiles to escape through the access (ensuring this access is kept open during the cut), brushings and cuttings removed and the remainder left for a minimum period of 48 hours of fine warm weather before clearing to minimise the risk of harming/killing any reptiles that may be present and to encourage their movement onto adjoining land to the west of the site. This work may only be undertaken during the period between April and October.

Reason: Reptile species are afforded protection from intentional and reckless killing or injury under the Wildlife and Countryside Act 1981 (as amended). Outside the period from April to October these species are likely to be in torpor or hibernation when disturbance is likely to pose a risk to survival.

Informatives:

01. Please be advised that approval of this application by South Somerset District Council will attract a liability payment under the Community Infrastructure Levy. CIL is a mandatory financial charge on development and you will be notified of the amount of CIL being charged on this development in a CIL Liability Notice.

You are required to complete and return Form 1 Assumption of Liability as soon as possible and to avoid additional financial penalties it is important that you notify us of the date you plan to commence development before any work takes place. Please complete and return Form 6 Commencement Notice.

You are advised to visit our website for further details <https://www.southsomerset.gov.uk/cil> or email cil@southsomerset.gov.uk
