

South Somerset District Council

Notice of Meeting



Area North Committee

Making a difference where it counts

Wednesday 28th February 2018

2.00 pm

**Council Chamber
Council Offices
Brympton Way
Yeovil BA20 2HT**

(Disabled access and a hearing loop are available at this meeting venue)



The following members are requested to attend this meeting:

Clare Aparicio Paul
Neil Bloomfield
Adam Dance
Graham Middleton
Tiffany Osborne

Stephen Page
Crispin Raikes
Jo Roundell Greene
Dean Ruddle
Sylvia Seal

Sue Steele
Gerard Tucker
Derek Yeomans

Consideration of planning applications will commence no earlier than 2.35pm.

For further information on the items to be discussed, please contact the Case Services Officer (Support Services) on 01935 462596 or democracy@southsomerset.gov.uk

This Agenda was issued on Monday 19 February 2018.

Alex Parmley, *Chief Executive Officer*

This information is also available on our website
www.southsomerset.gov.uk and via the mod.gov app



Information for the Public

The council has a well-established area committee system and through four area committees seeks to strengthen links between the Council and its local communities, allowing planning and other local issues to be decided at a local level (planning recommendations outside council policy are referred to the district wide Regulation Committee).

Decisions made by area committees, which include financial or policy implications are generally classed as executive decisions. Where these financial or policy decisions have a significant impact on council budgets or the local community, agendas will record these decisions as “key decisions”. The council’s Executive Forward Plan can be viewed online for details of executive/key decisions which are scheduled to be taken in the coming months. Non-executive decisions taken by area committees include planning, and other quasi-judicial decisions.

At area committee meetings members of the public are able to:

- attend and make verbal or written representations, except where, for example, personal or confidential matters are being discussed;
- at the area committee chairman’s discretion, members of the public are permitted to speak for up to up to three minutes on agenda items; and
- see agenda reports

Meetings of the Area North Committee are held monthly, usually at 2.00pm, on the fourth Wednesday of the month (except December) in village halls throughout Area North (unless specified otherwise).

Agendas and minutes of meetings are published on the council’s website
www.southsomerset.gov.uk/councillors-and-democracy/meetings-and-decisions

Agendas and minutes can also be viewed via the mod.gov app (free) available for iPads and Android devices. Search for ‘mod.gov’ in the app store for your device, install, and select ‘South Somerset’ from the list of publishers, then select the committees of interest. A wi-fi signal will be required for a very short time to download an agenda but once downloaded, documents will be viewable offline.

Public participation at committees

Public question time

The period allowed for participation in this session shall not exceed 15 minutes except with the consent of the Chairman of the Committee. Each individual speaker shall be restricted to a total of three minutes.

Planning applications

Consideration of planning applications at this meeting will commence no earlier than the time stated at the front of the agenda and on the planning applications schedule. The public and representatives of parish/town councils will be invited to speak on the individual planning applications at the time they are considered.

Comments should be confined to additional information or issues, which have not been fully covered in the officer’s report. Members of the public are asked to submit any additional documents to the planning officer at least 72 hours in advance and not to present them to the Committee on the day of the meeting. This will give the planning officer the opportunity to respond appropriately. Information from the public should not be tabled at the meeting. It should

also be noted that, in the interests of fairness, the use of presentational aids (e.g. PowerPoint) by the applicant/agent or those making representations will not be permitted. However, the applicant/agent or those making representations are able to ask the planning officer to include photographs/images within the officer's presentation subject to them being received by the officer at least 72 hours prior to the meeting. No more than 5 photographs/images either supporting or against the application to be submitted. The planning officer will also need to be satisfied that the photographs are appropriate in terms of planning grounds.

At the committee chairman's discretion, members of the public are permitted to speak for up to three minutes each and where there are a number of persons wishing to speak they should be encouraged to choose one spokesperson to speak either for the applicant or on behalf of any supporters or objectors to the application. The total period allowed for such participation on each application shall not normally exceed 15 minutes.

The order of speaking on planning items will be:

- Town or Parish Council Spokesperson
- Objectors
- Supporters
- Applicant and/or Agent
- District Council Ward Member

If a member of the public wishes to speak they must inform the committee administrator before the meeting begins of their name and whether they have supporting comments or objections and who they are representing. This must be done by completing one of the public participation slips available at the meeting.

In exceptional circumstances, the Chairman of the Committee shall have discretion to vary the procedure set out to ensure fairness to all sides.

Recording and photography at council meetings

Recording of council meetings is permitted, however anyone wishing to do so should let the Chairperson of the meeting know prior to the start of the meeting. The recording should be overt and clearly visible to anyone at the meeting, but non-disruptive. If someone is recording the meeting, the Chairman will make an announcement at the beginning of the meeting.

Any member of the public has the right not to be recorded. If anyone making public representation does not wish to be recorded they must let the Chairperson know.

The full 'Policy on Audio/Visual Recording and Photography at Council Meetings' can be viewed online at:

<http://modgov.southsomerset.gov.uk/documents/s3327/Policy%20on%20the%20recording%20of%20council%20meetings.pdf>

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Area North Committee

Wednesday 28 February 2018

Agenda

Preliminary Items

1. Minutes

To approve as a correct record the minutes of the previous meeting held on 24 January 2018.

2. Apologies for absence

3. Declarations of Interest

In accordance with the Council's current Code of Conduct (as amended 26 February 2015), which includes all the provisions relating to Disclosable Pecuniary Interests (DPI), personal and prejudicial interests, Members are asked to declare any DPI and also any personal interests (and whether or not such personal interests are also "prejudicial") in relation to any matter on the Agenda for this meeting.

Members are reminded that they need to declare the fact that they are also a member of a County, Town or Parish Council as a Personal Interest. Where you are also a member of Somerset County Council and/or a Town or Parish Council within South Somerset you must declare a prejudicial interest in any business on the agenda where there is a financial benefit or gain or advantage to Somerset County Council and/or a Town or Parish Council which would be at the cost or to the financial disadvantage of South Somerset District Council.

Planning Applications Referred to the Regulation Committee

The following members of this Committee are also members of the Council's Regulation Committee:

Councillors Clare Aparicio Paul, Neil Bloomfield and Sylvia Seal.

Where planning applications are referred by this Committee to the Regulation Committee for determination, Members of the Regulation Committee can participate and vote on these items at the Area Committee and at Regulation Committee. In these cases the Council's decision-making process is not complete until the application is determined by the Regulation Committee. Members of the Regulation Committee retain an open mind and will not finalise their position until the Regulation Committee. They will also consider the matter at Regulation Committee as Members of that Committee and not as representatives of the Area Committee.

4. Date of next meeting

Councillors are requested to note that the next Area North Committee meeting is scheduled to be held at 2.00pm on **Wednesday 28 March 2018** at a venue to be confirmed.

5. Public question time

6. Chairman's announcements

7. Reports from members

Items for Discussion

8. **Neighbourhood Policing** (Page 6)
9. **Area North Committee Forward Plan** (Pages 7 - 9)
10. **Planning Appeals** (Pages 10 - 45)

Items for Information

11. **Item for Information - SSDC Welfare Advice Work in South Somerset** (Pages 46 - 54)

Planning Applications

12. **Schedule of Planning Applications to be Determined By Committee** (Pages 55 - 56)
13. **Planning Application 17/03874/OUT - Land Adjoining Long Orchard Way, Martock.**
(Pages 57 - 73)
14. **Planning Application 17/04125/FUL - Moncktons Cottage, Watergore, South Petherton.** (Pages 74 - 78)
15. **Planning Application - 17/04060/FUL - Land Opposite Autumn Leaves, Pibsbury, Langport.** (Pages 79 - 87)
16. **Planning Application 17/04236/S73 - Plot 1, Land Opposite Autumn Leaves, Pibsbury, Langport.** (Pages 88 - 96)

Please note that the decisions taken by Area Committees may be called in for scrutiny by the Council's Scrutiny Committee prior to implementation.

This does not apply to decisions taken on planning applications.

Agenda Item 8

Neighbourhood Policing

Assistant Director: Helen Rutter, Communities Lead
Lead Officer: Natalie Fortt, Area Development Lead (North & South)
Contact Details: natalie.fortt@southsomerset.gov.uk or 01935 462956

Tim Coombe, Inspector – Neighbourhood Policing for South Somerset (Avon and Somerset Constabulary) or another representative, will attend the meeting to provide a verbal update on local issues, crime trends and initiatives.

Background Papers: *None*

Agenda Item 9

Area North Committee – Forward Plan

Lead Officer: Helen Rutter, Communities Lead
Officer: Becky Sanders, Case Services Officer (Support Services)
Contact Details: becky.sanders@southsomerset.gov.uk or (01935) 462596

Purpose of the Report

This report informs Members of the Area North Committee Forward Plan.

Public Interest

The forward plan sets out items and issues to be discussed over the coming few months. It is reviewed and updated each month, and included within the Area North Committee agenda, where members of the committee may endorse or request amendments.

Recommendation

Members are asked to:

Note and comment upon the Area North Committee Forward Plan as attached, and identify priorities for further reports to be added to the Area North Committee Forward Plan.

Area North Committee Forward Plan

Members of the public, councillors, service managers, and partners may also request an item be placed within the forward plan for a future meeting, by contacting the Agenda Co-ordinator.

Items marked *in italics* are not yet confirmed, due to the attendance of additional representatives.

To make the best use of the committee, the focus for topics should be on issues where local involvement and influence may be beneficial, and where local priorities and issues raised by the community are linked to SSDC and SCC corporate aims and objectives.

Further details on these items, or to suggest / request an agenda item for the Area North Committee, please contact one of the officers named above.

Background Papers: None

Area North Committee Forward Plan

Further details on these items, or to suggest / request an agenda item for the Area North Committee, please contact the Agenda Co-ordinator; at democracy@southsomerset.gov.uk

Items marked in italics are not yet confirmed, due to the attendance of additional representatives. Key: SCC = Somerset County Council

Meeting Date	Agenda Item	Background / Purpose	Lead Officer(s) SSDC unless stated otherwise
28 Mar '18	Affordable Housing Development Programme (Including Local Housing Needs)	Routine annual update report.	Colin McDonald, Corporate Strategic Housing Manager
28 Mar '18	Buildings at Risk (Confidential)	Routine annual update report.	Greg Venn, Conservation Officer
28 Mar '18	Citizens Advice South Somerset	Presentation about work of Citizens Advice South Somerset (CASS).	Angela Kerr, CEO, Citizens Advice South Somerset
25 Apr '18	Langport Cycleway	Update report.	Katy Menday, Countryside Manager
25 Apr '18	Area North Development Plan	End of Year outturn report.	Natalie Fortt, Area Development Lead (South)
23 May '17	Appointments to Outside Bodies	New municipal year – appointment of members to working groups and outside bodies.	Becky Sanders, Case Services Officer (Support Services)

23 May '17	Revised Scheme of Delegation – Development Control Nomination of Substitutes for Chairman and Vice Chairman for 2018-19	New municipal year – appointment of two members to act as substitutes.	Becky Sanders, Case Services Officer (Support Services)
TBC	<i>Endorsement of Community Led Plans</i>	<i>South Petherton Parish Plan and Neighbourhood Plan</i>	<i>Area Development (North)</i>

Agenda Item 10

Planning Appeals

Director: Martin Woods, Service Delivery
Service Manager: Simon Fox, Lead Specialist (Planning)
Contact Details: simon.fox@southsomerset.gov.uk or 01935 462509

Purpose of the Report

To inform members of the appeals that have been lodged, decided upon or withdrawn.

Public Interest

The Area Chairmen have asked that a monthly report relating to the number of appeals received, decided upon or withdrawn be submitted to the Committee.

Recommendation

That members comment upon and note the report.

Appeals Lodged

17/03721/OUT – Land OS1742 North of Yeovil Road, Tintinhull.
Residential development of 6 dwellings.

Appeals Dismissed

16/05122/COL – Land Rear of Owl Cottage, Low Ham Road, Langport.
Application for Lawful Development Certificate for the existing residential use of two brick and stone buildings known as Aunt Emily's on land to the rear of Owl Cottage, Low Ham.

16/03541/COL – La Lade Caravan Park, Long Load.
Application for a Lawful Development Certificate for the proposed use of the existing caravan park for the siting of up to 25 static caravans.

Appeals Allowed

16/05547/FUL – Land South of Union Drove, Huish Episcopi.
Construction of one single-storey, 2 bedroom, contemporary dwelling with one room dedicated to a home office, and with new access, associated parking, built-in bicycle storage / work equipment storage, a bat rehabilitation flight cage/shed and a change of use from agricultural land.

17/02265/OUT – Land at Former Environment Agency Depot, Back Lane, Curry Rivel.
The erection of 1 No. dwellinghouse.

13/01500/OUT – Land Off Lyndhurst Grove. Martock.
Outline application for residential development for 35 dwellings.

The Inspector's decision letters are shown on the following pages.

Appeal Decision

Inquiry held 12 - 13 September 2017

Site visit made on 11 September 2017

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 January 2018

Appeal Ref: APP/R3325/X/17/3171608

'Aunt Emily's', Low Ham Road, Low Ham, Langport, TA10 9DY

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Sarah Skeet against the decision of South Somerset District Council.
 - The application Ref 16/05122/COL, dated 24 November 2016, was refused by notice dated 23 January 2017.
 - The application was made under section 191(1)(a) of the Act.
 - The development for which a certificate of lawful use or development is sought is described as: *"The existing residential use of two brick and stone buildings known as Aunt Emily's, on land to the rear of Owl Cottage, Low Ham. This dwelling is shown as building 1 and building 2 in the plans and planning statement submitted with the application. The dwelling is currently not occupied, but its use as a dwelling remains"*.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of use in the LDC application submitted to the Council refers to the use of two buildings; those being marked 1 and 2 on the application plan. The details accompanying the application indicated the same. However, the plan shows the buildings within a small area of land edged in red, and the officer report written in consideration of the application states the LDC is sought for the existing residential use of *"land (my emphasis) and buildings located at the above site as a single dwelling house"*. Hence it seems that the application was considered on the basis of inclusion of the red edged land. At the Inquiry I agreed with the parties that the appeal should be determined on the basis of its inclusion¹. I am satisfied that doing so would not be prejudicial to any party.
3. An LDC is not a planning permission. Its purpose is to allow landowners and others to ascertain whether specific uses, operations or other activities are or would be lawful. Lawfulness is equated with immunity from enforcement action.
4. The issue of an LDC depends entirely on factual evidence about the history and planning status of the building or land in question and the interpretation of any

¹ Hereafter 'the buildings' refers to the land and buildings 1 and 2 identified on the submitted application plan.

relevant planning law or judicial authority. Thus planning policies and planning merits are not relevant considerations in determining an LDC application or appeal. Hence, for example, any amenity impacts on neighbouring properties, or the fact that the appeal site is within the countryside, are immaterial to whether or not an LDC is issued.

5. The burden of proof regarding matters of fact rests with the applicant, now the appellant. Although not in active habitation she asserts that the use of the buildings as a residential dwellinghouse has not been abandoned and therefore remains as the lawful use. She must therefore provide enough relevant, clear and unambiguous evidence to demonstrate the truth of that assertion. The relevant test of the evidence is made on the balance of probability (that it is more probable than not).
6. In reaching my decision I have also taken account of the additional documents submitted during the Inquiry. All oral evidence to the Inquiry was taken under oath.

Background

7. The two single storey buildings are marked 1 and 2 on the application drawing (hereafter B1, B2). They do not appear on the 1888 Ordnance Survey map but do appear on the 1903 version.
8. The appellant's evidence is that from at least 1908 the buildings were occupied and used as a dwellinghouse by two sisters Marie Jane Skeet and Emily Oram (nee Skeet) until their deaths in 1953 and 1958 respectively. From 1958 until his death in 2007 the buildings were owned by Leonard Skeet, and then from 2007 ownership passed to Sarah and Mark Skeet. However, there has been no residential occupation of the buildings since 1958.
9. Ron Skeet's evidence included his recollection of visiting the sisters in the buildings as a young boy from around 1948/1949 onwards. Another witness² also recalled childhood visits to the sisters in the buildings.
10. On the balance of the evidence I am satisfied that use of the buildings as a dwellinghouse was the lawful use statutorily accrued from 1 July 1948 onwards.

Main Issue

11. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded. The appeal therefore turns on the question of whether or not the residential use of the buildings has been abandoned.

Reasons

Relevant Case law

12. 'Abandonment' is a legal concept used by the Courts to describe the circumstances in which rights to resume a use which has been lawfully carried on in the past may be lost because of the cessation of that use. However, it was established in *Panton*³ a use that was merely dormant or inactive could still

² Joan Turner statutory declaration

³ *Panton and Farmer v SSETR & Vale of White Horse DC* [1999] JPL461

- be 'existing' so long as it had already become lawful and had not been extinguished.
13. In *Hartley*⁴, Lord Denning found that if a building or land remains "*..unused for a considerable time, in such circumstances that a reasonable man might conclude that the previous use had been abandoned, then the Tribunal may hold it to have been abandoned*".
 14. In *Castell-y-Mynach*⁵, the Court established four criteria for assessing whether a use had been abandoned. These are, as applicable to this case: (1) the physical condition of the buildings; (2) the period of non-use; (3) whether there has been any other use; and (4) the owner's intentions.
 15. In *Hughes*⁶ the Court of Appeal held, on the authority of *Hartley*, that the test of the owner's intentions should be objective and not subjective. The intentions of Mr Hughes and of the previous owner, although relevant factors to be considered, could not be decisive because the test was the view to be taken by "*a reasonable man with knowledge of all the relevant circumstances*". Evaluating all the four criteria established in *Castell-y-Mynach*, the Inspector had been entitled to conclude that the residential use had been abandoned.
 16. I have also been referred to a number of previous appeal decisions which turned on the concept of abandonment. They simply demonstrate that no one of the four criteria established in *Castell-y-Mynach* can be decisive and that each case is fact-sensitive and must be decided on its own merit. The proper test and approach in deciding whether a use has been abandoned or not is that set out in *Castell-y-Mynach* and *Hughes*.

Analysis

Physical condition of the buildings

17. During my visit to the appeal site I was able to see that rudimentary repair work has been carried out to the buildings at some time in the past. Ron Skeet provided oral and written evidence⁷ of maintenance and repairs that had been carried out to the buildings in order to preserve them. In his statutory declaration (SD) Kenneth Edmunds recalls Leonard carrying out roof repairs and states that Leonard always kept the dwelling and the surrounding garden in a "*pristine condition*", and Gwen Chubb stated in her SD that she would often see Leonard doing DIY tasks on the buildings. I am unclear as to the precise nature of these works as they did not give oral evidence to the Inquiry.
18. The description of the buildings being generally well-kept from 1958 onwards contrasts with the description of the buildings in later years given by Mrs Williams-Key and Mrs Whitlam; local residents living close to the appeal site for 33 years and 2 years respectively. Their description of the buildings is of an appearance of a derelict pigsty almost entirely hidden by overgrowth until the land was cleared relatively recently. In cross-examination Ron Skeet agreed that the site had become overgrown and "jungley" in photographs⁸ taken in 2015, although in re-examination he explained the deterioration in condition

⁴ *Hartley v MHLG* [1970] 1 QB 413

⁵ *The Trustees of Castell-y-Mynach Estate v Taff-Ely BC* [1985] JPL 40

⁶ *Hughes v SSETR & South Holland DC* [2000] JPL 826

⁷ Ron Skeet proof, statutory declaration, and work diaries

⁸ Council's appendix E

was due to a period of ill health during which he was unable to maintain the site.

19. However, notwithstanding that some simple repairs have been carried out to the buildings since 1958, it appears to me that at the date of the application the two buildings were of a significantly sub-standard condition for human habitation. In this regard I reject the hypothetical assertion⁹ that "*if Emily was to return she would have been able to carry on where she had left off*". No works of any significance so as to improve them to a habitable condition have been carried out during the 58 year period of non-occupation.
20. Submitted in support of the appeal is a building survey report (BS)¹⁰. It describes individual elements of the buildings before summarising their overall condition. It concludes that B1 is in *generally adequate condition to preserve its structural integrity and water-tight*. I consider that understates the overall poor condition of the building that I saw during my visit to the appeal site. It goes on to say that it is suitable for a programme of improvements that could lead to it being made into a habitable condition. For B2 it identifies structural problems to two of the walls and that demolition and rebuilding of them would be the most cost effective form of repair to the building. However, having regard to its overall poor condition, I have serious doubts that B2 is capable of any reasonable economic repair as described.
21. Taking account of all these factors, together with my own observations, I consider that the overall physical condition of each building is very poor, particularly B2. However, the physical condition of the buildings is not by itself decisive.

Period of non-use

22. There has been no active residential occupation of the buildings since 1958, a period of approximately 58 years to the date of the application. I consider that to be a substantial period of time, but it is not by itself decisive in terms of abandonment.

Whether there has been any other use

23. I heard evidence that the buildings had been used to store agricultural equipment and other miscellaneous items. However, I am satisfied that ad hoc and temporary use of the building for such purposes was inconsequential in terms of whether the primary residential use had been abandoned, and it was accepted by the Council that there has been no other intervening use from 1958 to the date of the application.

The owner's intentions

24. From 1958 the buildings were owned by Leonard Skeet. He retained Emily Oram's possessions and furniture in the house until his death in 2007, a period of 49 years, and I have already referred to repairs to the buildings that have been carried out in the past. This reflects the evidence I have read and heard from the witnesses who knew Leonard; that he treated the buildings with respect and care as a family heirloom to keep and maintain for future generations. On the balance of the evidence I am satisfied that is the case.

⁹ Closing submissions for the appellant, para.5

¹⁰ 'Building Survey Inspection Report', GTH, 25 July 2017

- However, that he physically maintained the buildings as structures could be consistent with abandonment or non-abandonment of the *residential use* of the buildings. Thus their maintenance, by itself, is not determinative of Leonard's actual intention.
25. The buildings were removed from the rating register and no rates were paid after 1960. While on the one hand that could be interpreted as an indication of abandonment of the residential use, it would also be consistent with the appellant's case that there was no basis for paying rates on an unoccupied property and the use has merely been dormant without an intention to abandon. In the balance with all other matters I consider this factor carries no significant weight either for or against allowing the appeal.
 26. Lyn Morris recalled conversations with Leonard in which he said that he wanted the buildings to stay as a home. Diane Skeet states in her SD that his intention was always "*to leave this dwelling to Mark and Sarah so that it could be made into a family home one day*". Evidence from other witnesses who knew Leonard also related to having a belief or an impression that Leonard anticipated future residential use of the buildings. Consistent with this Ron Skeet recalled a particular conversation with Leonard in 2005 during which Leonard said that the buildings could be used as a dwelling, but not during his (Leonard's) lifetime.
 27. All of the above, together with all other evidence I have read and heard in support of allowing the appeal, indicates to me the likelihood of a long term desire held by Leonard that the buildings should be used residentially by following generations of the family. He may or may not have had that in mind when he made his will thirteen years earlier in 1992, bequeathing his estate to Sarah and Mark Skeet.
 28. However, given the considerable length of time Leonard owned the unoccupied buildings from 1958, and knowing 34 years later in 1992 that they would not pass on to family members until much later¹¹, it seems more likely to me that any desire Leonard may have had that future generations might use the buildings as a dwellinghouse was no more than a loosely held hope, rather than a genuine intention held by himself to continue the residential use. That is consistent with his 2005 statement to Ron Skeet that the buildings could not be used as a dwelling during his lifetime. To my mind these factors points more towards an abandonment of the residential use by Leonard.
 29. Moreover, while the *actual* intentions of the owner are relevant, they are not decisive. In determining whether there has been abandonment the proper test, as I have previously set out in the relevant case law section, is the view to be taken by "*a reasonable man with knowledge of all the relevant circumstances*". In drawing all the factors together it seems unlikely to me that Leonard, as owner, had any actual intention throughout his own life to continue residential use of the buildings. In my view the balance of the evidence indicates a greater likelihood that he abandoned the use long before his death in 2007 and hence before the date of the application.
 30. Furthermore, even if Leonard had held an *actual* intention to continue the residential use, I consider that a reasonable person taking an objective view

¹¹ When Sarah and Mark Skeet would attain the age of 23 years

and having knowledge of all the facts and circumstances would consider, as I do, that the residential use had been abandoned by him prior to 2007.

31. I therefore conclude overall, and on the balance of probability, that the residential use of the buildings was extinguished by abandonment prior to the buildings' subsequent period of stewardship by Ron Skeet and ownership by Mark and Sarah Skeet from 2007. More pertinently, abandonment therefore occurred prior to the date of the LDC application subject of the appeal.

Conclusion

32. For all the reasons given above I conclude that the Council's refusal to grant an LDC in respect of an existing residential use of two brick and stone buildings known as Aunt Emily's, on land to the rear of Owl Cottage, Low Ham, was well founded. Accordingly, I will exercise the powers transferred to me under Section 195(3) of the 1990 Act as amended.

Thomas Shields

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Ned Westaway of Counsel	Francis Taylor Building
He called:	
Ron Skeet	Appellant's father
Joan Turner	Former Low Ham resident
Gerald Morris	Former Low Ham resident
Michael Jenkins	Former Low Ham resident
Mark Skeet	Appellant's brother
Sarah Skeet	Appellant
Lyn Morris	Former Low Ham resident
Clive Miller	Managing Director - Clive Miller & Associates

FOR THE LOCAL PLANNING AUTHORITY:

Mr Peter Wadsley of Counsel	St. John's Chambers
He called:	
Nicholas Head MRTPI	Planner - South Somerset District Council

THIRD PARTIES:

Eleanor Whitlam	Low Ham resident
Mrs Williams-Key	Low Ham resident

DOCUMENTS SUBMITTED AT THE INQUIRY:

- 1 Opening statement for the Appellant
- 2 Opening statement for the Council
- 3 Copies of pages from work diaries 2007-2012 and typed summary page
- 4 Copy of LDC for site at West Coker - 05/02252/COL
- 5 Extract from 'Ryde on Rating and the Council Tax'
- 6 Copies of pages from the Langport Rural District Council Rate Books (1955-56) & (1968-69)
- 7 Statement of Eleanor Whitlam
- 8 Copy of e-mail exchange between Eleanor Whitlam and English-Homes.co.uk
- 9 Statement of R H Statham
- 10 Closing submissions for the Appellant



Appeal Decision

Site visit made on 9 January 2018

by **P N Jarratt BA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 January 2018

Appeal Ref: APP/R3325/X/17/3178787

La Lade Caravan Park, Long Load, Langport, Somerset, TA10 9JX.

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Jon Holland against the decision of South Somerset District Council.
 - The application Ref 16/03541/COL, dated 15 August 2016, was refused by notice dated 6 December 2016.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is the use of the existing lawful caravan park for the siting of up to 25 static caravans.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description on the application form was "use of land as caravan site for touring, static and camping." This was subsequently amended at the appellant's request to "the use of the existing lawful caravan park for the siting of up to 25 static caravans". This was the basis upon which the Council determined the application.
3. Although no Council officer attended the site inspection, I was able to view the site as an access only site visit with the agreement of the appellant.
4. A number of local residents and the Parish Council object to the proposed development but, for the avoidance of doubt, I should explain that the planning merits of the use are not relevant and they are not therefore an issue for me to consider, in the context of an appeal which relates to an application for a lawful development certificate. My decision rests on the facts of the case, and on relevant planning law and judicial authority.

The Site and Relevant Planning History

5. The appeal site is an existing holiday caravan site situated to the west of properties fronting the main road through the village. It comprises about 2ha of grassland divided by a fence, stream and hedgerow. At the time of my site inspection, there were about 15 touring caravans of which a number had attached awnings, in the field to the east of the stream, and none in the field to

the west, although there were about 12 hook-up points. Between the driveway which passes through the site to an adjacent pumping station and the properties fronting the main road and Sutton View, there were four large 'American' trailer vans, two of which did not have a drive unit connected.

6. Adjacent to but outside the appeal site and to the south of the shared access drive was an area of land where three caravans and two mobile vans were sited.
7. The site is within flood zone 3, a RAMSAR site, an SSSI and a SPA and Natura 2000 site, although these designations are not relevant to the determination of an LDC appeal.
8. An LDC was issued in 14 January 2009 for the use of the site as a 'touring caravan site for a maximum number of pitches for such recreational vehicles to not exceed 25 caravans (08/05083/COL).
9. An LDC application was refused on 21 June 2016 for the proposed use of the site for the siting of 53 static caravans on the basis that it would amount to a material change in the character of the use of the land due to intensification of the use having a materially and significantly different impact on designated ecological sites, highway safety, flood risk and character of the locality (15/05740/COL).

The appellants' case

10. The baseline level of lawful development allowed on site by the 2009 LDC is the use of the land as an unrestricted caravan park, laid out in any way with any type of caravan, including touring or static.
11. The change of some or all of the 25 touring caravans to static caravans would not represent a material change of use. There is no material difference between touring and static caravans in terms of the 1960 Act as both are caravans. In terms of the actual character of the use as it applies to this site, there is little difference. Some caravan sites have conditions imposed that require the caravans to be removed at certain times of year, or limit the length of stay of a caravan or its occupants to a specific time period. In these situations, only touring caravans can realistically be used on a site. In this case, however, there is no such restriction. The touring caravans can, and the vast proportion do, remain on site all year round. Therefore the act of replacing some or all of the touring caravans with static caravans would have little noticeable effect on the character of the use. The site would still be a caravan park with up to 25 caravans stationed on it on a 12 month basis. It is difficult to see how this could be a material change.
12. Counsel's opinion dated 20 October 2015 and 8 May 2017 (Richard Harwood QC) confirms the above view.
13. The comments of the Council's landscape officer and the ecological evidence is erroneous. Natural England's advice treats the application as though it was a planning application and considers planning merits.

The Council's case

14. The Council considers that the siting of up to 25 static caravans would give rise to a material change of use from that described in the LDC dated 14 January

2009. Although the number of units would not change from the 2009 LDC number, the type of unit would change. It is considered that there would be material change in the impacts of the site in visual terms and upon the qualifying features of the designated site and this reflects the decisions in *R(on the application of Childs) v FSS (2005)* and *Restormel v SoSE and Rabey*¹.

Reasons

15. I fail to understand how the appellant can construe the 2009 LDC to be something very different to what is stated on the face of the LDC. The 2009 LDC was explicitly for up to 25 touring caravans/recreational vehicles and this distinguishes what is lawful in planning terms. Whilst the Caravan Sites and Control of Development Act 1960 defines what may constitute a caravan for the purposes of licensing a site, the description of the lawful use on the LDC is unambiguous.
16. The presence of 25 static units would have a different impact on the site compared to that of 25 touring units. By their very nature, touring caravans are able to be towed on the road from one site to the next. On the appeal site, they are largely sited within a pleasant grassed field. In contrast, static units tend to be larger and modular, delivered to site on a haulage vehicle and could not be towed from one place to the next. Static units tend also to be placed on a hardstanding, which is often required as part of the license and would constitute permitted development under the Town and Country Planning (General Permitted Development) Order 2015, as amended, although the appellant states that no operational development is proposed. Notwithstanding this, in my experience hardstandings tend to be the norm rather than the exception with static vans.
17. Static caravans are frequently connected to services on a permanent basis and their occupants often construct porches, sheds, decking, fenced private areas and gardens. All these elements, together with domestic paraphernalia, contribute to a significant change in the appearance of the site, some of which can appear as permanent developments of bungalows in their own plots, particularly when garden plants begin to mature. Additionally, the way the site functions could change as the residents of static vans may be dependent on a wider range of local services such as schooling, health, shopping and employment. These factors would combine to create a different level of movement to and from the site and have impacts on the locality.
18. As the appellant states, there are no limitations on the use of the site in terms of their removal or occupancy at certain times of the year, nor on the layout. However this does not mean that the site can lawfully be used for the stationing of static caravans. The very nature of touring caravans is their seasonal use although on this site, caravans are in situ out of the traditional holiday periods and some 15 tourers and 4 large recreational vehicles were present when I visited the site. A number of the existing caravans appear to have small paved areas and awnings but whether many were occupied at the time of my visit is unknown, although that is not a determining factor in this appeal. The appellant states that the touring caravans remain on site and are occupied all-year-round by those holidaying in the area or by contractors.

¹ Full citations were not provided by the Council

19. I remain unconvinced with the appellant's assertion that for all intents and purposes seasonal tourers left on site year round are 'static' caravans and there is no material difference in a permanently sited touring caravan and a permanently sited static caravan. For the reasons expressed above, I consider there to be significant and material differences between the two with static caravans having a greater impact on the landscape and, to some extent, in the relationship which the occupiers of the caravans would have over a wider area.
20. I have had regard to the appellant's reference to appeal decision APP/E2205/A/06/2016873 and 2029392; the difference between those appeals and this case; and, that the appellant now questions the basis upon which the Council determined the LDC application in June 2016. However no appeal was made against that decision.
21. I note concerns that the permanent physical presence of caravans could lead to disturbance to wetland birds in winter months with consequential impacts on the designated sites, albeit that it is difficult to predict the degree of harm between seasons and years. The Council considers these concerns are also reflected in flooding and highway issues. However, in acknowledgement of the appellant's statement that the caravans are occupied all the year round, the likely level of impact on wildlife is not likely to be significantly different to that at present.
22. I have had regard to the case law referred to by the appellant and to their view that the character of the site is that of a caravan park which would not change with the siting of static caravans. However, this does not lead me to reaching a different conclusion based on the evidence before me.
23. Taking account of these factors I consider that as a matter of fact and degree the use of the site 25 static caravans would be materially different to the present lawful use of the site, leading to a change in the character of the land, and as such, would represent a material change of use requiring planning permission.

Conclusion

24. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed use of the existing lawful caravan park for the siting of up to 25 static caravans was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Peter Jarratt

Inspector



Appeal Decision

Site visit made on 11 January 2018

by Thomas Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th February 2018

Appeal Ref: APP/R3325/W/17/3182584

Land South of Union Drove, Huish Episcopi, Langport, Somerset

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Wright against the decision of South Somerset District Council.
 - The application Ref 16/05547/FUL, dated 23 December 2016, was refused by notice dated 21 February 2017.
 - The development proposed is described on the application form as the 'construction of one single-storey, 2 bedroom, contemporary dwelling with one room dedicated to a home office, and with new access, associated parking, built-in bicycle storage / work equipment storage, a bat rehabilitation flight cage/ shed and a change of use from agricultural land.'
-

Decision

1. The appeal is allowed and planning permission is granted for the development proposed as set out in the banner heading above at land south of Union Drove, Huish Episcopi, Langport, Somerset in accordance with the terms of the application Ref 16/05547/FUL, dated 23 December 2016, subject to the schedule of conditions below.

Preliminary matters

2. I have based my decision on the scheme before South Somerset District Council ('SSDC') at the time they took their decision, noting that the plans submitted on 13 January 2017 are not significantly different from earlier versions.
3. Irrespective of the planning history here, each proposal must be determined on its particular merits in accordance with the development plan unless material considerations indicate otherwise. The development plan includes policies of the South Somerset Local Plan 2006-2028 (adopted 5 March 2015, the 'LP'). I have taken account of other relevant material considerations, including the National Planning Policy Framework ('NPPF') and the Planning Practice Guidance ('PPG').

Policy context

4. LP policy SD1 'Sustainable development', in line with paragraph 14 of the NPPF, establishes how SSDC will seek to secure development that improves economic, social and environmental conditions. LP policy EQ2 'General development', amongst other provisions, sets out that development should conserve and enhance landscape character and reinforce local distinctiveness.

5. LP policy EQ2 accords with the approach in the NPPF to recognising the intrinsic character and beauty of the countryside, seeking to promote or reinforce local distinctiveness, and to protecting valued landscapes (paragraphs 17, 60 and 109). Neither SD1 nor EQ2 relate primarily to the supply of housing.
6. SSDC explain that their future housing land supply of deliverable sites amounts to approximately 4.2 years, short of the five years required by paragraph 47 of the NPPF ('5YLS'). With regard to paragraphs 49 and 14 of the NPPF, relevant policies for the supply of housing must therefore be treated as out of date, and permission withheld only if the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits.
7. Paragraph 55 of the NPPF, which in summary establishes that new isolated homes in the countryside should be avoided other than in special circumstances, is referred to by SSDC at appeal. In the absence of a specific planning definition of 'isolated', I have accorded this its ordinary definition of 'far away from other places, buildings or people; remote'.
8. In their decision notice SSDC refer to the adverse environmental effects that they consider would result from the development proposed (an uplift in private vehicular use given its location). The NPPF sets out that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, whilst acknowledging that sensitivity is needed given the different opportunities available for such comparing urban with rural areas (paragraphs 17 and 29).

Main issues

9. Against the context above, the main issues are (1) whether or not the appeal site is an appropriate location for the development proposed with particular regard to the accessibility of nearby services and facilities, and (2) the effect of the development proposed on the character and appearance of the area.

Reasons

Appropriateness of location

10. The appeal site is part of an open field beyond the existing built form of Langport and Huish Episcopi. Vehicular access is solely via Union Drove. Union Drove joins the B3153 approximately 650 metres away around the cluster of properties comprising Hamdown Court at Picts Hill. At a short distance westwards of this junction towards the centre of Langport, the built form of the settlement becomes regular and consolidated.
11. However Union Drove and the land immediately around it, including the appeal site, are predominantly rural in character. Union Drove is a relatively narrow single track lane. In the main it is flanked by established hedgerows, with adjacent land primarily a patchwork of agricultural fields with occasional buildings dotted about.
12. Notwithstanding its predominantly rural character, however, the appellant explains that a dozen dwellings are accessed via Union Drove (including at a greater distance from the B3153 than the appeal site, such as Aylesbury Rise). Moreover, looking from Union Drove through the appeal site, a significant number of dwellings are visible close by, albeit that most are accessed instead

via Wagg Drove. The complex of buildings comprising Cracknell's Poultry Farm is also adjacent to the appeal site.

13. Despite the circuitous route from the appeal site to the centre of Langport via Union Drove, Huish Episcopi Academy is close by: a distance specified by the appellant to be approximately 365 metres as the crow flies. A public footpath runs through the field of which the appeal site is part between Union Drove and along the rear of properties accessed via Wagg Drove, Portland Road and Pounsell Lane.¹
14. Whilst this footpath runs through agricultural fields, it is nevertheless a relatively short and convenient route from the appeal site to Pounsell Lane close to the Academy, where the Rose and Crown is also located adjacent to the A372 (being the principal route through Huish Episcopi). As this footpath tracks near to existing dwellings it benefits from relatively good natural surveillance, and I observed several walkers here at the time of my site visit (mid-afternoon).
15. For the above reasons, whilst I acknowledge that the appeal site falls within an area which is predominantly rural in character, given the presence of nearby residential properties and the accessibility of the appeal site to Huish Episcopi by foot, it cannot appropriately be described as isolated within the terms of paragraph 55 of the NPPF.
16. Whilst some level of uplift in private vehicular usage would result from the development proposed, this would inevitably be modest in relation to a single dwelling. Any uplift would furthermore be moderated given that the appeal site is relatively accessible on foot.² Moreover the walking distance between the appeal site and certain nearby services and facilities is, I observed, comparable in length to that which must be taken from various other properties in the area.³
17. I therefore conclude that the appeal site would be an appropriate location for the development proposed with particular regard to the accessibility of nearby services and facilities. Accordingly no conflict arises in this respect with the relevant provisions of LP policy SD1, or of paragraphs 17, 29 or 55 of the NPPF.

Character and appearance

18. By virtue of being open natural land, the appeal site contributes to the predominantly rural character of Union Drove and setting of Huish Episcopi. The field in which the appeal site is located slopes downwards from Union Drove towards properties accessed via Wagg Drove, and consequently the dwelling would be set at a relatively elevated position in the topography.
19. The scheme would, aside from a small element of reduction to enable access, maintain the existing hedgerow and trees along the site frontage with Union Drove, and new boundary planting would be established. The appellant intends to maintain new boundary planting to a minimum height of two metres, whereas the floor to eaves height of the dwelling would be approximately 2.44 metres (with a maximum ground to ridge height of approximately 5.29 metres). The dwelling would therefore be partially visible from various vantage points nearby

¹ The footpath would be unaffected by the development proposed.

² Such uplift would also be incidental to the existing level of residential vehicular use of Union Drove.

³ For example those along Wagg Drove, around Picts Hill, or from outlying clusters of dwellings along the A372 to the east of the centre of Huish Episcopi.

including the adjacent footpath and, inevitably, introduce built development where none is currently present.

20. There is some variety in the appearance of properties dotted around Union Drove and those accessed via Wagg Drove, notably in respect of their age and architectural detailing. However there are certain commonalities. Dwellings are typically of an understated rural vernacular with broadly symmetrical elevations, traditional proportions and materials (stone walls and concrete or slate roof tiles predominate).
21. By contrast the proposed dwelling would be contemporary in design. It would have an asymmetric overall form with irregularly arranged windows. External walls would be primarily black stained larch cladding, with a black profiled steel roof. The appellant acknowledges that the design of the dwelling would 'omit the status quo of the local residential vernacular'. Accordingly I conclude that the proposal would fail to conserve landscape character or to reinforce local distinctiveness (in conflict with the relevant provisions of LP policy EQ2 and the approach in paragraphs 17 and 60 of the NPPF).
22. Nevertheless there are various factors that would significantly moderate the visual impact of the proposal. Its utilitarian form and external materials would to some extent emulate the functional appearance of certain agricultural buildings, including those found at Cracknell's Poultry Farm adjacent. Timber cladding and profiled metal sheeting are also used in certain nearby properties (as shown in the photographs on pages 17 to 19 of the appellant's appeal statement).
23. As noted above the dwelling would be of limited height such that the boundary screening proposed, would serve to obscure all but its eaves and roof. The prevailing use of black would assist in rendering the dwelling a recessive part of the landscape. Accordingly, and noting that the surrounding area is subject to no protective designations related to landscape character, I accord the harm arising in respect of character and appearance only limited weight against the proposal.

Planning balance

24. As SSDC are presently unable to demonstrate a 5YLS, I now turn to consider whether the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits. The NPPF establishes that it is the purpose of planning to contribute to the achievement of sustainable development, i.e. pursuing economic, social and environmental gains jointly and simultaneously.
25. No one element of the NPPF automatically outweighs any other, and the NPPF elsewhere sets out that planning should boost significantly the supply of housing and that in rural areas housing should be located where it will maintain the vitality of rural communities. The PPG similarly highlights the role that housing may play in supporting the sustainability of villages and smaller settlements (Reference ID: 50-001-20150519).
26. The dwelling proposed would result in an addition to housing stock in an area with an acknowledged lack of provision, and in a location which I have found to be appropriately related to nearby residential properties and reasonably accessible. There would also be economic and social benefits in supporting employment during construction and as future occupants would bring trade to the local area.

27. As the proposal is for a single new home, these benefits may fairly be accorded only limited weight in its favour. Nevertheless such benefits would not be significantly and demonstrably outweighed by the limited harm that would result in terms of character and appearance. Therefore other material considerations in favour of the proposal justify taking a decision which is not in accordance with the development plan.

Other matters

28. Much of the argumentation before me relates to whether there is a specific justification for the development in this location (in particular relating to the employment requirements and voluntary activities of the appellant). This may relate to the examples given of 'special circumstances' in paragraph 55 of the NPPF, which may justify granting consent for new isolated homes in the countryside, or more generally to the merits of the proposal.
29. As I have found that the appeal site is not isolated, there is no need to consider whether a location-specific justification exists with reference to paragraph 55 of the NPPF. I note the personal circumstances of the appellant, and his laudable intentions regarding bat rehabilitation and providing care for an elderly neighbour in particular. However the PPG sets out that personal circumstances will 'scarcely ever' justify a permanent building (Reference ID: 21a-015-20140306). The dwelling would be permanent, and people are temporary elements of this world each with different personal circumstances. Accordingly, for the avoidance of doubt, these matters have not affected my decision.
30. I also note the low impact construction methods and various biodiversity enhancement measures proposed. These approaches are positive in environmental terms, considered broadly, compared to the effects that may arise from the construction of certain other dwellings. However they have been proposed in order to mitigate the environmental impacts of the development as a whole, and no conditions in these respects have been proposed by SSDC to ensure compliance with local or national planning policy. Accordingly they are neutral in my determination of the appeal.
31. I have given careful consideration to the concerns of those nearby including regarding the potential effects of the proposal on flood risk, ecology, privacy and the potential for allowing the appeal to set an adverse precedent. I understand that the appeal site is within flood zone 1, i.e. an area at lowest risk of flooding. Moreover any relevant development must, independently of planning, comply with the relevant drainage requirements of Building Regulations.
32. Notwithstanding that the proposal would result in the loss of some natural land, no undue effects to ecology would in my view arise on account of the hedgerow retention and landscaping proposed (which could be secured via a suitably-worded condition).⁴ Given the boundary screening proposed, and the separation distance between the appeal site and neighbouring properties, I am not of the view that the proposal would adversely affect the privacy of those nearby. I would also note that none of these concerns form part of SSDC's case at appeal.
33. As it is the specific design and surrounding context of the proposal which renders it acceptable, and as each proposal must be determined on its particular

⁴ Having had regard to the supporting Extended Phase 1/ Phase 2 Habitat Survey, dated October 2016.

merits, I do not consider that allowing the appeal would set an undue precedent. As such neither this, nor any other matter, is sufficient to alter my reasoning above regarding the overall merits of the scheme.

Conclusion

34. For the above reasons, and having taken all other relevant matters into account, the other material considerations in favour of the proposal justify taking a decision which is not in accordance with certain provisions of the development plan. Having had regard to the development plan taken as a whole and to the approach in the NPPF, I therefore conclude that the appeal should be allowed subject to the conditions below.

Conditions

35. In the interests of certainty, I have imposed a condition requiring compliance with the supporting plans. To limit the effects of the proposal on the character and appearance of the area, with regard to my reasoning in respect of LP policy EQ2 and paragraphs 17, 60 and 109 of the NPPF above, I have also imposed conditions requiring that the finished floor levels of the dwelling proposed are established definitively, a landscaping scheme implemented, and external materials agreed (conditions 3, 4 and 5).
36. Conditions 3 and 4 must apply before any works related to the development proposed commence: initial groundworks may affect finished floor levels, and any site preparation or groundworks have the potential to adversely affect hedgerows and trees bounding the appeal site. Condition 5 need not apply, however, to site preparation and groundworks, as these activities have no substantive bearing on the external materials to be used.⁵
37. In imposing conditions I have had regard to the tests in the NPPF, the PPG and relevant statute. I have accordingly amended the wording of certain conditions proposed by SSDC without altering their aim.

Thomas Bristow

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 'Location Plan – Land South of Union Drove', the combined schedule of plans entitled 'Wright House: Architectural Drawings and Site Plan' dated 24 November 2016, 'Wright House, Visibility Splay – Union Drove'.

⁵ There is a plan showing site levels before me, and indications of the external materials proposed. However the former does not contain a unique reference number or date, and the indications of the external materials proposed would occasionally benefit from additional precision.

- 3) No development hereby permitted shall take place until details of the finished floor levels of the proposed dwelling have been agreed in writing by the local planning authority.
- 4) Notwithstanding condition 2, no development hereby permitted shall take place until a landscaping scheme ('LS') has been agreed in writing by the local planning authority. The LS shall include details of: all existing hedgerows and trees that may be affected by the undertaking of the development hereby permitted including those proposed for retention, measures to protect those proposed for retention throughout the course of undertaking the development hereby permitted in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction – recommendations, any new planting, seeding, turfing and boundary features proposed, any changes to ground levels.

Any new planting, seeding, turfing and boundary features proposed shall be implemented in accordance with the agreed LS in the first planting and seeding season following the occupation of the building or completion of the development, whichever is the sooner. Within a period of five years from the implementation of any new planting, seeding, turfing and boundary features in accordance with the agreed LS, any which are removed, die, or become critically diseased or damaged shall be replaced with specimens of similar species and size in the next planting season following their loss.

- 5) Notwithstanding condition 2, no development hereby permitted other than site preparation and groundworks shall be carried out until details of the external materials to be used have been agreed in writing by the local planning authority (including in relation to walls, roofs, windows, doors, lintels, fascia boards, guttering, downpipes and other rainwater goods, and the surfacing of any parking and turning areas, including samples where appropriate). Development shall be carried out in accordance with the details thus agreed.



Appeal Decision

Site visit made on 11 January 2018

by Thomas Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th February 2018

Appeal Ref: APP/R3325/W/17/3182427

Land accessed from Back Lane, Curry Rivel TA10 0NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
 - The appeal is made by Mr G Doble against the decision of South Somerset District Council.
 - The application Ref 17/02265/OUT, dated 19 May 2017, was refused by notice dated 26 July 2017.
 - The development proposed is described on the application form as 'a detached dwelling; replacing a former concrete built water reservoir'.
-

Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling replacing a former concrete built water reservoir at land accessed from Back Lane, Curry Rivel TA10 0NZ in accordance with the terms of the application Ref 17/02265/OUT, dated 19 May 2017, subject to the schedule of conditions below.

Preliminary matters

2. The proposal is in outline with matters of access, appearance, landscaping, layout and scale reserved for future consideration (the 'reserved matters'). I have therefore treated the Proposed Block Plan, 'Figure 3', as illustrative of the potential siting and footprint of a dwelling here.
3. Each proposal must be determined on its particular merits in accordance with the development plan unless material considerations indicate otherwise. The development plan includes policies of the South Somerset Local Plan 2006-2028 (adopted 5 March 2015, the 'LP'). I have taken account of other relevant material considerations, including the National Planning Policy Framework ('NPPF') and the Planning Practice Guidance ('PPG').
4. South Somerset District Council ('SSDC') explain that they cannot presently demonstrate a five year land supply of deliverable housing sites in accordance with paragraph 47 of the NPPF ('5YLS'). With regard to paragraphs 49 and 14 of the NPPF relevant policies for the supply of housing must therefore be treated as out of date, and permission withheld only if any adverse impacts of the proposal would significantly and demonstrably outweigh its benefits.

Policy context

5. In summary LP policy SS1 'Settlement Strategy' guides development primarily towards identified towns and rural centres as opposed to smaller rural settlements. It also establishes that rural settlements will be considered as part

of the countryside 'to which national countryside protection policies apply (subject to the exceptions identified in policy SS2)'.

6. LP policy SS2 'Development in rural settlements' sets out that development in the countryside will be strictly controlled, although housing which meets a specific need in that location may be permissible. It also establishes that development must be commensurate with the scale and character of the settlement, and increase its 'sustainability in general'.
7. LP policy SS1 actively determines where housing is to be located. LP policy SS2 operates as the counterpart to LP SS1, and also establishes what types of housing are permissible in certain locations. Whilst these policies have broad aims, they are both largely concerned with the spatial approach to housing delivery and are therefore directly related to the supply of housing (rather than affecting it incidentally). As SSDC cannot demonstrate a 5YLS, LP policies SS1 and SS2 should be considered out of date.
8. Nevertheless, the objectives of LP policies SS1 and SS2, if not spatial approach, are aligned with those of the NPPF. Whilst the NPPF acknowledges that opportunities to maximise the use of sustainable transport will vary from urban to rural areas, it also sets out that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling (paragraphs 29 and 17).
9. Paragraph 55 of the NPPF also explains that housing should be located where it will enhance or maintain the vitality of rural communities, and that new isolated homes in the countryside should be avoided other than in special circumstances. I have accorded 'isolated' its ordinary meaning of 'far away from other places, buildings or people; remote'.
10. LP policy EQ2 'General development', amongst other elements, establishes that development should conserve and enhance landscape character and reinforce local distinctiveness. This policy applies generally rather than specifically to the supply of housing. It also accords with the NPPF in relation to recognising the intrinsic character and beauty of the countryside, seeking to promote or to reinforce local distinctiveness, and to protecting valued landscapes (paragraphs 17, 60 and 109).

Main issues

11. Against the context above, the main issues are (1) whether or not the appeal site is an appropriate location for the development proposed with particular regard to the accessibility of nearby services and facilities, and (2) the effect of the development proposed on the character and appearance of the area.

Reasons

Appropriateness of location

12. Aside from miscellaneous building materials, the appeal site is occupied by a substantial redundant water reservoir. This has become partially overgrown over time, however its rectangular concrete form remains readily apparent. On two sides the appeal site abuts pastoral fields, within a wider and predominantly rural landscape comprising a patchwork of gently undulating fields and occasional clusters of dwellings.

13. The appeal site falls outside the established built form of Curry Rivel. However this is only by a distance specified by SSDC to be approximately 200 metres (as the crow flies). Dwellings at the fringes of the village, which benefits from various services and facilities including a school, public houses and a garage, are clearly visible from the appeal site, as is the cluster of properties near the junction of the access to the appeal site with Back Lane.
14. Moreover the appeal site is sandwiched between two dwellings. Whilst I note SSDC's point that one of these has recently been converted from a former waterworks depot, pursuant to planning permission Ref 15/04390/FUL, it is nevertheless part of the surrounding context to the proposal. Notwithstanding that the proposal is in outline, from surrounding vantage points a dwelling in this location would inevitably be seen in conjunction with neighbouring properties and those in the wider area.
15. Given the predominantly rural setting of the appeal site it is likely that occupants of the proposed dwelling would to some extent be reliant on the use of private vehicles, for example to access a wider range of services and facilities than available at Curry Rivel. However the uplift in vehicular use arising from one dwelling would inevitably be limited.
16. Whilst it is a relatively circuitous route to walk entirely along roads between the appeal site and Curry Rivel, two footpaths run nearby through adjacent fields. Although these are unlit, they offer significantly more direct access between the appeal site and the village and, in my view, represent relatively convenient pedestrian provision for an area which is predominantly rural in character.
17. Given the appeal site's location beyond the established built form of Curry Rivel, and as no case has been made by the appellant that the proposal would meet a specific local housing need, the proposal would conflict with the approach in LP policies SS1 or SS2. Some level of uplift in private vehicular use would also result, in conflict with the approach in paragraph 17 of the NPPF.
18. Therefore whilst I conclude that the appeal site is not inherently an appropriate location for the development proposed, the harm arising in this respect would be highly limited. Given the proximity of the appeal site to neighbouring properties and to Curry Rivel, it cannot reasonably be described as isolated. Moreover any adverse environmental effects resulting from additional vehicular uplift would be minimal, noting in particular the availability of relatively convenient pedestrian access to nearby services and facilities.

Character and appearance

19. The erection of a dwelling at the appeal site would inevitably result in additional built development in the landscape, and serve to reduce the separation between adjacent properties. A dwelling of whatever design would be partially visible from surrounding vantage points, including nearby footpaths.
20. However the appeal site is not prominent in the landscape on account of the gently undulating topography, the screening afforded by established hedgerows and trees flanking the appeal site, and given its setting between two adjacent

dwellings.¹ As set out above, from surrounding vantage points a dwelling in this location would be seen in conjunction with neighbouring properties and those in the wider area.

21. Moreover, whilst relatively low-lying, the existing dilapidated concrete reservoir does not contribute positively to local character. I also note that the surrounding area is subject to no protective designations related to landscape character. Provided that a sensitive approach is taken to reserved matters, including scale and landscaping in particular, the erection of a dwelling in this location would not in my view significantly affect landscape character or local distinctiveness.
22. Whilst in outline, I therefore conclude that a dwelling could be erected at the appeal site without entailing unacceptable effects to the character and appearance of the area. Accordingly no substantive conflict arises from the proposal with the relevant provisions of LP policy EQ2, or with paragraphs 17, 60 or 109 of the NPPF.

Planning balance

23. In the absence of a 5YLS, I now consider whether the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits. The NPPF establishes that it is the purpose of planning to contribute to the achievement of sustainable development, i.e. pursuing economic, social and environmental gains jointly and simultaneously (an approach reiterated in LP policy SD1).
24. No one element of the NPPF automatically outweighs any other, and the NPPF elsewhere sets out that planning should boost significantly the supply of housing, and that in rural areas housing should be located where it will maintain the vitality of rural communities. The PPG similarly highlights the role that housing may play in supporting the sustainability of villages and smaller settlements (Reference ID: 50-001-20150519).
25. The dwelling proposed would result in an addition to housing stock in an area with an acknowledged lack of provision. This would furthermore be in a location which, as I have found above, is relatively accessible by rural standards. There would also be economic and social benefits in supporting employment during construction, and as future occupants would bring trade to nearby services and facilities.
26. As the proposal is for one home, its benefits may fairly be accorded only limited weight. Nevertheless they are sufficient to justify taking a decision other than in accordance with the development plan, as only highly limited harm would result from the proposal on account of its location.

Other matters

27. I have noted the concerns raised by a nearby resident and the Parish Council regarding, in particular, flood risks, the appropriateness of vehicular access, and the effects of the proposal on local education and healthcare provision. There is no evidence before me to indicate that the appeal site is vulnerable to flooding, or that the development proposed would exacerbate flood risk elsewhere. As set out above, the vehicular movements associated with one additional dwelling

¹ Notwithstanding whether adjacent dwellings are themselves at variance to local character as SSDC note.

would be modest, and there is nothing before me to indicate that access visibility or highway safety are matters of concern.

28. The effect of one new home on local infrastructure capacity would, similarly, be modest, and some level of housing is in any event supported in principle at Curry Rivel via LP policy SS5 'Delivering New Housing Growth'. I also note that SSDC do not make the case at appeal that the proposal would be unacceptable in relation to the concerns of those nearby as cited above. Accordingly no other matters brought to my attention are sufficient to alter my reasoning in respect of the overall merits of the proposal.

Conclusion

29. For the above reasons, and having taken all other relevant matters into account, the other material considerations in favour of the proposal justify taking a decision which is not in accordance with certain provisions of the development plan. Having had regard to the development plan taken as a whole and to the approach in the NPPF, I therefore conclude that the appeal should be allowed subject to the conditions below.

Conditions

30. It is necessary to impose conditions limiting the life of the planning permission and setting out requirements for the reserved matters in accordance with relevant legislation, and requiring compliance with supporting plans in the interests of certainty (other than in so far as they relate to the reserved matters). As landscaping is a reserved matter, however, it is unnecessary to impose an associated condition as SSDC have proposed.
31. Nevertheless the established hedgerows and trees around the appeal site would limit the visual prominence of a dwelling in this location, and their preservation is necessary with regard to LP policy EQ2 as reasoned above. As any works related to the development proposed may adversely affect the wellbeing of nearby trees, and pursuant to the duty placed upon me by Section 197 of the Town and Country Planning Act 1990 as amended, I have imposed a condition requiring that development proceeds in accordance with an agreed Tree Protection Scheme.
32. Notwithstanding that the level of risk associated with a former water reservoir is likely to be relatively low, as a precautionary approach and pursuant to the relevant provisions of LP policy EQ7 'Pollution Control' and paragraph 109 of the NPPF, I have imposed a condition requiring that any unforeseen pollution or contamination discovered in undertaking development is reported to SSDC and associated action taken.
33. In imposing conditions I have had regard to the tests in the NPPF, the PPG and relevant statute. Accordingly I have amended the wording of certain conditions proposed by SSDC without altering their aim.

Thomas Bristow

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout and scale (the 'reserved matters') shall be submitted to, and approved in writing by, the local planning authority before any development takes place, and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this decision, and the development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans dated 13 April 2017, except in respect of any details related to the reserved matters: Location Plan entitled 'Figure 1', Ref: P0232/7 Revision A, Existing Block Plan entitled 'Figure 2', Ref P0232/7 Revision A, and Proposed Block Plan entitled 'Figure 3', Ref P0232/7 Revision 000.
- 4) No development hereby permitted shall take place (including any vegetative clearance, demolition, groundworks, heavy machinery entering the site or storage of materials) until a tree protection scheme ('TPS') has been agreed in writing by the local planning authority. The TPS shall include details of: measures to protect any trees that may be affected by the development hereby permitted in accordance with British Standard 5837:2012 'Trees in relation to design, demolition and construction- recommendations', hard surfacing, underground utility and service provision, drainage and soakaways. The TPS shall also make provision for measures to protect trees to be installed as agreed and inspected in situ by the local planning authority, and modified accordingly before any development hereby permitted takes place, and for the eventual removal of such. The TPS shall be implemented and adhered to throughout the undertaking of the development hereby permitted in accordance with the details thus agreed.
- 5) If any signs of pollution or contamination are discovered in undertaking the development hereby permitted (including related to remains of the former use of the site, poor plant growth, odours, or unusual soil conditions including discoloration or staining), these must be reported in writing to the local planning authority within 14 days. Reporting shall include sufficient information to enable the local planning authority to determine whether temporary cessation of development, further assessment in accordance with British Standard 10175:2011 'Investigation of potentially contaminated sites', or remediation is necessary. In the event that the local planning authority serve written notice that temporary cessation of the development hereby permitted, further assessment, or remediation is required, development may thereafter only proceed in accordance with a pollution and contamination management scheme agreed in writing by the local planning authority.



Appeal Decision

Site visit made on 29 January 2018

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th February 2018

Appeal Ref: APP/R3325/W/17/3181609

Land north of Lyndhurst Grove, Martock, Somerset, TA12 6HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr R Frankpitt against the decision of South Somerset District Council.
 - The application Ref 13/01500/OUT, dated 15 April 2013, was refused by notice dated 28 March 2017.
 - The development proposed is a residential development for 35 dwellings.
-

Decision

1. The appeal is allowed and planning permission is granted for a residential development for 35 dwellings on land north of Lyndhurst Grove, Martock, Somerset, TA12 6HW, in accordance with the terms of the application, Ref 13/01500/OUT, dated 15 April 2013, subject to the 12 conditions set out in the attached Schedule.

Application for costs

2. An application for costs was made by Mr R Frankpitt against South Somerset District Council. This application is the subject of a separate Decision.

Preliminary matters of clarification

3. The application is submitted in outline, with all matters except for access reserved for later determination. Alternative "concept layout plans" have been submitted, but I have treated these as illustrative only.
4. In October 2013 the Council resolved to grant planning permission for this proposal, subject to the completion of a Section 106¹ (S106) agreement dealing with such matters as the provision of 12 of the dwellings as affordable housing units; a financial contribution towards outdoor playing space, sport and recreation facilities; the provision of travel planning measures; and the provision of a S106 monitoring fee.
5. Such a S106 agreement was, however, not completed, and the appellant has sought to renegotiate several elements of the agreement, for reasons of scheme viability. To this end the appellant has submitted a S106 unilateral undertaking aimed at securing a number of planning obligations. I discuss these points under the main issues, below.

¹ Section 106 of the Town and Country Planning Act 1990, as amended

Main issues

6. In light of the Council's reasons for refusal the main issues are, firstly, whether the proposed development would represent an acceptable level of growth for Martock; and secondly, whether the amount of affordable housing and other planning obligations proposed, is acceptable.

Reasons

Housing growth

7. The appeal site is a level, agricultural field of some 1.35 hectares, located at the western side of Martock, outside, but immediately adjacent to, the settlement boundary. It lies to the north of Lyndhurst Grove, a small residential cul-de-sac from where access to the development is proposed by extending the existing road. The site is bounded to its east by employment development within Martock; by vegetation alongside a disused railway line to the north; and by further open agricultural land to the west. The South Somerset Local Plan (SSLP), adopted in 2015, identifies Martock as a Rural Centre, with Policy SS5 setting a target of at least 230 dwellings for this settlement over the plan period of 2006 to 2028.
8. Paragraph 49 of the National Planning Policy Framework ("the Framework"), makes it clear that housing applications should be considered in the context of the presumption in favour of sustainable development. However, this paragraph goes on to indicate that where a Council is unable to demonstrate a 5-year supply of deliverable housing land – as here – then relevant policies for the supply of housing should not be considered up-to-date.
9. In such circumstances the decision maker is directed to paragraph 14 of the Framework, which explains that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless (i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or (ii) specific policies in the Framework indicate that development should be restricted. In this case there is no suggestion that part (ii) comes into play.
10. There is general agreement that the appeal site represents a sustainable location for development. Indeed, as already noted, the Council found this proposal to be acceptable in principle in 2013. Furthermore, in my assessment the proposed development would satisfy, or not conflict with, the 3 dimensions of sustainable development set out in paragraph 7 of the Framework. In economic terms it would produce employment benefits during the construction phase and would provide much needed housing, including an element of affordable housing. The local economy would also be likely to benefit from the additional spend arising from this increased population.
11. In social terms the market and affordable housing would assist in meeting the Council's housing requirement, and the offered planning obligations would result in community benefits through the provision of on-site open space, an off-site length of footway on Coat Road (where there is presently a gap in the footway), and funding for further local infrastructure projects. Taken together, these matters would help to support a strong, vibrant and healthy community in Martock.
12. In environmental terms, although there would be the loss of some currently undeveloped agricultural land, the Council's Landscape Architect raises no landscape objection, noting that this is an area of land that is indicated as having

a potential for development by the June 2008 peripheral landscape study of Martock. I, too, consider that the proposed development would result in no material adverse impact on visual amenity, as it would be seen in the context of the existing development at Lyndhurst Grove and against the backdrop of the existing employment development referred to earlier. In any case, there would be clear scope for appropriate landscaping along the western boundary, as shown illustratively on the submitted concept layout plans. In addition, in light of the submitted Ecological Assessment, no objections are raised on ecological grounds.

13. Moreover, the provision of a length of public footway along the north side of Coat Road, referred to above, would establish continuous pedestrian access between Lyndhurst Grove and the centre of Martock and, in my opinion, would result in some improvements to the physical environment.
14. The Officers' report to Committee advised Council Members that the 35 dwellings proposed here were included in the assumed commitments figure of 175 dwellings over the plan period. At the time of the Committee meeting it was considered that the latest figures indicated a total of 276 housing completions and commitments in Martock over the plan period. Council Officers described this as only marginally exceeding the 230 figure in Policy SS5, and considered this level of growth for Martock to be acceptable, but Council Members did not agree as is evidenced by the first reason for refusal.
15. However, as has already been noted, the Council cannot currently demonstrate a 5-year supply of deliverable housing land, such that policies like SS5 cannot be considered up-to-date, and I therefore only give this policy a modest amount of weight in this appeal. Whilst I see no reason to dispute the general principle of the distribution of development across the settlement hierarchy, the actual numbers contained in the policy – which in any case were to be considered as minima – should not in any way be binding.
16. Furthermore, more up-to-date information submitted by the appellant in his final comments, and not disputed by the Council, indicate that the current completions and commitments figure for Martock now stands at 151 dwellings. I understand that this takes account of the fact that an outline planning permission for 95 dwellings on land to the south of Coat Road has now expired without a material start having been made; and that planning permission has recently been allowed for 24 dwellings at Triways, Martock. As pointed out by the appellant, in these circumstances, the approval of the 35 dwellings in the current proposal would bring the total housing supply figure for Martock to 186 dwellings, appreciably below the figure of 230 dwellings set out in Policy SS5.
17. Taking all the above points together, I see no good reason why the appeal proposal should be considered to extend the housing provision for Martock beyond an acceptable level. On this first main issue I therefore conclude that the proposed development would represent an acceptable level of growth for Martock and, as such I find no conflict with SSLP Policy SS5.

Affordable housing and other planning obligations

18. Dealing first with affordable housing, the appellant originally intended that 12 of the dwellings would be provided as affordable housing units. However, as discussions with the Council on this matter proceeded, the appellant maintained that this amount of affordable housing made the overall proposal unviable.

19. Paragraph 173 of the Framework makes it clear that pursuing sustainable development requires careful attention to viability and costs in both plan-making and decision-taking. This paragraph further explains that to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing and infrastructure contributions should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.
20. SSLP Policy HG3 sets a target of 35% affordable housing for most areas, including Rural Centres such as Martock. Amongst other matters the policy explains that where this level of affordable housing provision renders a site unviable, a reduction of provision will be accepted on the basis of an "open book" submission in accordance with Policy SS6. In turn, this latter policy indicates that the Council will secure the provision of (or financial contributions towards) affordable housing, social, physical and environmental infrastructure and community benefits which the Council considers necessary to enable the development to proceed. Again, it makes it plain that where viability of a scheme is contested, the Council will adopt an open book approach to negotiations, in line with its adopted procedures.
21. In this case, the appellant put forward a revised proposal for 4 affordable dwellings, which was considered by the District Valuer who agreed that this represented a viable level of provision, along with a revised level of financial contribution to local play space, sport and recreation facilities. Council Officers also considered that this reduced level of affordable housing and other planning obligations made the overall scheme acceptable in viability terms, and it was on this basis that Officers recommended the proposal for approval.
22. However, Council Members did not accept their Officers' advice on this point, arguing instead that more affordable housing should be provided. That said, it is unclear to me on what basis this view was formed. Whilst it is the case that no detailed financial information at all regarding viability has been placed before me, no firm evidence has been submitted to demonstrate that the District Valuer was in error in accepting that the 4 affordable housing units offered are, indeed, the maximum which could viably be accommodated on this site.
23. On this matter, I have noted the comment made in the Council's appeal statement, to the effect that the appellant may have paid too much for the appeal site, but no such assertion appears to have been made prior to this point, and in any case it is strongly disputed by the appellant, who maintains that the site has been in his family for over 30 years.
24. In summary, SSLP Policies HG3 and SS6 both acknowledge that the amount of affordable housing on a particular site will need to be negotiated, and paragraph 173 of the Framework indicates that viability matters need to be taken into account when considering development proposals. There is no firm evidence before me to suggest or demonstrate that any greater quantum of affordable housing could be viably provided on this site than the 4 units currently proposed.
25. Turning to other planning obligations, the original intention in 2013 was that the S106 agreement would provide a financial contribution of some £171,565 towards the increased demand for outdoor playing space, sport and recreation facilities, in accordance with SSLP Policy HW1; some agreed travel planning measures; and a S106 monitoring fee. However, the Council Officers' report stated that in light of national guidance and a number of legal cases, the S106 monitoring fee could no

longer be justified; and that travel planning matters could more satisfactorily be addressed by means of a planning condition. I see no reason to take a contrary view on these points.

26. The Officers' report did, however, note that a contribution towards the increased demand for sport and recreation facilities would still be appropriate, and that this had been re-negotiated to a figure of £130,158, which, together with the offered 4 affordable housing units, was considered to represent a viable proposal by the District Valuer. Since that time the Council has introduced a Community Infrastructure Levy ("CIL") Charging Schedule, in accordance with the CIL Regulations, 2010. The appeal proposal would be liable to a CIL charge estimated to be about £102,400 and the appellant's position – as set out in the submitted S106 unilateral undertaking, is that the local infrastructure contribution should be the difference between the 2 figures set out above – namely £27,768².
27. In its appeal statement the Council has moved away from the position described above, and has reverted to the original S106 figure and the requests for travel planning measures and a S106 monitoring fee. However, I do not consider that this stance can be supported, in light of the District Valuer's opinion set out above, and the fact that the Council has submitted no detailed justification for reverting to its former position.
28. Summary. For the reasons given above, I conclude that the appeal proposal represents an acceptable provision of affordable housing and other planning obligations. I agree that these obligations are necessary to make the development acceptable and that they meet the requirements of paragraph 204 of the Framework and Regulation 122 of the CIL Regulations 2010 as they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Accordingly I find no conflict either with SSLP Policies HG3, HW1 or SS6, or with guidance in the Framework to which I have already referred.

Other matters

29. Existing residents of Lyndhurst Grove and other interested persons have raised a number of concerns and objections relating to a variety of matters, including problems arising from increased traffic flows, parking problems and issues of road safety. However, the local highway authority considers that the predicted peak hour traffic increases of up to 22 vehicles could be safely accommodated on Lyndhurst Grove with no significant difficulties, and there is no firm evidence before me to cause me to take a contrary view.
30. Similarly, although I have noted the objections raised on grounds of the location of the proposed open space/play area; drainage; sewerage capacity; and impact on local infrastructure, these concerns are not shared or supported by the relevant technical consultees or service providers. As such, I am not persuaded that these matters should weigh against this proposal. In addition, I share the view of Council Officers, that subject to the consideration of matters of layout, at a reserved matters stage, this proposal is unlikely to give rise to any significant impact on residential living conditions.

² Note: The final figure for this contribution is expressed in the unilateral undertaking as "£130,158 – A = Local Infrastructure Contribution", where "A" is the total amount payable in respect of CIL for the proposed development. The contribution has been expressed in this way to reflect the fact that the scheme at present is only in outline, and that changes at reserved matters stage could affect the amount of CIL payable.

31. Finally, I have noted the concerns raised by the occupiers of the adjacent industrial site that operations on the industrial site could impact upon the living conditions of new residents, and also that the viability of this business could be threatened by complaints about noise from new residents. There is also a suggestion that the appeal proposal could prejudice future expansion of the employment use.
32. However, the submitted noise assessment concludes that with appropriate and commensurate noise mitigation measures incorporated into the proposed development, the potential impact of noise from adjacent industrial noise sources could be adequately controlled. In this regard I note that conditions are suggested to require a 20m buffer zone, the provision of an acoustic barrier and the agreement of sound insulation and noise mitigation measures for each dwelling, and in these circumstances I am satisfied that issues of noise could be adequately addressed. Moreover, no persuasive evidence has been placed before me to indicate that there is any requirement for the appeal site to be safeguarded for employment use.

Planning balance and overall conclusion

33. This proposed development would give rise to economic and social benefits, as detailed above, and would be more or less neutral in environmental terms. No material disbenefits have been identified, to significantly and demonstrably outweigh these benefits and, as such, this proposal represents sustainable development. This is a material consideration in the appeal proposal's favour.
34. I have not found against the appeal proposal on either of the main issues, and even though SSLP Policy SS5 has to be considered out-of-date and can therefore only carry modest weight in this appeal, I do not find the proposal to conflict with this policy. Nor do I find a conflict with the other development plan policies referred to above. In view of all these points, I conclude that this proposal should be allowed, subject to a number of conditions, as detailed below.

Conditions

35. Conditions 1 and 2 are standard conditions for outline permissions, whilst conditions 3, 4 and 5 deal with various aspects of noise control, in the interests of safeguarding the living conditions of future residents. Conditions 6 and 7 are imposed to prevent the risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system. Conditions 8, 9 and 10 are imposed in the interests of highway safety, with Condition 8 also aimed at safeguarding visual amenity. Condition 11 is imposed to provide certainty to the permission, whilst Condition 12 is aimed at ensuring that the level of development is compatible with the locality.
36. I have had regard to all other matters raised, but they are not sufficient to outweigh the considerations which have led me to my conclusion that this appeal should be allowed.

David Wildsmith

INSPECTOR

Schedule of conditions (12 in total)

- 1) Details of the appearance, landscaping, layout and scale (hereinafter called the "reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of 3 years from the date of this permission and the development shall begin no later than 3 years from the date of this permission or not later than 2 years from the approval of the last "reserved matters" to be approved.
- 3) Prior to the commencement of the development hereby approved, details of an acoustic barrier along the eastern boundary of the site shall be submitted to and approved in writing by the local planning authority. Once approved, this barrier shall be fully erected prior to the occupation of the dwellings and shall be maintained and not altered thereafter without the prior permission of the local planning authority.
- 4) No dwelling shall be sited within 20m of the acoustic barrier referred to in condition 3.
- 5) Prior to the commencement of the development hereby approved, a noise mitigation scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall contain measures to ensure that noise from nearby sources will not cause detriment to amenity or a nuisance to the proposed development. Once approved, the scheme shall be fully implemented prior to the occupation of the dwellings. Subsequently the scheme shall be maintained and not altered without the prior permission of the local planning authority.
- 6) No development shall commence until a surface water drainage scheme for the site, in accordance with the submitted Flood Risk Assessment By Sands Ltd (reference 13.06.180 dated June 2013), has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
- 7) No development approved by this permission shall be occupied or brought into use until a scheme for the future responsibility and maintenance of the surface water drainage system has been submitted to and approved in writing by the local planning authority. The approved drainage works shall be completed and maintained in accordance with the details and timetable agreed.
- 8) The proposed estate roads, footways, footpaths, tactile paving, cycleways, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, and street furniture shall be constructed and laid out in accordance with details to be approved by the local planning authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the local planning authority.
- 9) 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.

- 10) No dwelling hereby approved shall be occupied until a continuous footway link has been provided between Lyndhurst Grove and North Street in accordance with design and specification to be agreed in writing by the local planning authority.
- 11) The site hereby approved for development shall be as shown on the submitted location plan 2023-PL-01 received 16 April 2013.
- 12) The development hereby approved shall comprise no more than 35 dwellings.



Costs Decision

Site visit made on 29 January 2018

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th February 2018

Costs application in relation to Appeal Ref: APP/R3325/W/17/3181609 Land north of Lyndhurst Grove, Martock, Somerset, TA12 6HW

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr R Frankpitt for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of planning permission for a residential development for 35 dwellings.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In summary, the appellant maintains that the Council has acted unreasonably by failing to correctly apply its own policies, well-established case law and the correct planning balance. Had it done so, planning permission would have been granted and this appeal would have been unnecessary. In particular the appellant maintains that the Council:
 - a) prevented and delayed the proposed development, which should clearly be permitted having regard to its accordance with the development plan, national policy and other material considerations;
 - b) failed to produce evidence to substantiate each reason for refusal on appeal;
 - c) made vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis;
 - d) acted contrary to, or did not follow, well-established case law; and
 - e) failed to correctly apply the policies of the statutory development plan, the National Planning Policy Framework ("the Framework"), and the PPG.
4. The planning Officers' report drew Committee Members' attention to the Council's lack of a 5-year housing land supply; the appeal site's location adjacent to the settlement limits of Martock; the absence of any adverse impacts; the District Valuer's view that the level of affordable housing and other planning obligations offered represented a viable proposal; and the lack of conflict with development plan policies. In these circumstances it recommended approval of this proposal,

subject to conditions. Committee Members were, of course, quite entitled to take a contrary view to that expressed in the Officers' report, provided they could give clear planning reasons why they had not followed their Officers' recommendation. However, that is not the case here.

5. Although the Council maintains that the minutes of the Committee Meeting show that the decision to refuse was made following a long and informed debate, I see nothing in these minutes to demonstrate that Members had any meaningful regard to the implications of the absence of a 5-year housing land supply. Nor is there any indication that the decision was taken in the light of the "tilted balance" set out in the second bullet point of the decision-taking part of the Framework's paragraph 14, or that any clear assessment against development plan policies was undertaken.
6. The minutes do, however, make it clear that Members were informed that the previous decision of the Area North Committee to grant permission in 2013 was a material consideration that carried great weight, although there is no real indication from the minutes that Members had any real regard to this fact.
7. Insofar as the Council's first reason for refusal is concerned, the Council's appeal statement maintains that the level of growth that Martock will receive through existing permissions is the maximum level that can be accommodated within this settlement. However, no clear justification for this assertion has been placed before me. There is no firm evidence to support this view in the Officers' Committee report; the Committee minutes; or the Council's appeal statement.
8. Furthermore, this assertion does not accord with either the content of the South Somerset Local Plan ("SSLP") Policy SS5, which makes no reference to maximum figures; or with the clear advice to Members in the Officers' report. Indeed this report informed Members that the 35 dwellings in this proposal were included as part of the housing commitments at the time of the Committee meeting, as a result of a long-standing resolution to approve. In these circumstances I have no doubt that the Council has acted unreasonably in maintaining that the proposal would result in an unacceptable level of growth for Martock.
9. With regard to the Council's second reason for refusal, both the Framework and the Council's own development plan policies acknowledge that viability is a key concern for development proposals, and a matter which has to be taken into account when the level of planning obligations, including affordable housing, is being considered.
10. The advice given to Members in the Officers' report was that the offer of 4 affordable housing units and a reduced leisure contribution represented, in the opinion of the District Valuer, a viable proposal. Again, it would have been quite in order for Members to disregard this evidence and advice, so long as it had firm, planning grounds so to do. But there is nothing before me to indicate that the Committee's decision was taken on any such, firm alternative evidence. As the appellant points out, all the minutes appear to indicate is unfounded speculation on the viability assessment.
11. Having regard to all the above points, I find that unreasonable behaviour as described in the PPG, has been demonstrated, and that this has resulted in unnecessary or wasted expense for the appellant in having to pursue this appeal. Because of this, I consider that a full award of costs is justified.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that South Somerset District Council shall pay to Mr R Frankpitt, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to South Somerset District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

David Wildsmith

INSPECTOR

Agenda Item 11

Item for Information

The attached report is for information only and does not form part of the agenda for discussion.

Should members have questions regarding any aspect of the report please contact the relevant officer named in the report.

SSDC Welfare Advice Work in South Somerset (For information)

Director: Martin Woods, Service Delivery
Lead Specialist: Ian Potter, Vulnerable Customers
Service Manager: Alice Knight, Careline and Welfare Manager
Lead Officer: Catherine Hansford, Welfare Advice Team Leader
Contact Details: catherine.hansford@southsomerset.gov.uk or 01935 463737

Purpose of the Report

To update and inform Members on the work of the Welfare Advice Team for the financial year 2016/17.

Public Interest

The report gives an overview of the work of the SSDC Welfare Advice Team across South Somerset.

Recommendation

That members note the report.

Service Summary

Established in 1999, the Welfare Advice Team consists of 2.1 full time equivalent staff responsible for undertaking casework for clients across the whole of South Somerset.

The Team are situated within the Housing and Welfare Service and provides free, confidential and impartial information, advice and advocacy on Welfare Benefits.

We carry out specialised case work; preparing claims, representing clients at Appeals, up to and including First-Tier and Upper Tier Tribunals.

The service is provided by telephone & appointments at Petters House, the Area Offices, local Advice Surgeries and also by home visits where appropriate.

Impact Summary

In the year 2016/17 the Welfare Advice Team delivered:

- Helped **482** clients across South Somerset
- Achieved an annual increased income of **£1,025,202.19**
- Lump sum payments total of **£175,940.53**
- Combined total of **£1,201,142.72** – over **10 times** the cost of the service (£111,047)

We also challenged 90 decisions at Mandatory Reconsideration or Appeal (19% of our caseload):

Mandatory Reconsiderations (MR's)

- 16 Mandatory Reconsiderations were successful
- 7 clients with unsuccessful Mandatory Reconsiderations did not wish to pursue an appeal.

The unsuccessful MR's, can be progressed to appeal (First Tier tribunal) stage, if our clients agree.

Some cases that come to us are already at appeal stage.

Appeals to the Tribunals Service

- 67 decisions were challenged at First Tier Tribunal
- 58 Tribunals were successful
- 6 Tribunals unsuccessful
- 3 Tribunals remain outstanding

70% of the lump sum payments and 35% of the annual increased income was achieved by appeal work.

Please note that these figures are provisional (12/01/2018) due to some case work remaining outstanding. We would expect these figures to show a further increase as some cases await outcomes.

It is also worth noting that of all the 90 disputed decisions, 66 were for working age disability benefits – 1 Disability Living Allowance (DLA), 45 Personal Independence Payment (PIP) and 20 Employment and Support Allowance (ESA).

According to national statistics from the Ministry of Justice (1), the number of PIP and ESA appeals October to December 2016 were up by 71% and 58% respectively compared to the same period the previous year. ESA and PIP appeals now comprise 85% of the total number of appeals received.

The figures also show that, of the 39,696 appeals cleared at hearing, 63% were overturned (found in favour of the claimant). Broken down by benefit type –

- 65% of PIP appeals were overturned
- 68% of ESA appeals were overturned

Our success rate for ESA is 95% and for PIP is 88% highlighting how important it is to have representation at a First Tier-tribunal.

Area North:

- Helped 62 clients across the area
- Achieved an annual increased income of **£151,700.92**.
- Lump sum payments total of **£24,873.58**.
- Combined total of **£176,574.50**

Saved and Maintained Tenancies

Historically, saved and maintained tenancies have been gradually reducing over the years due to a shift in the way the Welfare Advice team works.

Early intervention is key in the current financial climate and our updated referral processes and multi-agency working ensure that our clients receive immediate advice and support when their issues are identified.

This can often mean that clients receive Housing Advice from our own Housing Advice Centre (HAC), Debt, housing and preliminary benefit advice from Citizen's Advice South Somerset, with the SSDC Welfare Advice team undertaking more complex and specialised appeal work further down the line once the immediate tenancy issues have been resolved.

The need for support for people to retain their homes has never been greater than now given the consequences of Welfare Reform so we strive to work alongside other agencies to ensure that our clients are given the correct support at the correct time, no matter where their first point of contact is.

Ongoing Changes in Social Welfare

The 2012 Welfare Reform Act represents the biggest change to the welfare system in over 60 years. All these changes are also taking place against a backdrop of reductions in funding from central government across both the statutory and third sectors.

2013 saw the application of the Spare Room Subsidy and the Benefit Cap in addition to households with private tenancies already subject to the Local Housing Allowance.

Benefit Cap – The second stage of the benefit cap came into force in November 2016, at £20,000 for lone parents and couples, and £13,400 for single childless people.

The figures for the households in South Somerset receiving extra help with housing costs through Discretionary Housing Payments (DHP) are shown below:

- 230 in 2012-13
- 487 in 2013-14
- 513 in 2014-15
- 357 in 2015-16
- 406 in 2016-17

The Local Assistance Scheme continues in place of the Social Fund.

In 2014-15 CASS processed **136** LAS applications and in 2015-16, **179** applications. This excludes food & fuel parcel only cases. In 2015-16, **209** food and fuel parcels were awarded.

In 2016-17 **259** clients were awarded LAS grants and **142** food and fuel parcels awarded.

Universal Credit

Most of the means-tested benefits system for working-age families has now being replaced with a single payment called Universal Credit (UC), which went full service for most people in our area in April 2017.

The IFS Green Budget 2016 (2) was the first comprehensive analysis of the effects of UC since the cuts in the July 2015 budget. It found that a series of pre-emptive cuts means that introducing UC will in the long run reduce the financial benefit of the new system – including to working families.

When first proposed UC was intended to be more generous than the current system, but cuts to how much recipients can earn before their benefits start to be withdrawn have reversed this. Robert Joyce, an Associate Director at the IFS and an author of the report, said: *“The long run effect of universal credit will be to reduce benefits for working families on average – a reversal of the original intention. However, the potential gains from simplifying the working-age benefit system remain mostly intact: universal credit should make the system easier to understand, ease transitions into and out of work, and largely get rid of the most extreme disincentives to work or to earn more created by the current system.”*

New research, carried out with the Institute for Public Policy research, highlights that cuts will lead to a million more children in poverty (3). The report looks at both the world of tax credits and the new Universal Credit (UC) system, and finds that:

- Working families stand to lose £930 a year on average from cuts in the tax credit system and £420 a year from cuts to Universal Credit – these are losses across the population, so the losses for tax credit and UC recipients would be much higher.
- Freezes and cuts to Universal Credit work allowances will leave lone parents worse off by, on average, £710 a year, couples £250 a year.
- Work allowance cuts have the greatest impact in cash terms on households in the second and third deciles (the ‘just about managing’ group).
- While work incentives may have improved for some families, big falls in family income caused by cuts and changes to Universal Credit have left many worse off overall, overwhelming any gains from increases in the ‘national living wage’, personal tax allowances and help for childcare.
- The poorest 10 per cent will lose 10 per cent of their income (£450 a year) on average compared with what was promised by Universal Credit.
- The average family with three children will be 10 per cent (£2,540 a year) worse off, and the average family with four or more children 19 per cent (£5,000 a year) worse off due to Universal Credit cuts.
- Families containing someone with a disability will be £300 a year worse off due to Universal Credit cuts; families containing someone with a severe disability will be £530 a year worse off.
- Uprating decisions will cost the average single parent family on Universal Credit £710 a year, with the average couple with children losing £430 a year.
- The cuts to Universal Credit would put 1,000,000 children in poverty and 900,000 in severe poverty by the end of the decade, assuming the absence of tax credits.

The DWP have rolled Universal Credit out on a “test and learn” basis however, now almost a year in, sadly many issues have still to be rectified, particularly impacting on vulnerable clients in rural areas. The Welfare Advice Team continues to work with the DWP at region level to monitor and feedback issues.

As Universal credit is still relatively new, there are no statistics to report at this time.

In the meantime, the migration of Incapacity Benefit cases to Employment and Support Allowance continues, as does the migration of Disability Living Allowance recipients to Personal Independence Payment.

Secondary Benefits

Over time a whole raft of secondary benefits have been developed and eligibility has depended on receiving Income Support, income based Jobseeker's Allowance, income related Employment and Support Allowance, Child Tax Credits and now, certain elements of Universal Credit.

These are the 'passport benefits' and provide access to free school meals, school travel, prescriptions, dental treatment and other reductions in prices for services, e.g. leisure, Careline etc.

The Social Security Advisory Committee, a statutory independent committee which advises Department of Work and Pensions (DWP) on the operation of the benefits system, has recently produced a report (4) which raises clear concerns about the loss of these passported benefits.

It points out that these benefits make significant contributions to the health and wellbeing of low income families and to preventing child poverty and social exclusion.

If families lose benefits and in turn eligibility for free school meals this also impacts on the overall funding the schools receive in the 'pupil premium'.

In addition if families migrate because of the Housing Benefit caps and other loss of income arising from the reforms, then this will have significant impact sub-regionally and could exacerbate disparities of wealth in rural areas.

Unemployment

Unemployment is not so much an issue in South Somerset as underemployment - few people realise just how many in work rely on Housing Benefit to pay their rent. UK figures published in December 2013 found that the largest group in poverty are working age adults without dependent children - 4.7 million people were in this situation, the highest on record. Pensioner poverty is at its lowest level for 30 years. (5).

According to research published in May 2017 by Cardiff University and funded by Nuffield Foundation, more than half (60%) of people living in poverty in the UK live in a household where someone is in work, the highest figure recorded.

Crucially, the research finds that the number of workers in a household, and not low pay, is the primary determinant of in-work poverty. People living in one-earner households' account for almost 60% of people experiencing working poverty, more than double their population share. (6).

The Value of Welfare Advice

By ensuring the maximisation of income and helping to challenge decisions, welfare rights services ensure that national government covers such housing costs instead of the council by way of the homelessness route and/or loss in rent collection. The Low Commission, in May 2014, published a major follow up work on the economic value of social welfare advice

(7) and presents compelling evidence from different sources that social welfare advice saves public services money. So apart from putting money in the pockets of those who need it, there is also widespread added value from our work.

Looking at all work to date on Cost Benefits Analysis (CBA) and Social Return on Investment data, the report finds that this not only pays for itself, but it also makes a significant contribution to families/ households, to local area economics, and also contributes to significant public savings.

Different studies done in the UK, US, Canada and Australia have all demonstrated similar findings that for every pound or dollar invested, there's a multiple of 10 in the savings produced by, for example, keeping people their homes with jobs and incomes intact rather than having to utilise expensive crisis and emergency services. The review shows that advice across different categories of law result in positive outcomes for clients and their households. (8)

Commenting on the findings Lord Colin Low said:

"This research, carried out independently, demonstrates with hard economics the true value of social welfare advice. It can no longer be argued that funding social welfare advice is too much of a burden on the state. Early and necessary interventions from advice and legal support prevent problems and expense further down the line"

Partnership Work

Co-ordinated joined up working with other agencies is now more important than ever with the emphasis on making advice more accessible in rural areas and taking service out across the district. We are striving to maintain and improve ways where we can complement each other's services, focusing on each agencies strong points, exploring new technologies and access routes and better referral systems.

We are also working in conjunction with other advice agencies on Social Policy issues. The agencies we work with, such as the National Association of Welfare Rights Advisers and Citizens Advice Bureaux campaign on a national level, which we feed into, as well as highlighting individual cases via the local MP's.

Our partner agencies include Citizens Advice South Somerset, Wiser Money Project, Age UK Somerset, Yarlinton Housing Group, South Somerset Mind, Village Agents and many more.

Case Studies and Feedback

The advice we provide helps our clients get back on their feet again and encourages them to be pro-active as we try to empower and avoid over dependence.

This local face to face responsive support has become more essential as more and more services are rolled out digitally or through central processing centres.

This is highlighted in the feedback we receive from our clients:

- *We have had a courteous and caring set of people to deal with. Congratulations in the quality of your staff. Thank you.*
- *Grateful to have Helen's support for a second time. I could not have completed the form myself. This service is invaluable for disabled people. Without the skilled advocate it would be easy to feel embarrassed but I felt comfortable.*

- *Catherine was so kind and supportive when Christina failed her ESA assessment, made sure we knew how to challenge. She helped us challenge the ESA and get back into the support group, gave us prompt and relevant advice. I would like to thank Catherine and SSDC Welfare Advice Service for being there and supporting us we are so very grateful.*
- *Thank you so much Gill. It was an absolute pleasure to meet you. Thank you so much for helping me fill the form in. You were so reassuring and a real lift to my spirits which have been so damaged by dealings with Somerset County Council previously. It meant a lot to me and I'm very grateful.*
- *Very professional, couldn't have had a better result. Would use service again without a doubt. This service is a must as there are a lot of people in the community who will benefit from this.*

Case Study

Oliver is 13 years old and suffers with chronic eczema. Due to the severity of his condition he was receiving Disability Living Allowance because of the skincare regime he had to follow and the help he needed from his Mum to maintain this.

Sadly, due to the amount of care and maintenance his condition required, Mum had to give up work to provide this care.

Each morning started at 6am and involved an intensive skincare regime as well as supervision to prevent Oliver from clawing his skin in the shower due to the itch. He had to be daily wrapped in creams and covered in special bandages which he had to wear under his school clothes.

Different creams had to be applied frequently throughout the day to maintain skin health and Oliver needed help from his Mum to do this, re-dress the bandages as the school could not assist due to the personal nature of the care.

Sadly, due to his condition, Oliver was also bullied at school and suffered anxiety and depression issues as a result of this.

The end of day routine was also intensive – Oliver had to be covered in thick barrier cream and tied into his bandages (to prevent removal scratching and during the night). Unfortunately this also meant that if he needed the toilet he had to have help to get out of the bandages and then to re-dress them.

Oliver's mum came to us when, on renewal of the DLA, he was refused benefits. This had a knock on effect that her Carer's Allowance stopped and, as she no longer had Carer Status, she was ineligible for Income Support which also ceased. The disabled child premium within her tax credits ceased, reducing the family income by a substantial amount.

We assisted Oliver's mum to request a Mandatory reconsideration but unfortunately this was refused, so we progressed the case to appeal.

In the meantime, the family were struggling financially so we referred them to Citizen's Advice South Somerset for budgeting advice and emergency support through the Local Assistance Scheme. We provided them with a food parcel in the interim.

The whole process took 6 months to complete, during which time we supported the family as best we could between us and other advice agencies we work in partnership with.

The appeal was successful and Oliver was awarded DLA at the highest rate of £82.30 per week because of the care and attention he needed throughout the day and night. Mum's £62.10 Carer's Allowance was reinstated, as was her Income Support of £45.60 per week and the severely disabled and disabled child element of Child Tax credits was reinstated at £4415 per annum.

Council Plan Implications

Council Plan 2016 - 2021:

- Homes: Minimise homelessness and rough sleeping.
- Health and Communities: Support residents through national benefit changes including universal credit.

Equality and Diversity Implications

The work within the Welfare Advice Team brings us into daily contact with vulnerable clients, people with disabilities and non-English speaking communities.

Financial Implications

None

Carbon Emissions & Climate Change Implications

None

Background papers

- (1) *'Tribunals and gender recognition certificate statistics quarterly: October to December 2016'* Ministry of Justice, March 2017
- (2) *The (changing) effects of universal credit' from the IFS Green Budget 2016, edited by Carl Emmerson, Paul Johnson and Robert Joyce*
- (3) *The Austerity Generation: the impact of a decade of cuts on family incomes and child poverty, CPAG, November 2017*
- (4) *Universal Credit: the impact on passported benefits, Report by the Social Security Advisory Committee, DWP, March 2012*
- (5) *Somerset Community Legal Service Partnership: County Court Project*
- (6) *In-work Poverty In The UK, Problem, Policy Analysis and Platform for Action, Rod Hick and Alba Lanau, Cardiff University, May 2017.*
- (7) *Annual Monitoring Poverty and Social Exclusion 2013 published by the Joseph Rowntree Foundation and written by the New Policy Institute (08/12/2013)*
- (8) *Social Welfare Advice services – A Review by Graham Cookson, an economist at the University of Surrey*

Agenda Item 12

Schedule of Planning Applications to be Determined by Committee

Director: Martin Woods, Service Delivery
Service Manager: Simon Fox, Lead Officer (Development Management)
Contact Details: simon.fox@southsomerset.gov.uk or 01935 462509

Purpose of the Report

The schedule of planning applications sets out the applications to be determined by Area North Committee at this meeting.

Recommendation

Members are asked to note the schedule of planning applications.

Planning Applications will be considered no earlier than 2.35pm.

Members of the public who wish to speak about a particular planning item are recommended to arrive for 2.30pm.

SCHEDULE					
Agenda Number	Ward	Application	Brief Summary of Proposal	Site Address	Applicant
13	MARTOCK	17/03874/OUT	Outline application for the erection of 10 bungalows and associated works including drainage infrastructure and highway works.	Land Adjoining Long Orchard Way, Martock.	Blue Spruce Properties Ltd
14	SOUTH PETHERTON	17/04125/FUL	Alterations, change of use and conversion of existing workshop into a dwelling.	Moncktons Cottage, Watgore, South Petherton.	Mr & Mrs T Antell
15	LANGPORT & HUIISH	17/04060/FUL	The erection of a detached dwelling.	Land Opposite Autumn Leaves, Pibsbury, Langport.	S. Vickery
16	LANGPORT & HUIISH	17/04236/S73	Application to vary condition no.2 (approved plans) of 17/00167/FUL for the re-siting and design of dwelling.	Plot 1, Land Opposite Autumn Leaves, Pibsbury.	S. Vickery

Further information about planning applications is shown on the following page and at the beginning of the main agenda document.

The Committee will consider the applications set out in the schedule. The Planning Officer will give further information at the meeting and, where appropriate, advise members of letters received as a result of consultations since the agenda has been prepared.

Referral to the Regulation Committee

The inclusion of two stars (**) as part of the Development Manager's recommendation indicates that the application will need to be referred to the District Council's Regulation Committee if the Area Committee is unwilling to accept that recommendation.

The Lead Planning Officer, at the Committee, in consultation with the Chairman and Solicitor, will also be able to recommend that an application should be referred to District Council's Regulation Committee even if it has not been two starred on the Agenda.

Human Rights Act Statement

The Human Rights Act 1998 makes it unlawful, subject to certain expectations, for a public authority to act in a way which is incompatible with a Convention Right. However when a planning decision is to be made there is further provision that a public authority must take into account the public interest. Existing planning law has for many years demanded a balancing exercise between private rights and public interest and this authority's decision making takes into account this balance. If there are exceptional circumstances which demand more careful and sensitive consideration of Human Rights issues then these will be referred to in the relevant report.

Agenda Item 13

Officer Report On Planning Application: 17/03874/OUT

Proposal :	Outline planning application for the erection of 10 No. bungalows (incorporating details of access) and associated works including drainage infrastructure and highway works.
Site Address:	Land Adjoining Long Orchard Way, Martock.
Parish:	Martock
MARTOCK Ward (SSDC Members)	Cllr Neil Bloomfield Cllr Graham Middleton
Recommending Case Officer:	Nicholas Head Tel: (01935) 462167 Email: nick.head@southsomerset.gov.uk
Target date :	25th December 2017
Applicant :	Blue Spruce Properties Ltd
Agent: (no agent if blank)	Mr Jeff Martin, Motivo, Alvington, Yeovil BA20 2FG
Application Type :	Major Dwigs 10 or more or site 0.5ha+

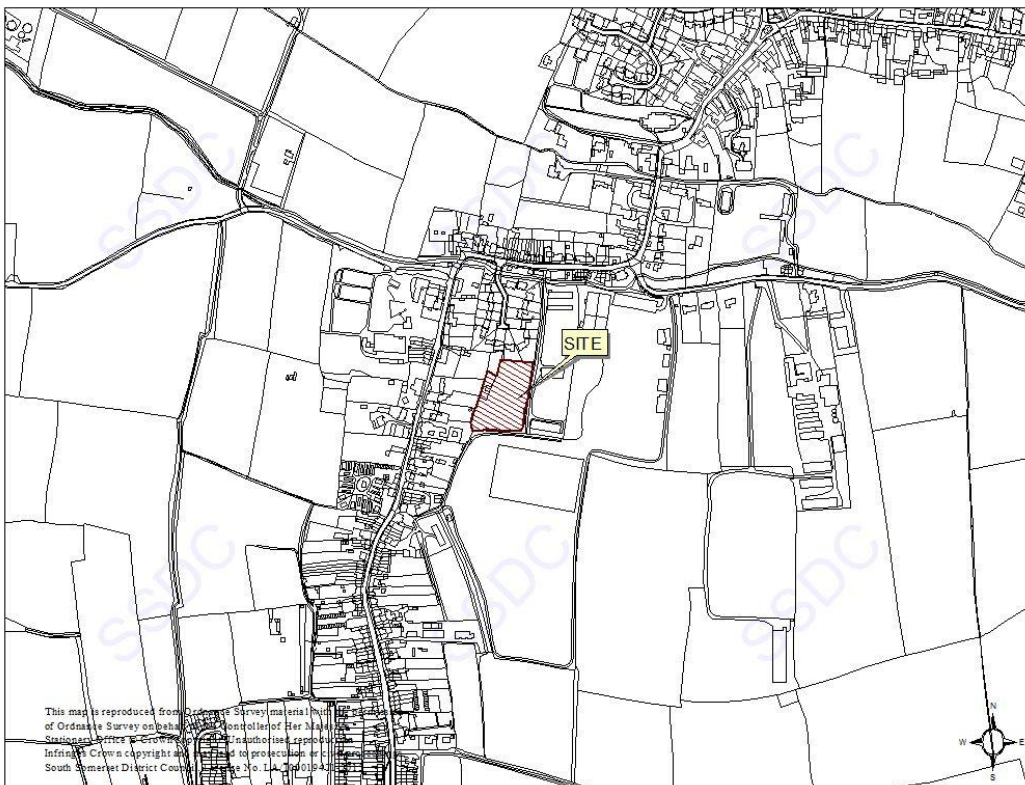
REASON FOR REFERRAL TO COMMITTEE

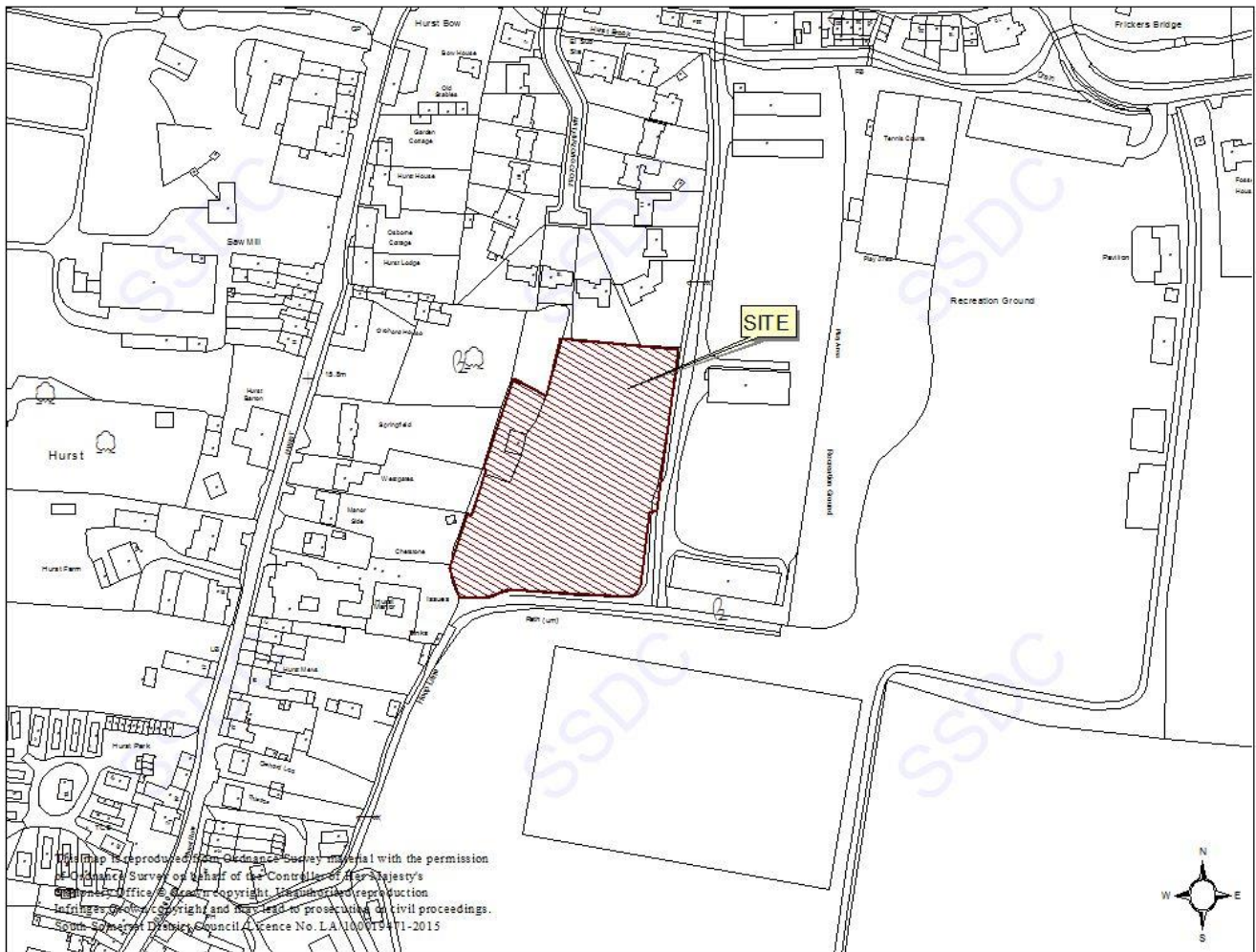
The report is referred to Committee at the request of the Ward Members to enable a full discussion of the issues raised by the application.

NOTE

The Lead Specialist (Planning) advises that members be made aware that in agreement with the Chair, the Area Lead Officer and the Legal representative this application may be referred to the Regulation Committee during the debate if members are minded to refuse the application for reasons that have already been considered acceptable by the Planning Inspector in dealing with the appeal against the previous application 16/04699/OUT.

SITE DESCRIPTION AND PROPOSAL





The site is an open piece of land between the housing fronting onto Water Street and Hurst and the new housing development currently under construction south of Water Street ('Martock Leat'). The development fronting both Water Street and Hurst is within the conservation area, which forms the western edge of the site. The site is bounded to the north by the modern housing fronting onto Matfurlong Close. To the east is the new residential development of 35 dwellings under construction; the south boundary is defined by a footpath joining Hurst in the west with the recreation ground towards the east.

Outline permission is sought for the erection of 10 single-storey dwellinghouses.

HISTORY

16/04699/OUT - Outline planning application for the erection of 12 No. dwellings (incorporating details of access) and associated works including drainage infrastructure and highway works - refused. An appeal was submitted, and the appeal dismissed on 5 October 2017.

POLICY

The South Somerset Local Plan (2006 - 2028) was adopted on the 5th March 2015. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and Section 70(2) of

the Town and Country Planning Act 1990 (as amended), the adopted local plan now forms part of the development plan. As such, decisions on the award of planning permission should be made in accordance with this development plan, unless material considerations indicate otherwise. Legislation and national policy are clear that the starting point for decision-making is the development plan, where development that accords with an up-to-date local plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

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

SD1 - Sustainable Development
SS1 - Settlement Strategy
SS4 - District Wide Housing Provision
SS5 - Delivering New Housing Growth
SS6 - Infrastructure Delivery
HG3 - Provision of Affordable Housing
HG5 - Achieving a Mix of Market Housing
TA4 - Travel Plans
TA5 - Transport Impact of New Development
TA6 - Parking Standards
HW1 - Provision of Open Space, Outdoor Playing Space, Sports, Cultural and Community Facilities in New Development
EQ1 - Addressing Climate Change in South Somerset
EQ2 - General Development
EQ4 - Biodiversity
EQ5 - Green Infrastructure

National Planning Policy Framework (March 2012):

1. Building a strong, competitive economy
2. Ensuring the vitality of town centres
3. Supporting a prosperous rural economy
4. Promoting sustainable transport
5. Supporting high quality communications infrastructure
6. Delivering a wide choice of high quality homes
7. Requiring good design
8. Promoting healthy communities
10. Meeting the challenge of climate change, flooding and coastal change
11. Conserving and enhancing the natural environment
12. Conserving and enhancing the historic environment

National Planning Practice Guidance - Department of Communities and Local Government, 2014.

Policy-related Material Considerations

Somerset County Council Parking Strategy, March 2012 and September 2013.
Somerset County Council Highways Standing Advice, June 2013.

Martock Local Community Plan 2012 Summary
Martock Local Community Plan 2007

CONSULTATIONS

Parish Council: The PC recommends refusal of the application on the following grounds:

1. That the issues around flooding have not been resolved.
2. There are still concerns around the density of the site with less units that would cover a greater area.

Highways Authority: No objection. A travel plan is required, secured by S106 Agreement. Subject to guidance for the applicant in relation to a future reserved matters application, and to various conditions.

SSDC Conservation Officer: No comment received. Comments from previous application: *Generally..., the conservation area and listed building turn away from this land. The site appears not to be of any great significance to the conservation area, and there are no important views to or from the heritage assets, especially since we granted consent adjacent.*

So what is left is to get the density and layout so that it sits well with the adjoining development

SSDC Landscape Officer: No objection. Comment from previous application accepted the principle of development of 12 dwellings on the site.

SSDC Tree Officer: No objection is raised. Comments have been made on the protection of trees in relation to the badger protection plan, which have been taken into account by the applicant.

SSDC Environmental Protection: No comments. However, it is noted that for the previous application the following comment was made: *Due to the presence of potentially contaminated materials on the adjacent site, which may have migrated onto this site, I would recommend that should the application be approved, it be subject to the following condition. A condition was requested at that time relating to potential contamination.*

SSDC Ecologist: The Initial Comment was that there was insufficient information on the presence and impact to protected species to enable the application to be approved. Further survey work was undertaken and a detailed comment has been made:

This application was dismissed at appeal due to insufficient wildlife surveys. The applicant has addressed this with the following reports (by ECOSA ecological consultants) and amended plan:

1. *Badger Survey and Ground Level Tree Assessment (18th December 2017).*
2. *Ecological Mitigation And Management Plan (Revision 2, January 2018).*
3. *Illustrative Site Plan (Revision G, January 2018).*

Badgers

The badger survey confirms the existence of a badger main sett on the application site. Although marked confidential (for badger welfare reasons), I don't believe the report identifies anything that isn't already known by local neighbours. Dialogue with the applicant has been taking place to refine the badger mitigation plans.

As the main sett is within part of the site proposed for housing, it is proposed to provide a replacement artificial sett a short distance to the south (indicated on the illustrative site plan), and to close the existing sett which will require a licence application to Natural England (following grant of permission). This approach is not uncommon and acceptable in principle.

The proposed location of the replacement badger sett has been chosen to:

- remain within the badger social group's territory,
- avoid the maintenance zone for the ditch,
- avoid the root protection zone of the nearby protected oak tree, and to avoid significant damage to the root system of the neighbour's boundary hedge.

A 'badger corridor' is proposed along the west and north boundaries of the site so as not to prevent badgers from being able to access any areas that they currently access for foraging purposes.

I recognise that some neighbours may not particularly welcome badgers in their gardens, or may fear that loss of this site to development may intensify badger visits to their gardens.

As a typical badger territory is in the region of 50 hectares, the application site is likely to represent only a very small proportion of their total foraging area. Furthermore, the overgrown nature of the site makes it sub-optimal for badgers as they prefer short turf or bare ground for foraging. I therefore consider it unlikely that the development will lead to any significant increases in foraging disturbance to neighbouring gardens.

Further concerns may arise from the construction of new setts. The replacement artificial sett is of similar area to the existing natural sett and will be constructed to be of similar or better quality. Underground barrier fencing will prevent the badgers from being able to extend the sett into neighbouring properties.

In addition to the main sett, badgers create smaller (often single entrance) 'outlier' setts elsewhere within their territory. I consider the development and sett relocation will be very unlikely to change the risk of outlier setts being created on neighbouring properties.

It should be noted that neighbouring gardens are already at risk of disturbance from badgers and this could happen at any time prior to, during, or post development. I've sought to ensure the badger mitigation measures don't significantly increase this risk.

Further details on badger mitigation are in the Ecological Mitigation And Management Plan.

I approve of the proposed badger mitigation measures and sett relocation, and conclude the proposed development is unlikely to significantly affect either the welfare of badgers, or the impact of badgers on the amenity of neighbours.

Reptiles

It has been assumed, on the basis of reptile surveys and translocations from the neighbouring development site, very similar habitat, and proximity, that this application site will also have a 'high' population of slow worms and possibly also some grass snakes. I consider this to be valid and I support this assumption.

Mitigation for reptiles, in line with 'standard' guidelines, is proposed and detailed in the Ecological Mitigation And Management Plan. **I support the proposed reptile mitigation measures.**

Bats and trees

The Badger Survey and Ground Level Tree Assessment included a survey of trees for potential to be used by bats for roosting. Only one tree was identified as having low potential. **I support the 'standard' precautionary mitigation measures that are proposed for tree works.**

Water voles

Although the most recent surveys for the adjacent development site didn't record any evidence of water vole in the adjacent ditch/watercourse, their possible presence is assumed. On the whole, due to the 9m

*maintenance strip, water voles are unlikely to be significantly affected. Works to replace the bridge and provide access to the site have a small chance of encountering water voles. **Appropriate precautionary mitigation is proposed, that I consider acceptable.***

Conclusion and recommendations

I conclude the further survey work and Ecological Mitigation And Management Plan adequately address the reason for refusal given by the planning inspector, and are consistent with industry guidance. I recommend the mitigation measures are made a requirement by condition.

SSDC Climate Change Officer: An objection is raised on the basis of the details of the submitted layout, which might be prejudicial to the installation of PV panels.

SSDC Sports Arts Leisure: No contributions required as the development falls below the threshold (10 dwellings or less) set out in the Government online guidance for 'tariff-style' contributions.

Lead Local Flood Authority: Reference is made to the earlier comments submitted in relation to application 16/04699/OUT, and conditions requested: *The development indicates an increase in impermeable areas that will generate an increase in surface water runoff. This has the potential to increase flood risk to the adjacent properties or the highway if not adequately controlled.*

The applicant has provided an outline drainage strategy within the submitted flood risk assessment. This includes a proposal to capture and store surface water runoff in underground geocellular storage tanks adjacent to Bower Hinton Brook, Bower Hinton Brook is a Viewed Rhyne and is under the jurisdiction of the Internal Drainage Board, the LLFA would have concerns that storage at this close proximity to the rhyne would not be acceptable to the IDB and the applicant has not put forward any alternative location for the storage tanks.

In principle the LLFA has no objection to the proposed development, as submitted, subject to approval being given by the Internal Drainage Board [and a] drainage condition being applied.

Environment Agency: No comment received. However, for the previous application, a response stated that no objection was raised.

Natural England: No comments.

County Archaeologist: No objections.

County Rights of Way: No objections.

Somerset Drainage Board: No objection, subject to suggested conditions and informative notes.

Wessex Water: No comment received. For previous application general advice was offered for the developer on the drainage requirements of the site, and the presence of services on or near the site.

Police Liaison Officer: No objection is raised, but comments are offered on details of the layout.

REPRESENTATIONS

10 letters of objection have been received, making the following main points:

- over-development in the context of housing provision for Martock, where there is no local need for such housing
- development will exacerbate flood risk and existing flooding issues in the area

- additional traffic would cause highway safety harm - both vehicular and pedestrian traffic; existing highways are narrow and heavily parked with residents' vehicles
- adequate parking off-street is questioned
- sewage management is queried (and other arrangements needing a management company)
- the proposal is out of character with the setting and conservation area
- the house types do not meet local need
- submitted ecology and drainage proposals are inadequate
- an outline permission does not give clarity on final impact
- the site is a greenfield site
- there would be loss of amenity and open space

CONSIDERATIONS

Principle of Development: Refusal of Previous Application

The previous application for 12 dwellings (16/04699/OUT) was refused by Area North Committee for two reasons:

01. The proposed development, by reason of the level of development and loss of open space, would result in an unacceptable loss of amenity and outlook to existing residents to the north and west. As such the proposal is 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 development, by reason of the level of development and loss of characteristic open space, would result in an unacceptably adverse impact on the setting of the adjacent conservation area. As such the proposal is contrary to policy EQ3 of the South Somerset Local Plan 2006-2028 and the policies contained within the National Planning Policy Framework.

In determining the appeal against this refusal, the Inspector considered these two reasons for refusal. On the issue of residential amenity, he concluded:

A good amount of space between the rear gardens of neighbouring dwellings and the nearest proposed properties could be retained. The proposal would not bring about any additional sense of enclosure for neighbouring residents. The dwellings and additional activity on the land may be noticeable from nearby properties. However this would not have an unreasonable impact upon the outlook from those dwellings or their gardens. The low intensity of the proposed development would not significantly harm the tranquillity of the area. Residential amenity of neighbouring properties would be suitably protected. In relation to this main issue, the proposal would not have a harmful effect on living conditions at neighbouring properties. This would comply with LP Policy EQ2 and the requirement in paragraph 17 of the Framework to secure a good standard of amenity for all existing and future occupants of land and buildings.

On the second reason for refusal (character and appearance), he concluded:

The proposal would have an acceptable effect upon the character and appearance of the area which would preserve the setting of the Conservation Area and nearby Listed Buildings, safeguarding those heritage assets. This would comply with policies EQ2 and EQ3 of the South Somerset Local Plan.

The appeal was then dismissed solely on the grounds of potential harm to biodiversity, specifically protected species. The full appeal decision is attached as Appendix A.

There have been no significant changes to policy or legislation since the appeal decision (30 October

2017). This decision therefore represents the starting point for determination of the current proposal which is for a reduced number of dwellings (10), and which should be assessed on the degree to which the reason(s) for refusal of the previous application have been overcome.

The principle of 10 dwellings is acceptable on the site, subject to appropriate compliance with policies and legislation relating to biodiversity, as raised by the Appeal Inspector.

Ecology

Adequate survey work and preparation of mitigation measures in relation to protected species on the site have now been submitted to overcome the reason for dismissal of the earlier appeal (fully detailed by the Council's Ecologist - set out in full above). It is not considered that there is any ecological or biodiversity issue that would indicate a refusal of the current application.

Housing Numbers: Policy Considerations

Martock is identified as a Rural Centre in the Local Plan, a settlement 'with a local service role where provision for development will be made that meets local housing need, extends local services and supports economic activity appropriate to the scale of the settlement' (Policy SS1 of the Local Plan). Policy SS5 sets out figures for each of the settlements aimed at achieving the overall housing numbers required during the Plan period. The aspirational figure (this is not a maximum) for Martock/Bower Hinton is 230 dwellings.

To date, a total of 153 dwellings have extant permission granted in this period, of which 106 have been completed. The current proposal for 10 dwellings would not result in the target figure in Policy SS5 being exceeded.

Five-Year Supply of Housing Land

It remains the position that the Council cannot demonstrate an adequate housing land supply. As with the previous application, contributions towards the overall supply must carry additional weight in assessment of planning applications, as advised by the NPPF.

Impact on the Setting (including the Conservation Area)

As noted, the Planning Inspector was satisfied that the impact of 12 dwellings on the setting would be acceptable. This proposal for a smaller number of dwellings is not considered to represent demonstrable harm to the character and appearance of the setting, including the setting of the conservation area, that would warrant refusal.

Residential Amenity

This was comprehensively dealt with by the Planning inspector for the previous case, quoted above. There is not considered to be any amenity harm resulting from the development of 10 dwellings on the site that would justify refusal of the application.

Drainage and Flood Risk

Drainage was comprehensively considered during the course of the previous application, and nothing relevant has changed since that assessment. It was also considered by the Appeal Inspector, who noted: *Drainage concerns have been raised although the proposal would require new drainage infrastructure to be installed and there is no evidence that this could not adequately serve the development.* It is not considered that there is any drainage or flood risk issue that would indicate refusal of the proposal. The development is recommended to be made subject to the same conditions as

previously requested by the Lead Local Flood Authority.

The conditions requested by the Drainage Board are largely covered by the condition required by the Lead Local Flood Authority. It is not considered appropriate to include a requirement to submit foul drainage plans, given the applicant's intention to use local mains services, and which is a building control matter in any event.

Highway Safety

The Highway Authority raises no objection. Their comments are noted, and suitable conditions proposed. However, it is not agreed that a travel plan can be justified for this scale of development. Policy TA4 of the Local Plan sets out appropriate levels of travel plan commensurate with the scale of development, and thresholds for various types of plan. For developments greater than 10 dwellings, the requirement is a Measures Only Travel Statement. Full travel plans are only required for developments above 50 dwellings. This proposal does not fall within the lowest category, not being greater than 10 dwellings.

Restrictive Conditions

As the application seeks the erection of 10 dwellings, and this number has various practical implications (e.g. application of tariff-style contributions), a condition is proposed limiting development to that number. Although reference is made to 'bungalows' in the application, it is not considered essential that there be a blanket limitation on height. The impact on the setting, amenity, etc., of two-storey development might be acceptable depending on the design details, which are to be determined at the reserved matters stage.

Climate Change Concerns

The concerns of the Climate Change Officer are noted. However, they relate to design details, all of which are reserved to be considered at the next stage of the process (i.e. reserved matters application). Only the principle of the development and the means of access are being considered at this stage.

Planning Obligations

The proposed development falls below the threshold set out in the Government's online planning practice advice for applicability of tariff-style contributions. No obligations are therefore being sought. However, an informative note is recommended advising that this can be revisited should the final development at Reserved Matters stage exceed the 1000 sq. m floor area threshold.

Concerns of Local Residents

The concerns raised in letters of representation have been carefully considered. Some of the issues raised have been dealt with above, but as a general comment it is noted that consideration takes its starting point from the Planning Appeal Inspector's decision of 30 October 2017. That decision records a careful consideration of all relevant issues relating to the development of housing on this site, resulting in refusal solely on the basis of concerns about biodiversity and protected species. This appeal came after a similar comprehensive consideration of a scheme for 12 dwellinghouses, where the determination only related to concerns around residential amenity and impact on the setting. There have been no significant policy or legislative changes since the determination of the application. Matters relating to flood risk, drainage, highway safety, and the principle of housing development have been dealt with. Some additional points can be made:

- there is no reason why an outline first stage permission should not be considered, given the view taken by the Appeal Inspector in the case of the previous application for the erection of

- 12 houses
- there is no requirement in the Local Plan relating to meet detailed local needs in respect of house type
- the site is large enough to ensure adequate on-site parking in accordance with policy at the final design stage
- detailed sewerage and drainage solutions are engineering matters which can be addressed at the detailed design stage (some of which are building control matters in any event).

Conclusion

The proposed development would not exceed the numbers of approved dwellings being sought in the Local Plan during the plan period (2006 - 2028) and would result in the development of much-needed additional housing in the context of a sustainable settlement.

The application has now overcome the sole reason for refusal of the earlier application for 12 dwellings, namely the impact on biodiversity and protected species on the site.

As with the earlier application, it is considered the impacts on the setting can be adequately mitigated in the detailed design, which does not form part of this application, but which is to be determined at the second, reserved-matters stage.

The key issue which determined the refusal of the previous application at appeal (impact on biodiversity - protected species) has now been adequately addressed.

The scheme would see the site coming forward in line with the economic role of sustainable development and the Government's aim of boosting significantly the supply of housing. It is accordingly recommended for approval.

RECOMMENDATION

Grant permission.

01. The proposal makes provision for ten dwellings within a Rural Centre that would contribute towards the enhancement of the sustainability of the settlement. The development respects the character and appearance of the setting without causing harm to highway safety, residential amenity, ecology and wildlife. Notwithstanding local concerns, it is not considered that demonstrable flood risk would result from the proposal. In these respects the proposal is considered represent sustainable development that accords with the aims and objectives of the NPPF and the relevant policies of the South Somerset Local Plan, including Policies SD1, SS1, SS5, SS6, HG3, TA5, TA6, EQ1, EQ2, EQ3 and EQ4.

SUBJECT TO THE FOLLOWING:

01. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: As required by Section 92(2) of the Town and Country Planning Act 1990.

02. Application for approval of the appearance, landscaping, layout and scale of the development, referred to in this permission as the reserved matters, shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92(2) of the Town and Country Planning Act 1990.

03. All reserved matters referred to in Condition 2 above shall be submitted in the form of one application to show a comprehensive and coherent scheme with respect to design, layout, plot boundaries, internal ground floor levels, materials, and landscaping.

Reason: To ensure that the development of the site is dealt with in a comprehensive manner to protect the character and appearance of the local setting and to secure a high quality development in accordance with the NPPF and policies SD1, EQ2 and EQ3 of the South Somerset Local Plan, 2006.

04. In respect of the access and site boundary, the development hereby permitted shall be carried out in accordance with the following approved plan: the drawing ref. 3699/PL/001 Rev F.

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

05. In the event that any signs of pollution such as poor plant growth, odour, staining of the soil, unusual colouration or soil conditions, or remains from the past industrial use, are found in the soil at any time when carrying out the approved development it must be reported in writing within 14 days to the Local Planning Authority (LPA). The LPA will then consider if the findings have any impact upon the development and development must be halted on that part of the site. If the LPA considers it necessary then an assessment of the site must be undertaken in accordance with BS10175. Where remediation is deemed necessary by the LPA a remediation scheme must be submitted to and approved in writing by the LPA and then implemented in accordance with the submitted details.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with the NPPF and Policy EQ7 of the South Somerset Local Plan.

06. No development shall be commenced until details of the surface water drainage scheme based on sustainable drainage principles together with a programme of implementation, management and maintenance for the lifetime of the development have been submitted to and approved in writing by the Local Planning Authority in conjunction with the Internal Drainage Board. The drainage strategy shall ensure that surface water runoff post development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works shall be carried out in accordance with the approved details, and the agreed surface water drainage scheme shall be permanently managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: To ensure that the development is served by a satisfactory system of surface water drainage and that the approved system is retained, managed and maintained in accordance with the approved details throughout the lifetime of the development, in accordance with paragraph 17 and sections 10 and 11 of the National Planning Policy Framework, Paragraph 103 of the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework (March 2015).

07. The development (including site clearance and preparation works) shall be implemented in full accordance with the Ecological Mitigation And Management Plan (Revision 2, January 2018,

ECOSA), subject to any modifications required by the Natural England licence in respect of legally protected species, unless otherwise approved in writing by the local planning authority.

Reason: For the protection, conservation and enhancement of biodiversity in accordance with NPPF and Local Plan policy EQ4 and to avoid harm to legally protected species in accordance with the Wildlife and Countryside Act 1981.

08. There shall be no obstruction to visibility greater than 300 millimetres above adjoining road level in advance of lines drawn 2.4 metres back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 25 metres either side of the access onto the Martock Leat estate. Such visibility shall be fully provided before the development hereby permitted is commenced and shall thereafter be maintained at all times

Reason: In the interests of highway safety.

09. The proposed estate roads, footways, footpaths, tactile paving, cycleways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: In the interests of highway safety.

10. The development hereby permitted shall not commence until a Construction Traffic 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, 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 Traffic Management Plan.

Reason: In the interests of highway safety and general amenity.

11. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such provision shall be installed before the site first comes into use and thereafter maintained at all times.

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

12. The development hereby permitted shall comprise no more than 10 dwellinghouses, and the combined gross internal floorspace of development shall not exceed 1000 square metres in extent.

Reason: To determine the scope of the permission on the basis that the number of dwellings applied for constitutes sustainable development particularly in relation to mitigation measures required to be secured by planning obligation, in accordance with the aims of the NPPF, the online

Government Planning Practice Guidance and Policies SD1, HG3 and HW1 of the South Somerset Local Plan.

13. The applicant shall ensure that all construction vehicles leaving the site during construction works are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. In particular (but without prejudice to the foregoing), efficient means shall be installed, maintained and employed for cleaning the wheels of all lorries leaving the site, details of which shall have been agreed in advance in writing by the Local Planning Authority and fully implemented prior to commencement and thereafter maintained until construction works on the site are complete.

Reason: In the interests of highway safety

Informatives:

01. The applicant's attention is drawn to the advice of the Parrett Internal Drainage Board in their letter of 23 October 2017, a copy of which was sent to the applicant's agent, and which can be viewed on the Council's website.
02. Please be advised that subsequent full or reserved matters approval 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

03. The reserved matters application shall include full details of proposals for the incorporation of features within the design and layout to enable the enhancement of biodiversity on the site in accordance with the aims of the National Planning Policy Framework.
04. The applicant's attention is drawn to the comments of the County Rights of Way Officer in relation to the nearby footpath, which can be viewed on the Council's website.
05. Whilst no liability for contributions towards affordable housing, leisure facilities or other purposes has been identified in this application, this is on the basis of Government advice related to the threshold number of units (i.e. the development is not greater than 10 dwelling units). However, there is an additional threshold figure of a total floor area of 1000 sq m. The applicant should be aware that, should the net floor area of the eventual development exceed 1000 sq. m., then contributions could be required, and the Council reserves the right to re-visit this issue at the Reserved Matters stage should that be necessary.



Appeal Decision

Site visit made on 5 October 2017

by **Andy Harwood CMS MSc MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 October 2017

Appeal Ref: APP/R3325/W/17/3176111

Land Adjacent to Mertoch Leat, Water Street, Martock TA12 6LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Blue Spruce Properties Ltd against the decision of South Somerset District Council.
 - The application Ref 16/04699/OUT, dated 16 November 2016, was refused by notice dated 27 March 2017.
 - The development proposed is an outline planning application for the erection of 12 No dwellings (incorporating details of access) and associated works including drainage infrastructure and highway works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the date of the planning application from the ownership certificates rather than the earlier declaration date on the planning application form. I have also taken the address of the site from the planning application forms which accurately describe the location. It is not clear why the Council altered this on its decision notice.
3. The application was originally submitted for 23 dwellings but was reduced to 12. Given that this was the basis upon which the Council made its decision, I have also considered the proposal in that way and have used the description of the proposal from the decision rather than planning application forms.
4. The proposal is made in outline form with access being the only detail at this time with all other matters being reserved for future consideration.

Background and Main Issues

5. The Council agrees that at present they cannot demonstrate a 5 year supply of deliverable housing sites. Accordingly, paragraph 49 of the National Planning Policy Framework (the Framework) states that the relevant policies for the supply of housing should not be considered up to date. In these circumstances, the fourth bullet point of paragraph 14 of the Framework makes clear that the presumption in favour of sustainable development means granting permission for the proposed development, unless any adverse impacts significantly and demonstrably outweigh its benefits or specific policies in the Framework indicate development should be restricted.

6. In view of this, the main issues in this appeal are whether any specific policies in the Framework indicate that the proposed development should be restricted or whether any adverse impacts of the proposal would significantly and demonstrably outweigh its benefits, having particular regard to the suitability of the site for housing with regard to:
- The effects upon biodiversity;
 - The effect of the proposal on the character and appearance of the area with particular regard to the setting of the Martock Conservation Area (CA) and whether the setting of listed buildings would be preserved; and
 - The effect on living conditions at neighbouring properties with reference to outlook and additional activity.

Reasons

Biodiversity

7. The Council's refusal did not raise concerns over the effects of the proposal upon habitats of or directly to protected species. Planning conditions related to this matter have been suggested. However, the preliminary ecological report indicates that further survey work is required, some of which relates to reptiles (slow worms and grass snakes) that were translocated here from the adjoining development site and also badgers.
8. Circular 06/2005¹ states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it *"...is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision"* (paragraph 99). The circular advises surveys should only be required by condition in exceptional circumstances. Furthermore, where surveys have been conducted and the presence of protected species has been confirmed, it is the responsibility of the developer to include proposals for appropriate mitigation measures in their evidence.
9. Broad elements of mitigation for reptiles have been provided. However further survey work is required to determine the abundance of such species and also to agree a plan and method for mitigation. Additionally, the matter of whether there are badgers' setts on site in addition to the sett just outside of the site, as well as the latrines and foraging holes within and adjoining the site, is not clear. This also requires further survey work and therefore potentially details of mitigation. The presence and extent of these protected species on the site has not been clearly established and necessary measures to protect them have not been specified. I do not consider that I can impose a condition to require further survey work as there are no apparent exceptional circumstances that would justify that approach.
10. Some mitigation has been recommended within the preliminary ecology report in relation to other species which would involve the retention of hedges,

¹ Department for Communities and Local Government, Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System

drainage ditches, foraging and commuting habitat. The supplementary tree planting and a landscape buffer would also assist. Some biodiversity interests would be enhanced. However, these factors do not overcome or outweigh my concerns in relation to this main issue, that significant harm to biodiversity resulting from the development may not be avoided or adequately mitigated for as required by paragraph 118 of the Framework. This is a specific policy within the Framework that indicates that development should be restricted.

Character and appearance

11. This part of Martock is partially a linear settlement with traditional and modern buildings, set out alongside the road known as Hurst. However, to the north of the settlement there are roads running off of the main central routes of Church Street and Water Street with a greater mix of uses. There are Modern developments such as that at Matfurlong Close to the north and adjoining the site. A residential development is under construction, to the north east. The buildings on the eastern side of Hurst have gardens adjoining the western boundary of the site which coincides with the boundary of the CA. The appeal site is an area of undeveloped land previously been used as an orchard.
12. The boundary around the site includes many trees growing out of the hedges providing a soft edge to the CA. When viewing from Hurst, some of the substantial trees growing up from the hedges are noticeable from the road, between the buildings. Those are significant for the general setting of the CA. Some trees would be removed as a result of the development. These are within the site and generally are of little significance or amenity value outside of it or therefore to the character and appearance of the CA. A large common ash of higher amenity value is proposed for removal but it is well within the site and its loss would not have a harmful impact upon the setting of the CA.
13. The site would remain well screened from adjoining dwellings and the nearby park particularly with the proposed additional planting and retention of a substantial landscape buffer. The density of hedge and tree cover around the boundary of the appeal provides a clear definition along the western side to the CA. The existing openness within the site has a limited effect upon the setting of the CA given the degree of enclosure by trees and hedges.
14. The proposed development would be at a density allowing substantial rear gardens where the site adjoins the properties to the west. The detailed consideration of design including the position, size and bulk of the proposed dwellings would determine the degree that any dwellings would be noticeable from nearby rear gardens within the CA, from Hurst or when looking towards the CA from the park and new dwellings currently under construction. The modern development at Matfurlong Close has a similar relationship to the CA as is proposed and I consider that it has respected the local context. In my view, a development of 12 dwellings could be designed whilst ensuring that the setting of the CA is not harmed. The site is also substantially separate from the Listed Buildings of Orchard House and the nursing home at Hurst Manor with the substantial tree cover again preventing harmful impacts upon them.
15. The proposal would have an acceptable effect upon the character and appearance of the area which would preserve the setting of the CA and nearby Listed Buildings, safeguarding those heritage assets. This would comply with

policies EQ2 and EQ3 of the South Somerset Local Plan². It is unnecessary to undertake the balance set out within paragraph 134 of the Framework.

Living conditions

16. A good amount of space between the rear gardens of neighbouring dwellings and the nearest proposed properties could be retained. The proposal would not bring about any additional sense of enclosure for neighbouring residents. The dwellings and additional activity on the land may be noticeable from nearby properties. However this would not have an unreasonable impact upon the outlook from those dwellings or their gardens. The low intensity of the proposed development would not significantly harm the tranquillity of the area. Residential amenity of neighbouring properties would be suitably protected. In relation to this main issue, the proposal would not have a harmful effect on living conditions at neighbouring properties. This would comply with LP Policy EQ2 and the requirement in paragraph 17 of the Framework to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

17. My finding that significant harm to biodiversity resulting from the development may not be adequately avoided or mitigated for as required by paragraph 118 of the Framework means that this is a case where a specific policy in the NPPF, at paragraph 134, indicates that development should be restricted. Even though relevant policies for the supply of housing cannot be considered up-to-date, that does not in itself weigh in favour of granting planning permission. Some concern has been expressed including from the Parish Council regarding an oversupply of housing. That is based upon the LP allocations and policies that are out of date. Furthermore, the Framework seeks to boost significantly the supply of housing and does not require maxima. I attach no harm in this regard to the proposal which would be a benefit, boosting the housing supply as required by the Framework and which would include affordable dwellings.
18. The proposed access that would be through the adjoining estate currently under construction. I have no evidence that traffic generation or the highway layout within the village would cause highway safety problems within the settlement. Drainage concerns have been raised although the proposal would require new drainage infrastructure to be installed and there is no evidence that this could not adequately serve the development.
19. Counterpart planning obligations under the provisions of S106 of the planning act have been submitted which would secure affordable housing as well as various financial contributions. Given that I am dismissing the appeal for other reasons, it has not been necessary for me to consider this in any further detail.

Conclusion

20. The other matters and my conclusions on 2 of the main issues do not outweigh my conclusion on the first main issue. The appeal should be dismissed.

Andy Harwood

INSPECTOR

² South Somerset Local Plan (2006-2028), adopted March 2015

Agenda Item 14

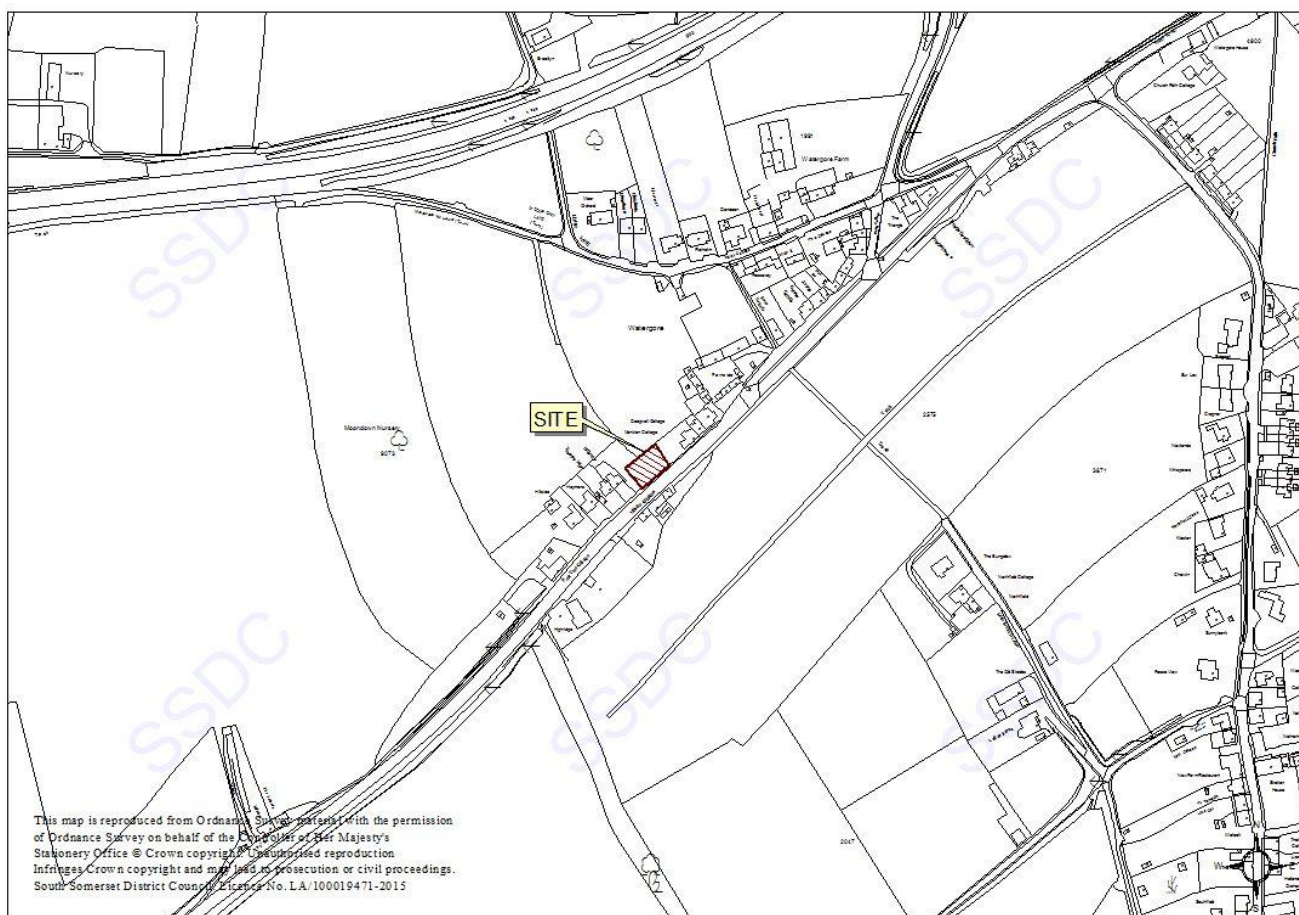
Officer Report On Planning Application: 17/04125/FUL

Proposal :	Alterations and the change of use and conversion of existing workshop into a dwelling.
Site Address:	Moncktons Cottage, Watergore, South Petherton.
Parish:	South Petherton
SOUTH PETHERTON Ward (SSDC Member)	Cllr Adam Dance Cllr Crispin Raikes
Recommending Case Officer:	Linda Hayden Tel: 01935 462534 Email: linda.hayden@southsomerset.gov.uk
Target date :	30th November 2017
Applicant :	Mr And Mrs T Antell
Agent: (no agent if blank)	David Parkin, 4 Wilton Road, Yeovil, Somerset BA21 5XP
Application Type :	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL TO COMMITTEE

This application is referred for Committee consideration at the request of the Ward Member with the agreement of the Area Chairman in order to allow the planning issues to be debated.

SITE DESCRIPTION AND PROPOSAL





The application site forms a double garage approved as a 'permitted development' outbuilding to the property known as 'Moncktons Cottage' on the old A303 within the small hamlet of Watergore, 1km to the south-west of South Petherton.

The application proposes the conversion of the outbuilding into a one bedroom unit with the formation of a new access from the old A303. The proposal would include the blocking up of some openings notably the large double garage opening and the rendering and part timber cladding of the exterior. Two parking spaces would be provided at the rear of the plot.

HISTORY

13/03078/COL - Application for a certificate of lawfulness for the proposed erection of a store/workshop. Permitted 23/9/2013.

10/00324/FUL - Alterations to access. Approved 2010.

02/02942/FUL - Erection of dwelling. Refused 2002 and subsequent appeal dismissed 2004.

890236 - Outline: dwelling and garage. Refused 1989.

881476 Outline: The erection of two houses. Refused 1988.

852569 - Erection of extension to dwelling. Approved 1986.

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 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).

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

SD1 Sustainable Development
SS1 Settlement Strategy
SS2 Development in Rural Settlements
TA5 Transport Impact of New Development
EQ2 General Development

National Planning Policy Framework
Part 3 - Supporting a prosperous rural economy
Part 7 - Requiring good design

Somerset County Council Parking Strategy (March 2012)

Somerset County Council Highways Development Control - Standing Advice (June 2013)

CONSULTATIONS

South Petherton Parish Council:

'Fully support, this does not cause demonstrable harm to the surrounding area.'

County Highway Authority:

Standing Advice is applicable in this instance.

Highways Consultant:

Requested additional plans showing visibility splays and on the basis of the new information has confirmed that the plans are now acceptable in relation to highway safety subject to the imposition of conditions in relation to visibility; consolidation of access surface; and parking and turning.

Rights of Way (SCC):

No objections but advise that the proposed works must not encroach on to the width of the PROW.

REPRESENTATIONS

62 letters of support have been received (23 letters from residents within the Parish, 39 from outside) making the following comments:

- Proposal is an improvement and natural infill.
- There is a lack of bungalows in the area
- Applicants have lived in Watgore for a number of years and contributed to the community.
- Changes would have a positive effect; building is appropriate for the plot and would see the area

tidied up.

- Proposal should be seen as positive for the area and will not impact on anyone
- This modest house would have no detrimental effect upon access, traffic or sightlines.
- Building will be more attractive as a dwelling.
- There will be little change to the building.
- There is a housing shortage in the country.
- Query how this can be refused when other building both residential and industrial has taken place within the vicinity.

CONSIDERATIONS

Principle

The application building has been constructed as a 'permitted development' outbuilding to the main property 'Monckton Cottage', a certificate of lawfulness was submitted for the development which permitted on the basis that the building would be used for purposes incidental to the main dwelling. Since the building has been constructed it has become physically separated from the main house and is now used by the applicants (who no longer live in the main dwelling) for storage and workshop purposes. As such, the building is no longer being used for purposes ancillary to the main dwelling and is technically unauthorised whilst being used separately from the main dwelling.

In the circumstances, the building cannot be considered as disused or redundant (having only been erected in the last four years) and it is not considered that any of the relevant policies that apply to conversion of buildings in the countryside would be applicable in this case.

Watergore is a very small settlement which is devoid of local facilities or services. The settlement does not therefore meet the criteria of being a Rural Settlement as set out within LP policy SS2, and due to its lack of day to day services and facilities must be considered to be an unsustainable and therefore inappropriate location for new residential development as prescribed by both the local plan and the NPPF.

The principle of the proposed development is therefore considered to be unacceptable.

Visual Impact

The proposal is to use the existing building with the exterior to be finished with render and timber cladding in addition a new access will be formed to serve the development. It is not considered that the changes would have a significant visual impact and as such the proposal is acceptable in this regard.

Highways Safety and Parking

The plans have been amended in line with the advice of the Highways Consultant and as such the proposal is considered to be acceptable in relation to highway safety and parking.

Summary

For the reasons set out, the proposed development is considered to constitute an unsustainable form of development where future occupiers will be highly dependent upon driving to get to day to day services and facilities. The application has come about as a result of a permitted development outbuilding that is not technically lawful having been separated from the main dwelling. The proposal is therefore considered to be an unsustainable form of development that is contrary to the aims and objectives of LP policies SD1, SS1 and SS2 and the provisions of the NPPF, in particular paragraph 17.

RECOMMENDATION

Refuse.

FOR THE FOLLOWING REASONS:

01. The location of the proposed development is remote from local services, facilities and local transport as a consequence occupiers of the new development are likely to be dependent on private vehicles for most of their daily needs. The proposal is related to a development that is no longer lawful and it has not been demonstrated that it will meet an identified local need and so will not contribute to increasing the sustainability of this settlement and it is considered that such fostering of growth in the need to travel is contrary to the aims and objectives of sustainable development as set out within policies SD1, SS1 and SS2 of the South Somerset Local Plan and the provisions of the National Planning Policy Framework.
02. The proposal would create an undesirable precedent whereby permitted development buildings are constructed in order to bypass the strict policies of development restraint that apply to new dwellings within unsustainable locations.

Informatives:

01. Please be advised that any subsequent approval of this application by appeal 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.

In the event of an approval at appeal, you would be required to complete and return Form 1 Assumption of Liability as soon as possible after the grant of permission 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

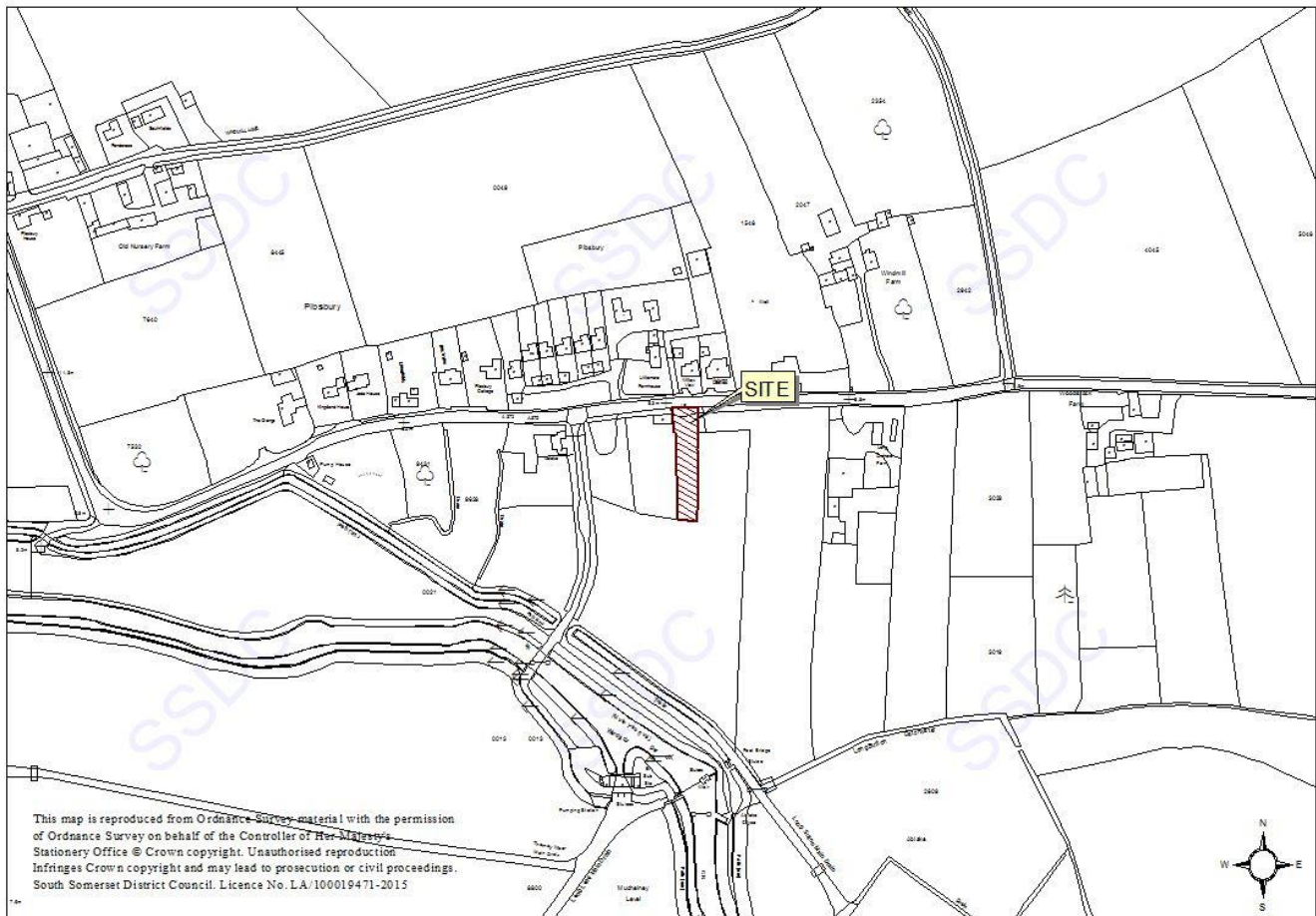
Agenda Item 15

Officer Report On Planning Application: 17/04060/FUL

Proposal :	The erection of 1 No. detached dwelling.
Site Address:	Land Opposite Autumn Leaves Pibsbury Langport
Parish:	Huish Episcopi
LANGPORT AND HUISH Ward (SSDC Member)	Cllr C Aparicio Paul
Recommending Case Officer:	John Millar Tel: (01935) 462465 Email: john.millar@southsomerset.gov.uk
Target date :	17th November 2017
Applicant :	Sarah Vickery
Agent: (no agent if blank)	David Parkin Architectural Services, 4 Wilton Road, Yeovil, Somerset BA21 5XP
Application Type :	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL TO COMMITTEE

This application is referred to committee with the agreement of the Ward Member and the Area Chair to enable the issues raised to be fully debated by Members.





SITE DESCRIPTION AND PROPOSAL

The site is located to the south of the A372, at the centre of Pibsury, a settlement comprising a small group of buildings between Langport and Long Sutton. Pibsury comprises a group of mainly modern dwellings to the north side of the road, with the south side being sparsely developed, with little built form, although this has changed slightly in the immediate vicinity of the site, with three dwellings approved on this site, and those to the west, one of which has now been built.

There are no local services within the settlement and it is located approximately 1km from the western edge of Huish Episcopi and Langport. The site comprises a single storey building, formerly used as a workshop, otherwise is cleared ready to develop. Planning permission was originally granted for the erection of a single storey dwelling on the site, with retention of the existing building as garaging. Further planning permission have been granted for the erection of two detached dwellings and the use of the existing single storey building as tourist accommodation, or as ancillary accommodation in association with one of the approved dwellings. One of the approved dwellings has now been constructed, and most recently planning permission was granted under 17/00167/FUL, to allow a reduction in the size of the as yet unbuilt dwelling approved on this application site.

This application is for the sub-division of the application site, and erection of a second dwelling to the eastern part of the plot.

Another application has been submitted concurrently (17/04236/S73) to vary condition 2 of planning permission 17/00167/FUL, to allow the re-siting and redesign of the approved dwelling.

HISTORY

- 17/04236/FUL: Application to vary condition no. 2 (Approved Plans) of 17/00167/FUL for the re-siting and design of dwelling - Pending consideration.
- 17/00167/FUL: Erection of a new detached dwelling with garage - Permitted with conditions.
- 17/00166/FUL: Application to convert storage barn into holiday accommodation - Permitted with conditions.
- 15/04458/S73: Application to vary conditions 2 (approved drawings) 3 (materials) of planning application 15/00514/FUL - Permitted with conditions.
- 15/00514/FUL: Erection of 2 detached dwellings with garaging and parking together with vehicular access - Permitted with conditions.
- 12/03862/FUL: Erection of a 3 bedroom single storey dwelling with retention of the existing building for garaging (revised scheme 12/02168/FUL) - Refused, subsequently allowed on appeal.
- 12/02168/FUL: Demolition of existing building (B1 Use) and erection of a 3 bedroom single storey dwelling with two car parking spaces - Permitted with conditions. (Note: This removed the employment use in close proximity to the residential properties across the road. The permission sought demolition of the existing building that the subsequent application sought to retain.)
- 11/03576/COL: Application for a Certificate of Lawfulness for the proposed use of the building for B1 (office/ light Industrial) Use - Permitted.
- 10/00820/COL: Certificate of Lawfulness for the existing use of the building for Use Class B8 (storage) - Refused, subsequently allowed on appeal.
- 06/00964/COU: Retention of Existing Building and Use for Office purposes (B1) - Refused and subsequent appeal dismissed.
- 00/01743/COU: Variation of condition 3 of 952092 to allow part use for purposes ancillary to Autumn Leaves - Refused and subsequent appeal dismissed.
- 952092: Amendment to 940912 to allow use of stable block by original occupier under 940913 - Permitted with conditions.
- 940912: Erection of block of 3 stables on site of former filling station - Permitted with conditions.

POLICY

The South Somerset Local Plan (2006 - 2028) was adopted on the 5th March 2015. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and Section 70(2) of the Town and Country Planning Act 1990 (as amended), the adopted local plan now forms part of the development plan. As such, decisions on the award of planning permission should be made in accordance with this development plan, unless material considerations indicate otherwise. Legislation and national policy are clear that the starting point for decision-making is the development plan, where development that accords with an up-to-date local plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

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

- SD1 - Sustainable Development
- SS1 - Settlement Strategy
- SS2 - Development in Rural Settlements
- EQ2 - General Development
- EQ4 - Biodiversity
- TA5 - Transport Impact of New Development

National Planning Policy Framework

- Core Planning Principles - Paragraph 17
- Chapter 4 - Promoting Sustainable Transport
- Chapter 6 - Delivering a Wide Choice of High Quality Homes

Chapter 7 - Requiring Good Design

Chapter 11 - Conserving and Enhancing the Natural Environment

National Planning Practice Guidance

Design

Natural Environment

Rural Housing

Policy-related Material Considerations

Somerset County Council Parking Strategy (September 2015)

Somerset County Council Highways Development Control - Standing Advice (June 2013)

CONSULTATIONS

Parish Council: The Council feels that, as there are now several large single houses in this area in Pibsbury, the replacement of the original decision's similar sized dwelling with two much smaller houses will look incongruous and thus recommends refusal.

SCC Highway Authority: The proposal would represent an increase of vehicle movements to and from the site. The average dwelling generates 6-8 vehicle movements per day and this application would double the vehicle movements to and from the site. However, the additional vehicle movements that this proposal would generate would not place the highway over capacity and this aspect of this planning application would not raise an objection from the Highway Authority.

The access has already been considered by the Highway Authority in the previous application and there no objections to the principle of the access arrangements. However, the access would need to have sufficient width to allow for two way vehicle movements to prevent vehicles waiting on the highway which could represent a significant highway safety concern.

The applicant must ensure that the access is fully consolidated, i.e. no loose stone or gravel to prevent loose material being deposited onto the carriageway which could represent a potential highway safety concern.

The applicant would need to ensure that under no circumstance should water be allowed to be discharged onto the highway.

Taking the above into account, the Highway Authority would not raise an objection to the planning application, subject to the imposition of relevant conditions.

Natural England: No objection.

SSDC Ecologist: Following the identification of a badger sett on the site, a badger survey and mitigation was requested. The following comments were made:

14th November 2017 I've noted the recent badger survey report (Country Contracts, November 2017).

This identifies a significant sized badger sett and it appears that the sett would occupy approximately half of the proposed rear garden of plot 1A (it wouldn't be possible to include as part of any 'formal' garden).

Generally it is preferable to retain badger setts in-situ, but it is clear that the house could potentially be built without significant harm or disturbance to the badger sett.

However, retaining the sett will clearly reduce the back garden area by approximately half. Furthermore, due to the proximity to the sett, the remainder of the back garden is likely to suffer from significant disturbance (digging of small foraging holes or extension of the sett) unless a secure boundary feature, (e.g. a solid wall rather than fence), plus an underground barrier, is erected to prevent badger entry. Any such proposals would need to allow badgers continued access to and from their setts, and construction of such may need to allow a buffer around the sett (and be done under licence).

Relocation of the sett seems unlikely to be an option in this case. To provide any development benefit, a replacement sett would need to be provided on adjoining land. It would also require a licence from Natural England. It's uncertain whether Natural England would licence a local relocation of the sett.

Therefore given retention of the badger sett, it appears the future amenity of the householder would be compromised (given also the presence of the holiday let in the front garden). I therefore question whether it's appropriate to squeeze two properties into this plot given the badger sett has now diminished the size of the plot.

Furthermore, boundary tree and hedge planting to help screen the new dwellings could also be compromised to some extent by the sett (although this depends on proximity of the sett to the boundary, but digging to plant trees will be restricted or require a licence in the immediate area of the sett).

Primary recommendation

Whilst I have no overall objection, the badger sett does represent a significant constraint on the site.

If this could be an issue for the overall viability/suitability of the proposal, then it could be appropriate to request further detailed layout plans at this stage, to detail the extent of sett containment works (with detailed input and verification from an ecological consultant), and consequently give a better indication of the remaining land available for development. Circular 06/2005 advises:

It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. ..., the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted.

Secondary recommendation

If instead you're minded to approve, then I recommend submission of further badger mitigation details should be the requirement of a condition:

The development shall not commence until there has been submitted to, and approved in writing by the Local Planning Authority, a badger mitigation plan detailing measures for pre-commencement update surveys, minimising disturbance and harm to badgers, construction phase protection of badger setts (including physical measures), enabling badgers continued access within their territory as appropriate for their welfare, and details of sett containment works and barriers to minimise conflict between badgers and householders. The works shall be implemented in accordance with the approved details and timing of the plan, unless otherwise approved in writing by the local planning authority.

Reason: For the conservation and protection of legally protected species in accordance with Policy EQ4 of the South Somerset Local Plan, and to ensure compliance with the Wildlife and Countryside Act 1981, and Protection of Badgers Act 1992.

8th January 2018 I'm satisfied with the outline mitigation proposals for badgers. This indicates a partial sett closure to reduce the current area of the sett, but the rear 15 metres of each property to be 'reserved' predominantly for the badger sett, with installation of an underground barrier to prevent future expansion of the sett into the new rear gardens. Further detail will be the subject of a licence application

to Natural England. Because of the proximity of the development to the badger sett, and risk of incidental harm to badgers from construction activity, I recommend a condition:

No development shall commence until a licence from Natural England has been issued for the partial closure of the badger sett, and a copy of the licence, along with proposed measures to protect badgers against harm from construction (e.g. protective fencing, signage, ecological supervision, method statement), plus details of all fencing, or other boundary treatments, within and bordering the site has been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved badger protection measures and boundary treatments unless otherwise approved in writing.

Reason: For the protection of badgers in accordance with the Wildlife and Countryside Act 1981 and the Protection of Badgers Act 1992.

SSDC Landscape Architect: I recollect this site from earlier applications, and I note the principle of development is already established for a single dwelling on a larger site that incorporates the reduced plot now before us. The intention for this larger site is now the construction of two detached units, of which this is the second.

As I have set out before, Pibsbury lays in a countryside context outside the built-up areas of Langport and Huish Episcopi, and is characterised by a limited ribbon of development, which is primarily to the north side of the road (the A372) and residential in character, whilst to the south of the A372, the land is primarily a mix of small fields/paddocks, along with a couple of sporadic small building groups irregularly interspersed along the roadside amongst the field systems. It is on this southern side of the road that the application site lays.

Whilst recent consents have increased the number of residences on this southern side of the road, built form is primarily related to existing farm/commercial units, and in most part this southern side of the road is not characterised by residential form, but rather the mix of fields and pastures that act as a buffer and transition from the wider open moor to the south. The introduction of two two-storey buildings - one by this application, the second two weeks further into the system - will be both contrary to the local settlement pattern, to thus be at variance with local character; and at two-storey height, will be visually intrusive in views toward and from the moors. The site has also lost some of its woody surround, such that little visual enclosure is currently on offer. Consequently whilst I accept that the permitted position of a singular dwelling, the introduction of two closely-spaced two-storey forms is urban in appearance; and not in-keeping with the rural character of the locality, and thus contrary to LP policy EQ2.

REPRESENTATIONS

Six local residents have written in objection to the proposal, with the following main points raised:

- This application is misleading, as it only refers to the erection of one dwelling, however two dwellings are proposed. By submitting two separate applications, it is difficult to fully understand the development proposed overall.
- The construction of one dwelling on this site is supported locally, however two is not. The intensive use of the site is inappropriate to the semi-rural location, giving an almost urban appearance.
- The proposed dwellings are not traditional, and do not respect the character of the area, as suggested in the submitted design and access statement.
- The existing dwelling has been built with very little landscaping to soften the hard modern building. The proposed two dwellings and additional car parking leaves little scope to improve this situation.
- The with only one integral garage now proposed on the adjoining dwelling (17/04060/FUL), there will be multiple car parking on the overall site, serving three dwellings (the two proposed, and the approved holiday-let), which will create an unattractive common car park area.

- Planning Officer advice suggesting that the provision of two dwellings on this site affect the visual impact of the site and be at odds with local development character has been ignored.
- The application is similar to 16/03605/FUL, for two dwellings to the west, which was refused by Area North Committee in October 2016.
- A previous planning decision on land to the east was refused recently due to the development not being sustainable. The criteria appear to be no different.
- There are existing badger setts and drainage ditched within and adjacent to the site, which should not be disturbed.

Four letters of support have also been received from local residents, raising the following main points:

- The proposal has been planned sympathetically and will enhance the area.
- Two smaller properties would be less imposing than one larger property and would be in keeping with other properties in Pibsbury, which are all of varying smaller sizes.
- The detached houses are of the same design as the existing house and both fit well within a sizeable plot.
- Two smaller houses will be more affordable than one big house. The proposal will benefit the area more than if an empty eye sore is left. If the development is not profitable it will not be built.

CONSIDERATIONS

Principle of Development

The application site is located in within the settlement of Pibsbury, which is a small group of dwellinghouses, with no local services. The nearest key services available are those within Huish Episcopi and Langport, the developed edge of which is approximately 1km to the west. The nearest service, the public house at Huish Episcopi, is approximately 1.4km away, with Huish Episcopi Academy and the centre of Langport further away. Planning Officer's advice has been consistent in that Pibsbury is viewed as a settlement remote from key local services, where development is not acceptable in principle, as it would not accord with the aims of sustainable development identified within the Local Plan and National Planning Policy Framework. It is noted that some development has previously been approved on this site, and the adjoining site to the west, where Members of Area North Committee resolved to approve applications involving what was viewed as being appropriate infill development. It should also be noted that the proposed development of two houses on land to the west (16/03605/FUL) was refused at Area North Committee, as this was deemed to constitute over development of the site in a form that was a dominant and visually intrusive development that failed to respect the established character and appearance of the locality. A separate application for the retrospective provision of a dwelling on land further to the east of the application site (16/00621/FUL) was also refused by Area North Committee, with a subsequent appeal dismissed on the grounds that Pibsbury was indeed remote from key local services and therefore an unsustainable location for additional unjustified residential development.

This application is for the erection of an additional dwelling, for which no special justification has been made. The applicant advises that there is now a need to build two properties on this plot, as the property built on plot 2 was too big and unable to be sold for the original valuation, with its price ultimately reduced significantly at a loss to the applicant. An independent estate agent has similarly advised that two smaller properties would be more likely to be sold than one larger one. While there is sympathy for the applicant's position, this is not sufficient justification to outweigh the overriding in-principle objection to providing another dwelling in this unsustainable location. As demonstrated by the grant of planning permission 17/00167/FUL, the Local Planning Authority would be supportive of the provision of a smaller, appropriately sited and designed dwelling to improve the likelihood of sale at an appropriate price in comparison to build costs, however the provision of an additional dwelling on this site not considered to be appropriate.

Scale and Appearance

Planning permission has been granted for the erection of two dwellinghouses on the application site (plot 1) and that to the west (plot 2), with the latter constructed. A later planning permission (17/00167/FUL) amended the approved dwelling on plot 1 to reduce its size. A subsequent application is now being considered concurrently to this one (17/04236/S73), seeking to reduce the size of the approved dwelling further, which will leave a portion of the site to the east available for the erection of another dwelling, as submitted in this planning application. It is noted that these applications are submitted separately so this application is not for two dwellings, however the separate proposal does carry some weight in assessment of this scheme.

As discussed, in previous applications, the south side of the A372 differs dramatically from the more densely developed north side, with minimal built form mainly limited to a few sporadic small groups of buildings irregularly interspersed along the roadside amongst the field systems. The existing openness of the southern side of the road has been eroded somewhat following the approval of three houses in recent years, however these large dwellings do generally sit centrally in relatively large plots, allowing a degree of openness and views southwards into open countryside to be retained, thereby ensuring some correspondence with local character. The submitted scheme will reduce the gaps between the existing approved, and built, development schemes, due to the siting of the proposed dwelling to the far east of the site, and sub-division of the wider site to leave space for the erection of this dwelling alongside the other proposed dwelling. Notwithstanding the fact that the other dwelling is not being considered in this particular application, just the proposal now submitted, as well the cumulative impact of a second dwelling, if approved, the proposal would lead to an unacceptable increase in the density of development within the site, with amount of development increased width-wise. This increased level of development within the plot, comprising increased massing and density, will further compromise the remaining openness of the site, and is out of keeping with the established character, appearance and rural context of the locality.

It is further noted that by being sited centrally within the larger plot, there are greater opportunities to provide screening at the site boundaries, reducing the overall impact of the built form. This proposal, which pushes development right up to the extremities of the site, width-wise, limits the potential for landscaping, further exacerbating the harm anticipated by increasing the amount of development within the plot. The applicant argues that the large oak tree to the east of the site has now been removed, providing increased width to the plot, however for the above reason, this is not seen as a positive allowing for increased spread of built form. If anything, the loss of this landscaping feature serves to further highlight the impact of the loss of openness to the site that would be brought about by infilling with greater levels of built form, and without leaving sufficient space to provide adequate mitigation.

Looking further at the design, this is of a similar style to the approved dwellings, however the reduction in width along with the depth of the property does move away from the more characteristic wider fronted, less deep properties on the northern side of the road, and deep but wider fronted properties approved to the west, further failing to reinforce local distinctiveness of the setting.

Highway Safety

As with the original scheme, there are no concerns in respect to highway safety. The County Council Highway Authority have noted the increased use of the access, however do not consider that this would be such a significant increase so as to cause unacceptable harm to highway safety. Should permission be granted, suitable highway conditions are suggested to ensure that the access is properly consolidated, visibility is provided and drainage provision put in place.

Residential Amenity

The proposed development is located at sufficient distance from any other nearby property, and would

be appropriately oriented and designed in respect to the proposed dwelling to the west, to avoid any unacceptable impact on residential amenity

Ecology

Since the last application, it has been brought to the Local Planning Authority's attention that there is significant badger activity on site. This has been verified, with further information submitted in the way of a badger survey and mitigation.

Having confirmed that there is an extensive badger sett on the southern part of this site, and that to the west, a mitigation proposal has been put forward that involves the partial closure of the set and installation of a galvanised wire mesh screen below ground for the width of the site, thereby deterring badger spread further northwards. The Council's Ecologist has accepted the mitigation proposal and raised no objections, subject to appropriate conditions in relation to the developer obtaining the necessary licence from Natural England and protection measures being agreed and put in place during construction.

Conclusion

Notwithstanding the presence of an existing extant consent for a dwelling on this site, the proposed amendments to the scheme are considered to be unacceptable with the resulting scheme failing to appropriately respect the character and appearance of the locality and its rural context.

RECOMMENDATION

Refuse

FOR THE FOLLOWING REASONS:

01. The proposal, by reason of its siting, design, scale and massing, fails to respect the established character and appearance of the locality, or to reinforce local distinctiveness of the setting, contrary to the aims and objectives of policies SD1, SS2 and EQ2 of the South Somerset Local Plan (2006-2028) and the National Planning Policy Framework.
02. The proposal would represent new residential development in a rural location, remote from key local services, for which an overriding essential need has not been justified. The proposed development therefore constitutes unsustainable development that is contrary to policies SD1, SS1 and SS2 of the South Somerset Local Plan (2006-2028) and to the aims and objectives of the National Planning Policy Framework.

Informatives:

01. In accordance with paragraphs 186 and 187 of 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 that could be applied during the course of the application to overcome the reasons for refusal.

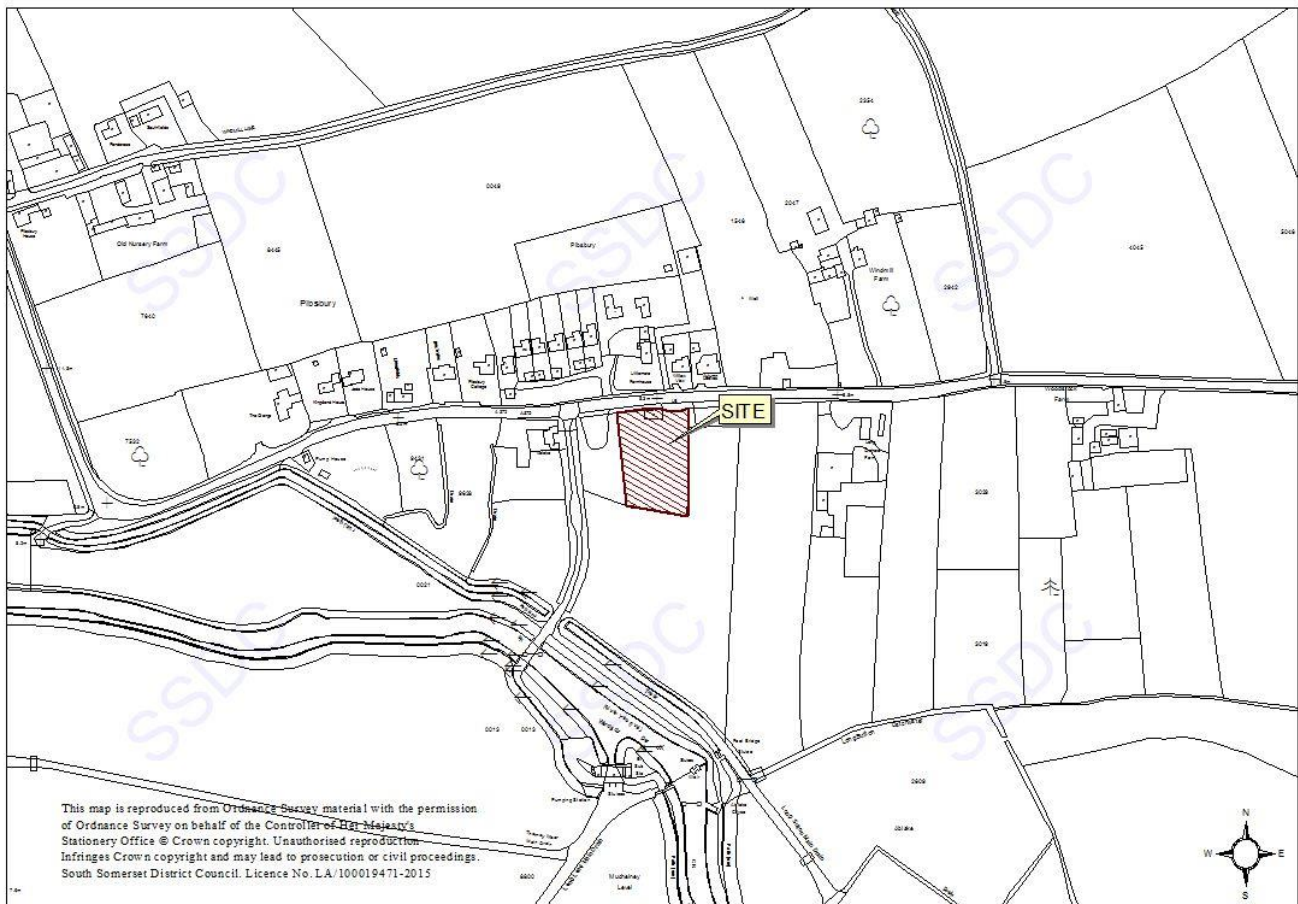
Agenda Item 16

Officer Report On Planning Application: 17/04236/S73

Proposal :	Application to vary condition no. 02 (approved plans) of 17/00167/FUL for the re-siting and design of dwelling.
Site Address:	Plot 1, Land Opposite Autumn Leaves, Pibsbury.
Parish:	Huish Episcopi
LANGPORT AND HUISH Ward (SSDC Member)	Cllr C Aparicio Paul
Recommending Case Officer:	John Millar Tel: (01935) 462465 Email: john.millar@southsomerset.gov.uk
Target date :	7th December 2017
Applicant :	Sarah Vickery
Agent: (no agent if blank)	David Parkin, 4 Wilton Road, Yeovil, Somerset BA21 5XP
Application Type :	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL TO COMMITTEE

This application is referred to committee with the agreement of the Ward Member and the Area Chair to enable the issues raised to be fully debated by Members.





SITE DESCRIPTION AND PROPOSAL

The site is located to the south of the A372, at the centre of Pibsury, a settlement comprising a small group of buildings between Langport and Long Sutton. Pibsury comprises a group of mainly modern dwellings to the north side of the road, with the south side being sparsely developed, with little built form, although this has changed slightly in the immediate vicinity of the site, with three dwellings approved on this site, and those to the west, one of which has now been built.

There are no local services within the settlement and it is located approximately 1km from the western edge of Huish Episcopi and Langport. The site comprises a single storey building, formerly used as a workshop, otherwise is cleared ready to develop. Planning permission was originally granted for the erection of a single storey dwelling on the site, with retention of the existing building as garaging. Further planning permission have been granted for the erection of two detached dwellings and the use of the existing single storey building as tourist accommodation, or as ancillary accommodation in association with one of the approved dwellings. One of the approved dwellings has now been constructed, and most recently planning permission was granted under 17/00167/FUL, to allow a reduction in the size of the as yet unbuilt dwelling approved on this application site.

This application is made to vary condition 2 of planning permission 17/00167/FUL, to allow the re-siting and redesign of the approved dwelling.

Another application has been submitted concurrently (17/04060/FUL) for the sub-division of the application site, and erection of a further dwelling to the east.

HISTORY

- 17/04060/FUL: The erection of 1 no. detached dwelling - Pending consideration.
- 17/00167/FUL: Erection of a new detached dwelling with garage - Permitted with conditions.
- 17/00166/FUL: Application to convert storage barn into holiday accommodation - Permitted with conditions.
- 15/04458/S73: Application to vary conditions 2 (approved drawings) 3 (materials) of planning application 15/00514/FUL - Permitted with conditions.
- 15/00514/FUL: Erection of 2 detached dwellings with garaging and parking together with vehicular access - Permitted with conditions.
- 12/03862/FUL: Erection of a 3 bedroom single storey dwelling with retention of the existing building for garaging (revised scheme 12/02168/FUL) - Refused, subsequently allowed on appeal.
- 12/02168/FUL: Demolition of existing building (B1 Use) and erection of a 3 bedroom single storey dwelling with two car parking spaces - Permitted with conditions. (Note: This removed the employment use in close proximity to the residential properties across the road. The permission sought demolition of the existing building that the subsequent application sought to retain.)
- 11/03576/COL: Application for a Certificate of Lawfulness for the proposed use of the building for B1 (office/ light Industrial) Use - Permitted.
- 10/00820/COL: Certificate of Lawfulness for the existing use of the building for Use Class B8 (storage) - Refused, subsequently allowed on appeal.
- 06/00964/COU: Retention of Existing Building and Use for Office purposes (B1) - Refused and subsequent appeal dismissed.
- 00/01743/COU: Variation of condition 3 of 952092 to allow part use for purposes ancillary to Autumn Leaves - Refused and subsequent appeal dismissed.
- 952092: Amendment to 940912 to allow use of stable block by original occupier under 940913 - Permitted with conditions.
- 940912: Erection of block of 3 stables on site of former filling station - Permitted with conditions.

POLICY

The South Somerset Local Plan (2006 - 2028) was adopted on the 5th March 2015. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and Section 70(2) of the Town and Country Planning Act 1990 (as amended), the adopted local plan now forms part of the development plan. As such, decisions on the award of planning permission should be made in accordance with this development plan, unless material considerations indicate otherwise. Legislation and national policy are clear that the starting point for decision-making is the development plan, where development that accords with an up-to-date local plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

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

- SD1 - Sustainable Development
- SS1 - Settlement Strategy
- SS2 - Development in Rural Settlements
- EQ2 - General Development
- EQ4 - Biodiversity
- TA5 - Transport Impact of New Development

National Planning Policy Framework

- Core Planning Principles - Paragraph 17
- Chapter 4 - Promoting Sustainable Transport
- Chapter 6 - Delivering a Wide Choice of High Quality Homes
- Chapter 7 - Requiring Good Design

Chapter 11 - Conserving and Enhancing the Natural Environment

National Planning Practice Guidance

Design

Natural Environment

Rural Housing

Policy-related Material Considerations

Somerset County Council Parking Strategy (September 2015)

Somerset County Council Highways Development Control - Standing Advice (June 2013)

CONSULTATIONS

Parish Council: The Council feels that this site is only suitable for one large dwelling, as envisaged in the original decision, which will complement existing development in the area and therefore recommends refusal.

SCC Highway Authority: The application is to vary condition 2 that relates to the approved plans of planning consent 17/00167/FUL at land opposite Autumn Leaves in Pibsbury, Huish Episcopi.

I am aware that the Highway Authority has been consulted with a proposal to construct a second dwelling on this plot of land, which is alluded to in the information that has been provided by the applicant and therefore, these two applications are intrinsically linked.

However, when considering this application, it is unlikely that the movement of the dwelling will have an adverse impact on the highway. Therefore, the Highway Authority does not wish to raise an objection to this planning application.

Natural England: No comment on the proposed amendments.

SSDC Ecologist: Following the identification of a badger sett on the site, a badger survey and mitigation was requested. The following comments were made:

14th November 2017 I've noted the recent badger survey report (Country Contracts, November 2017).

This identifies a significant sized badger sett and it appears that the sett would occupy approximately half of the proposed rear garden of plot 1A (it wouldn't be possible to include as part of any 'formal' garden).

Generally it is preferable to retain badger setts in-situ, but it is clear that the house could potentially be built without significant harm or disturbance to the badger sett.

However, retaining the sett will clearly reduce the back garden area by approximately half. Furthermore, due to the proximity to the sett, the remainder of the back garden is likely to suffer from significant disturbance (digging of small foraging holes or extension of the sett) unless a secure boundary feature, (e.g. a solid wall rather than fence), plus an underground barrier, is erected to prevent badger entry. Any such proposals would need to allow badgers continued access to and from their setts, and construction of such may need to allow a buffer around the sett (and be done under licence).

Relocation of the sett seems unlikely to be an option in this case. To provide any development benefit, a replacement sett would need to be provided on adjoining land. It would also require a licence from Natural England. It's uncertain whether Natural England would licence a local relocation of the sett.

Therefore given retention of the badger sett, it appears the future amenity of the householder would be compromised (given also the presence of the holiday let in the front garden). I therefore question whether it's appropriate to squeeze two properties into this plot given the badger sett has now diminished the size of the plot.

Furthermore, boundary tree and hedge planting to help screen the new dwellings could also be compromised to some extent by the sett (although this depends on proximity of the sett to the boundary, but digging to plant trees will be restricted or require a licence in the immediate area of the sett).

Primary recommendation

Whilst I have no overall objection, the badger sett does represent a significant constraint on the site.

If this could be an issue for the overall viability/suitability of the proposal, then it could be appropriate to request further detailed layout plans at this stage, to detail the extent of sett containment works (with detailed input and verification from an ecological consultant), and consequently give a better indication of the remaining land available for development. Circular 06/2005 advises:

It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. ..., the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted.

Secondary recommendation

If instead you're minded to approve, then I recommend submission of further badger mitigation details should be the requirement of a condition:

The development shall not commence until there has been submitted to, and approved in writing by the Local Planning Authority, a badger mitigation plan detailing measures for pre-commencement update surveys, minimising disturbance and harm to badgers, construction phase protection of badger setts (including physical measures), enabling badgers continued access within their territory as appropriate for their welfare, and details of sett containment works and barriers to minimise conflict between badgers and householders. The works shall be implemented in accordance with the approved details and timing of the plan, unless otherwise approved in writing by the local planning authority.

Reason: For the conservation and protection of legally protected species in accordance with Policy EQ4 of the South Somerset Local Plan, and to ensure compliance with the Wildlife and Countryside Act 1981, and Protection of Badgers Act 1992.

8th January 2018 I'm satisfied with the outline mitigation proposals for badgers. This indicates a partial sett closure to reduce the current area of the sett, but the rear 15 metres of each property to be 'reserved' predominantly for the badger sett, with installation of an underground barrier to prevent future expansion of the sett into the new rear gardens. Further detail will be the subject of a licence application to Natural England. Because of the proximity of the development to the badger sett, and risk of incidental harm to badgers from construction activity, I recommend a condition:

No development shall commence until a licence from Natural England has been issued for the partial closure of the badger sett, and a copy of the licence, along with proposed measures to protect badgers against harm from construction (e.g. protective fencing, signage, ecological supervision, method statement), plus details of all fencing, or other boundary treatments, within and bordering the site has been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved badger protection measures and boundary treatments unless otherwise approved in writing.

Reason: For the protection of badgers in accordance with the Wildlife and Countryside Act 1981 and the Protection of Badgers Act 1992.

SSDC Landscape Architect: I recollect this site from earlier applications, and I note the principle of development is already established for a single dwelling on a larger site that incorporates the reduced plot now before us. The intention for this larger site is now the construction of two detached units, of which this is the second.

As I have set out before, Pibsbury lays in a countryside context outside the built-up areas of Langport and Huish Episcopi, and is characterised by a limited ribbon of development, which is primarily to the north side of the road (the A372) and residential in character, whilst to the south of the A372, the land is primarily a mix of small fields/paddocks, along with a couple of sporadic small building groups irregularly interspersed along the roadside amongst the field systems. It is on this southern side of the road that the application site lays.

Whilst recent consents have increased the number of residences on this southern side of the road, built form is primarily related to existing farm/commercial units, and in most part this southern side of the road is not characterised by residential form, but rather the mix of fields and pastures that act as a buffer and transition from the wider open moor to the south. The introduction of two two-storey buildings - one by this application, the second two weeks further into the system - will be both contrary to the local settlement pattern, to thus be at variance with local character; and at two-storey height, will be visually intrusive in views toward and from the moors. The site has also lost some of its woody surround, such that little visual enclosure is currently on offer. Consequently whilst I accept that the permitted position of a singular dwelling, the introduction of two closely-spaced two-storey forms is urban in appearance; and not in-keeping with the rural character of the locality, and thus contrary to LP policy EQ2.

REPRESENTATIONS

Four letters of objection have been received from local residents, with the following main points raised:

- This application is misleading, as it only refers to the erection of one dwelling, however two dwellings are proposed. By submitting two separate applications, it is difficult to fully understand the development proposed overall.
- The construction of one dwelling on this site is supported locally, however two is not. The intensive use of the site is inappropriate to the semi-rural location, giving an almost urban appearance.
- The proposed dwellings are not traditional, and do not respect the character of the area, as suggested in the submitted design and access statement.
- The existing dwelling has been built with very little landscaping to soften the hard modern building. The proposed two dwellings and additional car parking leaves little scope to improve this situation.
- The with only one integral garage now proposed on the adjoining dwelling (17/04060/FUL), there will be multiple car parking on the overall site, serving three dwellings (the two proposed, and the approved holiday-let), which will create an unattractive common car park area.
- Planning Officer advice suggesting that the provision of two dwellings on this site affect the visual impact of the site and be at odds with local development character has been ignored.
- The application is similar to 16/03605/FUL, for two dwellings to the west, which was refused by Area North Committee in October 2016.
- There are existing badger setts and drainage ditched within and adjacent to the site, which should not be disturbed.

No letters of support have been received specifically in relation to this application, however letters received in relation to concurrent application 17/04060/FUL do refer to the development of two dwellings on this site, as such it is accepted that there is some support expressed in writing in relation to this proposal.

CONSIDERATIONS

Principle of Development

The application site is located in within the settlement of Pibsbury, which is a small group of dwellinghouses, with no local services. The nearest key services available are those within Huish Episcopi and Langport, the developed edge of which is approximately 1km to the west. The nearest service, the public house at Huish Episcopi, is approximately 1.4km away, with Huish Episcopi Academy and the centre of Langport further away. Planning Officer's advice has been consistent in that Pibsbury is viewed as a settlement remote from key local services, where development is not acceptable in principle, as it would not accord with the aims of sustainable development identified within the Local Plan and National Planning Policy Framework. It is noted that some development has previously been approved on this site, and the adjoining site to the west, where Members of Area North Committee resolved to approve applications involving what was viewed as being appropriate infill development. It should also be noted that the proposed development of two houses on land to the west (16/03605/FUL) was refused at Area North Committee, as this was deemed to constitute over development of the site in a form that was a dominant and visually intrusive development that failed to respect the established character and appearance of the locality. A separate application for the retrospective provision of a dwelling on land further to the east of the application site (16/00621/FUL) was also refused by Area North Committee, with a subsequent appeal dismissed on the grounds that Pibsbury was indeed remote from key local services and therefore an unsustainable location for additional unjustified residential development.

Notwithstanding the above, the principle of the development of one residential dwelling has already been established. As this application is made to amend the design and siting of the already approved dwelling, the acceptability of a dwelling is not up for consideration, with only the impacts of the revised scheme to be assessed.

Scale and Appearance

Planning permission has been granted for the erection of two dwellinghouses on the application site (plot 1) and that to the west (plot 2), with the latter constructed. A later planning permission (17/00167/FUL) amended the approved dwelling on plot 1 to reduce its size. This application now seeks to reduce its size further, which will leave a portion of the site to the east available for the erection of another dwelling, as indicated in concurrent application 17/04060/FUL. It is noted that these applications are submitted separately so this application is not for two dwellings, however the separate proposal does carry some weight in assessment of this scheme.

The applicant advises that there is now a need to build two properties on this plot, as the property built on plot 2 was too big and unable to be sold for the original valuation, with its price ultimately reduced significantly at a loss to the applicant. An independent estate agent has similarly advised that two smaller properties would be more likely to be sold than one larger one. Therefore despite a successful application to reduce the size of the property, it is now reduced further to make space for another dwelling.

As discussed, in previous applications, the south side of the A372 differs dramatically from the more densely developed north side, with minimal built form mainly limited to a few sporadic small groups of buildings irregularly interspersed along the roadside amongst the field systems. The existing openness of the southern side of the road has been eroded somewhat following the approval of three houses in recent years, however these large dwellings do generally sit centrally in relatively large plots, allowing a degree of openness and views southwards into open countryside to be retained, thereby ensuring some correspondence with local character. The submitted scheme will however reduce the gaps between the existing approved, and built, development schemes, due to the re-siting of full two storey elements to the far west of the site, and reduction of the plot size as a result of leaving space for the erection of another

dwelling. Notwithstanding the fact that the second dwelling is not being considered in this particular application, just the proposal now submitted, as well the cumulative impact of a second dwelling, if approved, would lead to an unacceptable increase in the density of development within the site, with amount of development increased width-wise. This increased level of development within the plot, comprises increased massing and density, will further compromise the remaining openness of the site, and is out of keeping with the established character, appearance and rural context of the locality.

Looking further at the design, this is of a similar style to the approved dwellings, however the reduction in width along with the depth of the property does move away from the more characteristic wider fronted, less deep properties on the northern side of the road, and deep but wider fronted properties approved to the west, further failing to reinforce local distinctiveness of the setting.

Highway Safety

As with the original scheme, there are no concerns in respect to highway safety. The County Council Highway Authority have noted the existing consents comprising the erection of one dwelling, and a small unit of tourist accommodation, which share the proposed access. Notwithstanding the proposal for another dwelling to the east, the Highway Authority have considered this application on the basis of being a change to the approved scheme only. Consequently no objections are raised from a highway safety point of view.

Residential Amenity

The proposed development is located at sufficient distance from any other nearby property, and would be appropriately orientated and designed in respect to the dwelling on plot 2, and that proposed to the east, to avoid any unacceptable impact on residential amenity

Ecology

Since the last application, it has been brought to the Local Planning Authority's attention that there is significant badger activity on site. This has been verified, with further information submitted in the way of a badger survey and mitigation.

Having confirmed that there is an extensive badger sett on the southern part of this site, and that to the west, a mitigation proposal has been put forward that involves the partial closure of the set and installation of a galvanised wire mesh screen below ground for the width of the site, thereby deterring badger spread further northwards. The Council's Ecologist has accepted the mitigation proposal and raised no objections, subject to appropriate conditions in relation to the developer obtaining the necessary licence from Natural England and protection measures being agreed and put in place during construction.

Conclusion

Notwithstanding the presence of an existing extant consent for a dwelling on this site, the proposed amendments to the scheme are considered to be unacceptable with the resulting scheme failing to appropriately respect the character and appearance of the locality and its rural context.

RECOMMENDATION

Refuse

FOR THE FOLLOWING REASON:

01. The proposal, by reason of its siting, design, scale and massing, fails to respect the established character and appearance of the locality, or to reinforce local distinctiveness of the setting, contrary to the aims and objectives of policies SD1, SS2 and EQ2 of the South Somerset Local Plan (2006-2028) and the National Planning Policy Framework.

Informatives:

01. In accordance with paragraphs 186 and 187 of 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 that could be applied during the course of the application to overcome the reasons for refusal.
