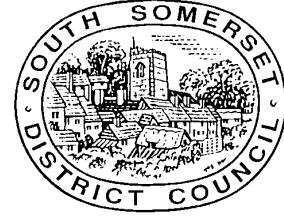


South Somerset District Council

Notice of Meeting



Area North Committee

Making a difference where it counts

Wednesday 26th September 2018

3.00 pm (please note the later start time)

**Edgar Hall, Cary Court,
Somerton Business Park,
Somerton TA11 6SB**

(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 3.50pm.

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 17 September 2018.

Alex Parmley, *Chief Executive Officer*

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



INVESTORS IN PEOPLE

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 26 September 2018

Agenda

Preliminary Items

1. Minutes

To approve as a correct record the minutes of the previous meeting held on 22 August 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, Graham Middleton 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 3.00pm on **Wednesday 24 October 2018** in the **Council Chamber, Council Offices, Brympton Way, Yeovil.**

5. Public question time

6. Chairman's announcements

7. Reports from members

Items for Discussion

- 8. County Highway Authority Report - Area North** (Pages 6 - 7)
- 9. Area North - Draft Strategic Priorities 2019/20** (Pages 8 - 10)
- 10. Area North Committee Forward Plan** (Pages 11 - 12)
- 11. Planning Appeals** (Pages 13 - 33)
- 12. Schedule of Planning Applications to be Determined By Committee** (Pages 34 - 35)
- 13. Planning Application 18/01927/FUL - Land South of Giffords Orchard, Stembridge**
(Pages 36 - 47)
- 14. Planning Application 18/00984/FUL - Barn Owl Inn, Westport** (Pages 48 - 57)

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

County Highway Authority Report – Area North

Lead Officer: *Derek Davies, Assistant Highway Service Manager, SCC*

Contact Details: *countyroads-southsomerset@somerset.gov.uk or 0300 123 2224*

Purpose of the Report

To provide a brief report of the highway works carried out last financial year in Area North and the proposed works programme for 2018/2019.

Recommendation

That members note the report.

Schemes completed in 2017/18 (Area North)

| | | |
|-----------------|--|-----------|
| Martock | B3165 North Street-Pinnacle | Surfacing |
| Somerton | Behind Berry | Surfacing |
| Langport | Newton Road/Somerton Road | Footways |
| Martock | Stapleton Close | Footways |
| South Petherton | West End View & Court | Footways |
| Fivehead | A378 Mile Hill (joint scheme with Taunton Deane) | Drainage |

Surface Dressing proposed for 2018/19

Surface Dressing is the practice of applying a bitumen tack coat to the existing road surface and then rolling in stone chippings. Whilst this practice is not the most PR friendly, it is highly effective in preserving the integrity of the road surface. This year we are Surface Dressing 16 sites across South Somerset which are class A and B roads, and 23 sites that are class C and D roads. The Surface Dressing programme within South Somerset started in June.

Schemes proposed for 2018/2019

This year's structural maintenance budget is slightly lower than last year. The table below identifies significant schemes planned to be implemented within Area North:

| Parish | Location | Work proposed | Status |
|-----------------|------------------------------------|---------------|------------------------------|
| Martock | B3165 Coat Road to Stapleton Cross | Surfacing | Completed |
| Ash | Main Street | Surfacing | Due October 29 th |
| Stocklinch | Stocklinch Road | Surfacing | Completed |
| South Petherton | Old Vicarage Gardens | Footways | Not programed |
| Ash | Main Street (Village) | Drainage | Completed |
| Ilton | B3168 Mill Lane/ Old Way Gate | Drainage | Completed |
| Barrington | Main Street/ Bakers Lane | Drainage | Programmed Q4 |

Grass Cutting

Grass cutting is a difficult task to carry out to the satisfaction of all. The highway network exceeds 3500km in length; therefore the size of the task is significant. Verge cutting of main A and B roads started in early May. This was followed by the C and D roads, and then a further cut of A and B roads. For information, the table below provides approximate dates for cuts each year

| Road Classification | Dates |
|---|--|
| A and B roads (including visibility splays) | Late April / Early May dependant on rate of growth |
| C and unclassified roads | Start is usually 4 weeks later than A and B roads |
| A and B roads (including visibility splays) | Mid to late August dependant on rate of growth |
| Environmentally protected sites | Usually at the end of the growing season |

Winter Maintenance

Last winter we have carried out a precautionary gritting on 82 occasions and in the process used 10,343 tons of salt. In February and March alone we used 4,655 tons during the cold/snowy period. This year we have gradually been replacing our fleet of gritters across Somerset, with the last batch being introduced during the summer at our Yeovil depot.

Derek Davies

Assistant Highway Service Manager
Somerset County Council
South Somerset Area Highway Office
0300 123 2224

Problems on the roads such as pot holes, blocked gullies/drains, damaged drain covers, faulty streetlights etc, can also be reported via the website:

<http://www.somerset.gov.uk/roads-parking-and-transport/problems-on-the-road/>

Agenda Item 9

Area North – Draft Strategic Priorities 2019/20

Service Manager: Jan Gamon, Lead Specialist Strategic Planning
Lead Officer: Jan Gamon, Lead Specialist Strategic Planning.
Chereen Scott, Specialist, Strategic Planning (West / North)
Tim Cook, Locality Manager
Contact Details: chereen.scott@southsomerset.gov.uk

Purpose of the Report

To present the draft strategic priorities for Area North as agreed at a workshop in June 2018.

Public Interest

The new operating model will be introduced in January 2019 and the way that area priorities are identified and resourced will change. The Committee's priorities will become a chapter of the council plan with resources pulled from across the organisation in Area + teams. This report gives a summary of the draft strategic priorities agreed at a previous workshop and details of the next steps.

Recommendation

That members agree the priorities to be presented to District Executive for consideration for inclusion in the Council Plan.

Background

The Area+ proposal states that "The Council will become strategy led and data informed", which puts the annual strategic planning process at the heart of driving delivery in the Areas.

The Area+ Implementation plan sets out the new way of addressing area priorities and details how resources will be allocated from across the organisation to improve area working.

Area Plans will be developed for adoption as chapters of the Council Plan in February 2019 and will 'go live' in April of that year. The Senior Leadership Team (SLT) sponsor for each area will have an overview of the emerging Area Plans.

Draft priorities were identified by members of Area North at a workshop after the July meeting of the committee.

Draft Strategic Priorities for Area North

The three key priorities identified by members of Area North include the following:

1. To support and encourage artisan businesses and bring forward suitable land for small units to accommodate them
2. Promote and develop tourism
3. Support local food and drink producers

Additional discussion points not categorised as priorities included affordable housing, community safety, community facilities and community transport.

Further work on developing these priorities will take place in collaboration with the chair of the committee.

Next Steps

The process and timescale for the adoption of area priorities as council priorities are as follows.

1st Oct: meeting with SLT to share the draft set of 'Priorities On a Page' (POPs) and seek their input.

4th Oct: initial workshop with District Executive.

1st Nov: District Executive review of final set of POPs, agree priorities for inclusion on Council Plan.

Draft Council Plan then goes through SLT, Scrutiny and District Executive during November.

The SLT sponsor for Area North is Netta Meadows (Director – Support & Strategy) who will be an advocate for the Area Plan through the adoption process and maintain an overview of progress. The SLT sponsor will provide high-level input into the development of Area Plans making sure that they contribute towards the broader aims of the council and take account of relevant regional and national policy.

Resourcing Area Plans

Identifying the resources needed to deliver the Area Plans will need to be done as an integral part of the planning process.

Area+ Teams

Area+ teams can begin to be established as soon as the details of the Area Plans are known. Input from Specialists will be needed in the development of the Area Plans, which will help to build familiarity with the priorities. However, many people will not start new roles until January 2019 and the transition period will have an impact on when teams can make a start on delivery.

Budgets

Work will be required to align the area budgets and available resources (capital programme, S106, etc) with the new Area Plans. There needs to be recognition that resources are finite and will be allocated according to need. Any new work will be assessed in order to establish relative priorities.

Financial Implications

There are no new financial implications arising directly from this report.

Corporate Priority Implications

The priorities have been developed taking into account the SSDC Corporate plan priorities.

Carbon Emissions & Climate Change Implications

This is considered on an individual project and programme basis as appropriate. The overall priority is to seek to create more balanced communities where people can live, work and get access to the services and facilities they need on a daily basis. Area working (Area+) helps to improve access to facilities, activities and services, reducing the need to travel.

Equality and Diversity Implications

This is considered on an individual project and programme basis as appropriate. All Area Plans will have an Equality Impact Assessment.

Background Papers: *Area+ proposal*
Area + Implementation Plan

Agenda Item 10

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 |
|---------------------|--|--|--|
| <i>Oct' 18</i> | <i>Impact of Withdrawal from the Langport Community Office</i> | <i>Update report regarding the impact of withdrawal from the Langport Community Office. (At the September 2017 meeting a decision was taken to provide face to face services in an alternative way to best suit customer demand including the withdrawal from Langport Community Office with effect from January 2018)</i> | <i>Debbie Haines, Interim Community Office Support Manager</i> |
| <i>Nov '18 TBC</i> | <i>Somerton Conservation Area</i> | <i>Report regarding the Somerton Conservation Area Appraisal and designation of extensions to the Conservation Area.</i> | <i>TBC</i> |
| <i>Dec '18 TBC</i> | <i>Buildings at Risk (Confidential)</i> | <i>Routine update report.</i> | <i>TBC</i> |
| <i>TBC</i> | <i>Community Grants</i> | <i>Consideration of Community Grant applications.</i> | <i>Area Development Team (North)</i> |
| <i>Feb ' 19 TBC</i> | <i>Community Safety & Neighbourhood Policing</i> | <i>Annual update from representatives of Avon and Somerset Police.</i> | <i>Avon and Somerset Police.</i> |

Agenda Item 11

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

17/04236/S73 – Plot 1, Land Opposite Autumn Leaves, Pibsbury, Langport TA10 9EJ.
Application to vary condition no. 2 (approved plans) of 17/00167/FUL for the re-siting and design of dwelling.

17/04060/FUL – Land Opposite Autumn leaves, Pibsbury, Langport TA10 9EJ.
The erection of 1 No. detached dwelling.

Appeals Dismissed

Enforcement Notice - Land at Somertonfield Road, Somerton TA11 6HZ.
Change of use of the land from agricultural to a mixed use of agricultural, residential (C3), industrial (B2), and storage (B8).

17/03020/FUL – Land at Little Upton Bridge Farm, Langport Road, Long Sutton.
Erection of 4 No. detached dwelling houses with associated external works.

Appeals Allowed

17/04124/FUL – Land Opposite Tinkabee Cottage, Little Norton, Norton Sub Hamdon.
Change of use of land, stationing of a log cabin and two shepherds huts for holiday let.

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



Appeal Decision

Site visit made on 29 August 2018

by **P N Jarratt BA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 August 2018

Appeal Ref: APP/R3325/C/17/3183816

Land at Somertonfield Road, Somerton, Somerset, TA11 6HZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr John Chant against an enforcement notice issued by South Somerset District Council.
 - The enforcement notice was issued on 27 July 2017.
 - The breach of planning control as alleged in the notice is the change of use of the land from agricultural to a mixed use of agricultural, residential (C3), industrial (B2), and storage B(8) uses under the Town and Country Planning (Use Classes) Order 1987 as amended, by the:
 - 1) The siting of a mobile home and its residential use and occupation of the land, and
 - 2) The siting and storage of numerous vehicles, plant and machinery, and a considerable amount of rubble and salvaged building materials including stone, timber, ironmongery and hardcore on the land.
 - 3) The use of the land for the repair and maintenance of vehicles, plant and machinery.
 - The requirements of the notice are:
 - i) Cease the unauthorised residential occupation and use of the land
 - ii) Remove the unauthorised mobile home from the land.
 - iii) Remove from the land any materials, vehicles, infrastructure and other residential paraphernalia associated with the siting and residential occupation of the unauthorised mobile home.
 - iv) Cease the non-agricultural use of the land for the storage of all vehicles, plant and machinery, rubble and building materials.
 - v) Cease the non-agricultural use of the land for the maintenance and repairs of vehicles, plant and machinery.
 - vi) Remove all non-agricultural materials, vehicles, plant and machinery and restore the land to its former condition before the unauthorised use took place.
 - The period for compliance with the requirements is:

For i) and ii) – 6 months
For iii) – 7 months
For iv), v), and vi) – 12 months
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (c) and (d) of the Town and Country Planning Act 1990 as amended.
 - **Summary of decision: appeal dismissed, planning permission refused and notice upheld**
-

The site, background and relevant planning history

1. The appeal site is in open countryside comprising land that was formerly an open field of about 4.86 hectares with hedgerow boundaries and which has been divided by a series of earth bunds overgrown with vegetation. Part of the

- site adjacent to the highway is an open area but the majority of the appeal site is accessed from an ungated track located to the west of this open area.
2. At the time of my site inspection a wide variety of items were on the land including two mobile homes, several shipping containers (one of which the appellant claimed was used as an office and another contained filing cabinets), some seventy or so cars and vans, many commercial vehicles, plant, machinery, timber, rubble and salvaged building materials. A large mono-pitch open sided work shop had been constructed with one side that appeared to be constructed above a container. There were a number of haystacks covered in white sheeting and a variety of agricultural implements and machines.
 3. My impression of the site was that it had the appearance of a vehicle and machinery scrapyards or salvage yard with the majority of the items not having been operational for some time as indicated by the vegetation growing in and around them.
 4. In 2007 an appeal was dismissed for three dwellings, a workshop, covered yard and hay barn. (APP/R3325/A/06/2025222).
 5. In September 2014, it was determined that prior approval was not required for the erection of an agricultural building for the storage of hay/machinery. In August 2010 it was determined that prior approval was required for the erection of an agricultural building for the storage of hay and machinery. In August 2006 it was determined that prior approval was not required for the erection of a hay and machinery store. None of the buildings subject to prior notification has been erected.
 6. Enforcement investigations commenced in July 2012 following the construction of an access.

Appeal on ground (c)

7. An appeal on this ground is that there has not been a breach of planning control.
8. The appellant states that there is much agricultural machinery which is based on the farm which needs to be serviced and repaired regularly and this has happened since 2003. He states that there is also ground working and other machinery, diggers, etc, which although are used the majority of the time for 'diversionary' purposes, they are maintained in the same areas and workshops.
9. It is clearly evident from my site inspection that there is agricultural, residential and commercial/storage use taking place on the site. The siting of a residential mobile home, storage of large quantities of non-agricultural items, the maintenance of machinery and vehicles and the creation of earth bunds are either non-agricultural operations or are not considered to be reasonably necessary for the purposes of agriculture. Whilst the appellant refers to 'diversionary' purposes, I assume that this is a reference to farm diversification. Notwithstanding this, the extent of the non-agricultural use of the land is extensive and no planning permission exists for such uses. Additionally, the appellant has not provided evidence to demonstrate the scale of the agricultural engineering side of his activities is not significant in planning terms.
10. The appellant states that the accepted use of the farm is agricultural and as it is a working farmyard for several people, the mobile home serves as the only

toilet/bathroom/washroom facility; it is the allocated place for first aid; it is a heated rest room, needed in winter months; provides canteen and reception facilities to complement the adjacent farm office; and provides a 24/7 presence on site for security purposes.

11. There are two mobile homes on the site. The one that the appellant says has been lived in since 2012 and which he claims is a building by virtue of its attachment to the ground, was full of rubbish internally and can only be described as representing squalid living conditions. The other, which is not part of the allegation of residential use, is claimed by the appellant to be used occasionally by his son but it is not clear from the evidence whether this mobile home is the one used as a mess/rest room. Nevertheless, no permission exists for the residential use of the appeal site.
12. As no planning permission exists for the mixed use, the appeal on this ground fails.

Appeal on ground (d)

13. An appeal on this ground is that it is too late to take enforcement action against the matters alleged.
14. The appellant states that his original farmyard at Home Farm was subject to a Discontinuance Order and this had been subject to a public inquiry and challenge in 2000/2002. From 2004 to 2007, the family applied for 3 dwellings at Somertonfield Farm but was unsuccessful. The appellant says that whilst his family were moving to Somertonfield Farm from Home Farm, both sites were used to run their farm and other businesses for a while. Somertonfield Farm has been used for more than 10 years prior to the date of the notice, which was 27 July 2017.
15. The appellant also states that the mobile home was placed at Somertonfield Farm on 22 May 2012 and has been lived in without a break since that date. As the mobile home was moving in the wind it was concreted along the left and right hand chassis around Christmas 2012. He claims that it is no longer mobile it is a building and as it has been fixed for more than 4 years on 27 July 2017 it 'had established its planning permission'. The Council challenges the accuracy of these assertions based on their observations, photos and file notes made in February and June 2013 (appendices D, E and F of the Council's statement), which do not indicate any record of the provision of services or the permanent fixing of the mobile home to the ground.
16. I observed at the site inspection that the mobile home was sitting on a number of concrete blocks and that it had services connected. Its means of support did not appear to be significantly different to the normal siting of a mobile home and any concreting as claimed by the appellant was limited and would not, in my view, have prevented the moving of the mobile home as it could be picked up intact and placed on a lorry by crane or hoist. It had not achieved the characteristics of a building through size, permanence or physical attachment. In any event, s171B(2), which engages the four year rule would only apply if a change of use of a building to use as a single dwelling house had taken place. No such change of use has occurred in this case based on the statement of the appellant to the Council that the mobile home was used 4 to 5 nights as overnight accommodation (appendix E to the Council's statement) and that the use commenced in May 2012.

17. The stationing of the mobile home and its use for residential purposes represents a use of land to which s171B(3) applies where the period for immunity from enforcement action is ten years beginning with the date of the breach.
18. The Council opened its enforcement case in July 2012 when a new opening had been made for access and the addition of the non-agricultural plant and machinery and other items followed the siting of the mobile home. Before that time the use of the site had been for the purposes of agriculture.
19. Where legal grounds of appeal are made, the onus of proof rests with the appellant and the level of proof is the balance of probability. The appellant has not submitted any documentary or other evidence to show that a mixed use has been taking place without interruption for a period of 10 years prior to the serving of the enforcement notice or that the concreting of the chassis took place at Christmas 2012.
20. In the absence of unambiguous evidence to show that the period of immunity has been achieved, the appeal on this ground fails.

Appeal on ground (a)

21. The issues in the ground (a) appeal that planning permission should be granted for the unauthorised development are, firstly, whether there are any exceptional circumstances justifying the site of a mobile home used for residential purposes in open countryside or for the operation of a non-agricultural business; and secondly, the effect of the development on the character and appearance of the countryside.
22. The appellant claims that the mobile home has not only been lived in since 2012 but is also used as a mess hut and toilet facility although there is uncertainty to which mobile home is being referred to as the mess hut by the appellant. The residentially occupied mobile home is either one thing or the other. The only justification for its use for residential purposes appears to be for the provision of security but there is no evidence before me to justify this claim. Indeed, the site is not even gated or locked which indicates to me that the appellant could improve security without the need for residential occupation. Policy HG9 of the adopted South Somerset local Plan relates to housing for agricultural and related workers and sets out a number of criteria that need to be met if permission is to be granted but these have not been addressed. Similarly, the development fails to satisfy the National Planning Policy Framework 2018 (the Framework), which, at paragraph 79, sets out relevant considerations for the development of isolated homes in the countryside.
23. Paragraph 83 of the Framework supports the development and diversification of agricultural land-based rural businesses but as paragraph 84 indicates, development for business needs in rural areas should be sensitive to its surroundings.
24. The appeal site is in the open countryside that is characterised by open fields with hedgerows and a general absence of development. The appellant states that the banking /screening arrangements were put in place for security and the grass banks and foliage blends in better than walls or heavy fencing. In my view, the mounds are intrusive and uncharacteristic in this location.

25. The appellant considers that the diversionary activities make no difference to visual amenity and the location of the farmyard in the south west of the field makes it barely visible from any public access areas, except for the tops of buildings and the hay and straw stacks.
26. From my own observation, the appellant's claim that the agricultural presence (hay, straw, timber from forestry activities), and machinery takes up about 95% of the used space of the farmyard is completely incorrect. Just accounting for the areas occupied by the seventy or so vans and cars, which have no operational connection with the agricultural use of the site, a considerable area is taken up and this affects the character and appearance of the countryside, as does the open storage of reclaimed building materials, hardcore and rubble.
27. The visual impact of development can sometimes be reduced by sensitive and good design, screening and landscaping. This has not been achieved in the use of the land the subject of this appeal, nor could it realistically be achieved through the imposition of conditions.
28. I conclude that there is no essential need for the accommodation of a rural worker, no case has been made for the non-agricultural business use of the site and that the development adversely affects the character and appearance of the countryside.
29. For the reasons given above I conclude that the appeal on ground (a) does not succeed.

Other considerations

30. The appellant states that the loss of the family's diversionary activities necessary for income and the employment of at least 3 people would be a gross abuse of the Human Rights.
31. The protection of the public interest cannot be achieved by means which are less interfering with the appellant's rights. The requirements of the notice are proportionate and necessary in the circumstances and would not result in a violation of his rights under Article 8 of the European Convention of Human Rights.

Conclusions

32. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Decision

33. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

P N Jarratt

Inspector



Appeal Decision

Site visit made on 20 August 2018

by **JP Roberts BSc(Hons) LLB(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 September 2018

Appeal Ref: APP/R3325/W/18/3197808

**Land adjacent to Upton Bourn Lodge, Langport Road, Long Sutton,
Langport TA10 9NJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Gill Rickards against the decision of South Somerset District Council.
 - The application Ref 17/03020/FUL, dated 17 July 2017, was refused by notice dated 14 September 2017.
 - The development proposed is 4 no. detached dwelling houses with associated external works.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) whether the proposed development would provide a suitable site for housing, having regard to the proximity of services and facilities,
 - ii) the effect on the character and appearance of the surrounding area;
 - iii) the effect on the setting of Upton Cross, a Grade II listed building, and
 - iv) the planning balance.

Reasons

Suitability of the location

3. The site lies on the south eastern quadrant of the crossroads junction of two minor roads with the A372 Langport Road. It is on the western edge of a loose ribbon of built development extending from Long Sutton to the east. South Somerset Local Plan (LP) Policies SS1 and SS2 set out the settlement strategy for the district, focusing growth on Yeovil, four primary and local market towns, together with some specified forms of development in six rural centres. Long Sutton is not one of these settlements, and for the purposes of the policy it is treated as lying in the open countryside, where only development meeting exceptional criteria will be permitted.
4. I consider that the appeal site does not lie within the settlement; it forms an open field on the edge of an outlier cluster of development which forms a loose

ribbon of development along Langport Road. Even if that were not the case, the proposal would not fall within any of the specified circumstances where exceptions may be made to the presumption against new development, that is, development which provides employment opportunities appropriate to the scale of the settlement, or creates or enhances community facilities and services to serve the settlement or meets identified housing need, particularly for affordable housing. Accordingly, the proposal conflicts with Policies SS1 and SS2.

5. The Council is unable to demonstrate a 5 year supply of housing land, which indicates that Policies SS1 and SS2 are failing to provide the number of houses that the district needs. This means that they should be considered as being out of date, and that the presumption in favour of sustainable development that is engaged by Policy SD1 and paragraph 11 of the Revised National Planning Policy Framework (the Framework) has to be balanced against that conflict. I shall refer to this again below when dealing with the planning balance.
6. In terms of the site's accessibility, whilst there is a bus stop close to the site, local residents' uncontested evidence is that the services (other than school buses) have ceased. There is a footway on the northern side of the Langport Road, so that occupiers could walk to the facilities in Long Sutton, which include a primary school, shop, hall, church and public houses. However, these are up to 1.8km away from the appeal site, which I consider to be too far to offer a reasonable degree of accessibility for travel by foot. Public footpaths in the area do not offer significantly shorter distances, and their lack of surveillance, surfacing and lighting is likely to discourage their use by some, particularly in the dark or in bad weather.
7. I have had regard to the development referred to at Picts Hill, where the Council is said to have taken an inconsistent approach in respect of distance to facilities, but I do not have sufficient details before me to make an informed comparison. Whether other sites may be considered as being sustainable is a matter to be assessed in the round, and where accessibility is but one criterion, and each case needs to be examined on its merits.
8. The Framework does not set out specific accessibility criteria. Nevertheless in paragraph 129, dealing with design, it commends the use of design assessment frameworks, specifically referring to *Building for Life 12: The sign of a good place to live*. That document contains suggested acceptable walking distances, and indicates that the maximum preferred distance to a town centre is 800m, half the distance from the appeal site to the village shop. This reinforces my view that occupiers would not have satisfactory access to services and facilities other than by car. Thus, even if the site could be regarded as falling within the settlement, it would not satisfy the underlying objective of the settlement strategy set out in the explanatory text to Policy SS1, to guide development to the most sustainable locations and to reduce the need travel.

Character and appearance

9. The site is partially screened by trees, walls and other planting along the two roadside elevations. Whilst it is contiguous with the open fields to the south in the south-east corner of the site, the site makes little contribution to important landscape character, partly because of screening, but also because of the presence of built-development adjacent or close to its boundaries. The

proposal would result in the loss of a small pocket of open countryside, and whilst I acknowledge that the Framework requires that decisions should recognise the intrinsic character and beauty of the countryside, I consider that this small pocket makes little contribution to the attractiveness of the open countryside nearby.

10. In terms of the design and layout of the proposal, the four dwellings would all be large, four bedroom houses. Given the variety of designs nearby, including the modern glazing on the neighbouring Upton Bourn, I have no objection to a contemporary design. Whilst the form of the proposed buildings is suggestive of large barns, I consider that the replication of similar building types fails to reflect the diverse designs and arrangements of buildings nearby. Moreover, the layout, with four similar large buildings close to each other, in disproportionately small plots, and with two buildings close to the roadside boundaries, would appear as dominant, and would contrast with the more varied size and spacing of dwellings nearby. Rather than providing an appropriate transition to the open countryside to the west, the development would appear as overly suburban, with an insufficient landscaped buffer to Vedal Drove and the open field beyond.
11. I therefore find on the second main issue that the proposal would fail to respect the character and appearance of the surrounding area, and would conflict with LP Policy EQ2 which deals with general development and requires that development should be designed to promote local distinctiveness and preserve or enhance the character and appearance of the area.

The setting of Upton Cross

12. Upton Cross lies directly opposite the site, on the north side of Langport Road. It is a Grade II listed building, noted in the listing description as being a 17th century detached cottage of two storeys, built in cut and squared local lias limestone, with Ham stone dressings, with a thatched roof and brick chimneys. It records other features of interests such as the windows and thatched porch. The cottage has a wide frontage, with its principal elevation facing the road, and the appeal site beyond.
13. The Framework defines the setting of heritage assets as “the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”
14. Upton Cross is a large dwelling, which at the time it was erected would have been a property of some stature; its size and detailing, together with a large front garden are indicative of its quality. Its physical fabric, and its relationship to a nearby historic building, Upton Corner House and, as reflected in its name, its setting at a crossroads all contribute to its significance as a heritage asset. At the time of its erection, the building would have been the only dwelling at the crossroads, enjoying an open aspect on all sides. That setting has changed over the years, and the modern bungalow on the opposite side of Hermitage Road has reduced the prominence of Upton Cross. Even so, the appeal site forms part of the historic open rural setting to the building, which contributes to its significance.

15. I recognise that views from the site towards the cottage are impeded by a row of lime trees along the boundary of the appeal site, and to a lesser extent by more sporadic planting within the front garden of Upton Cross. Such views are likely to be more evident in winter when the limes are not in leaf, and because of the closeness of Unit 1 to the trees, and given the propensity of limes to exude sticky sap, there may be pressure to fell or lop them in the future.
16. Unit 1 would be a large dwelling with a two storey element close to the boundary which would be seen on the approach to the crossroads above the limes and the wall and roadside planting along Vedal Drove. I consider that it would compete with Upton Cross and diminish its significance as a heritage asset. In doing so, it would result in some small harm to its setting.
17. The harm would be, in the terms of the Framework, "less than significant". The Framework requires that such harm be weighed against the public benefits of the scheme. In this case, taking into account that the Council is unable to demonstrate a 5 year supply of housing land, there would be modest social benefits from the provision of 4 new houses. There would also be some small economic benefits arising from the construction and occupation of the new homes. Balanced against this is the small harm that would arise to the setting of the listed building. As there is a statutory obligation on decision-makers to have special regard to the desirability of preserving listed buildings and their settings, great importance is attached to protecting settings. In my judgement, the harm in this case would not be outweighed by the benefits.
18. I therefore conclude on the third main issue that the proposal would result in material harm to the setting of Upton Cross, which would not be outweighed by the benefits, and would conflict with LP Policy EQ3.

Other matters

19. The Council did not refuse the application on the basis that no provision had been made for affordable housing. Although the appellant suggests that the proposal would require the equivalent of one affordable house, no planning obligation has been provided to give effect to that intention. I have therefore not treated contributions towards affordable housing as a benefit in this case.
20. The appellant has referred me to a number of other developments in the locality and further afield. However, I have not been provided with full details of these permissions but it seems that none of them are wholly comparable with the current proposal, which I have dealt with on its own merits.
21. Local residents expressed concerns about highway safety, but I consider that the proposed access point, utilising an existing access, would have adequate visibility, and would not materially alter highway safety conditions.
22. I have had regard to residents' concerns about the possibility of the proposed homes being used for holiday accommodation, with resultant noise and disturbance. However, this prospect is an insufficient reason to dismiss the appeal.

Planning balance

23. Paragraph 11 of the Framework requires that where relevant planning policies are out of date, as in this case where a 5 year housing supply (and appropriate buffer) cannot be demonstrated, permission should be granted unless one of

two criteria are met. The first of these is where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, specifically including those policies which protect designated heritage assets. I have found that the harm that would be caused to the setting of the nearby listed building outweighs the public benefits of the scheme, and provides a clear reason for dismissing the appeal. Accordingly, the "tilted balance" of Paragraph 11 does not apply in this case.

24. I have had regard to the other benefits that would accrue from the development, including economic benefits from the construction and occupation of the homes, and putting the site to beneficial use but even cumulatively, these benefits do not outweigh the harm that I have found.

Conclusion

25. For the reasons given above, I find that the proposal would conflict with the development plan as a whole, and that the appeal should be dismissed.

JP Roberts

INSPECTOR



Appeal Decision

Site visit made on 11 July 2018

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 28th August 2018

Appeal Ref: APP/R3325/W/18/3199542

Land opposite Tinkabee Cottage, Little Norton, Norton-sub-Hamdon, Stoke-sub-Hamdon, TA14 6TE.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr D Hatton against the decision of South Somerset District Council.
 - The application Ref 17/04124/FUL, dated 12 October 2017, was refused by notice dated 29 January 2018.
 - The development proposed is for change of use of the land for the stationing of a log cabin and two shepherd huts.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use of the land for the stationing of a log cabin and two shepherd huts at Land opposite Tinkabee Cottage, Little Norton, Norton-sub-Hamdon, Stoke-sub-Hamdon, TA14 6TE in accordance with the terms of the application, Ref 17/04124/FUL, dated 12 October 2017, subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Mr D Hatton against South Somerset District Council. This application will be the subject of a separate Decision.

Procedural Matters

3. The site address used in the heading above has been amended from that given on the planning application form through addition of 'land opposite Tinkabee Cottage'. This is in order to fix the location of the site, and follows adoption of the same wording by both the Council and appellant.
4. The description of development above is that given by the appellant on the appeal form. This is the same as the description provided on the application form with the exception that unnecessary repeated words are omitted.
5. With regard to the development proposed, and as explained by the appellant, the 3 units of holiday accommodation proposed fall within the legal definition of 'caravan' – albeit the cabin might also be described as a 'mobile home'. As such the use of the site would be as a 'caravan site'. In my reasons below I have therefore referred the proposed units as caravans and further differentiated the cabin from the huts through use of the term 'static caravan'.

6. The Revised National Planning Policy Framework came into force during the course of the appeal. The parties have been given the opportunity to comment on the implications of the guidance on the appeal and I have also taken it into account in determining the appeal

Main Issue

7. The main issue in this appeal is the effect of the change of use on the character and appearance of the area, with particular regard to traffic, noise and visual impact.

Reasons

8. The site is a field located on the edge of the hamlet of Little Norton, and is currently in use as a smallholding. A stream runs along the southern edge of the site, and other boundaries are lined by a mixture of vegetation including some areas of overgrown and patchy hedging. A lane runs to the north of the site and access road to the east, part of which is followed by a public footpath. The immediate setting has a rural character and comprises agricultural land, paddocks and domestic gardens within which various structures are visible, an orchard and woodland.
9. No substantive evidence regarding the prevailing noise environment or levels of activity in the area has been provided, including evidence relating to current volumes of traffic on roads in the area. I observed however that the site lies a short distance from a road to the top of Ham Hill, a local visitor attraction, and therefore I anticipate that it sees a reasonable level of use. The narrow lane on which the site itself lies is a no-through road, but it connects to accesses which serve properties to the east. During the period of my morning visit I noted several vehicles using the lane. Whilst accepting that this is only a snap shot in time, there is no substantive evidence before me which leads me to consider that the lane does not see regular use by vehicles, albeit at very low volume.
10. Though vehicles already use the lane to access the site, the proposed change of use would lead to a regular increase in vehicles using the lane. However the traffic likely to be generated by 3 caravans would be minimal and would vary throughout the year with site bookings. As such the overall volume of traffic would remain low, as too would the noise it generated. This would not in my view have an adverse effect on the character of the area.
11. A certain level of noise would be generated by vehicles and visitors within the site itself. Noise generated from the type of accommodation proposed might occasionally include that produced by children playing outside, and by other outdoor social activities. I noted during my visit that the site was being relatively intensively used, including the manoeuvring of vehicles within the site boundaries and management of livestock, this giving rise to noise clearly audible beyond the site. I also noted the reasonably close proximity of the site to dwellings both to east and west, within the curtilages of which similar activities to those likely to take place on the site could also occur. I consider therefore that whilst the type of noise might differ between proposed and existing uses of the site, the change would not take place within an environment which is currently lacking in noise, or within one where the type of noise generated would seem entirely alien. The noise would also be limited by the small number of caravans, their distribution across the site and the somewhat weather-dependent nature of the potential outdoor activities that

- might give rise to noise. As such I consider that noise generated within the site by the change of use would again not have an adverse effect on the character of the area.
12. Views into the site are currently limited due to growth of mixed vegetation along the boundaries, and by domestic fence panels. I consider that the latter have a generally adverse visual impact on the rural character of the setting. Some seasonal variation in the quality of screening can be anticipated. As it seems likely that lowering the proposed static caravan into the site by crane would require trimming of the adjacent bushes, screening of the site would be reduced further. As such, and given that the layout would see the 3 caravans positioned directly adjacent to the north boundary, I consider it likely that they would be visible from the lane for large parts of the year. The duration of this potentially adverse visual impact could be reduced and otherwise mitigated by the improvement and future maintenance of the boundaries. In view of their current condition this could itself bring some local visual enhancement. Works to the boundaries could be secured by an appropriate landscaping condition.
 13. Both parties have described or made reference to the various 'paraphernalia' associated with the current smallholding use that the site contains. I observed that structures, fencing, and various other materials are indeed distributed across the site and its boundaries, and include the panels noted above. The removal of such paraphernalia from the site is advanced as a benefit of the scheme by the appellant in the appeal statement, and I agree. Whilst removal of such paraphernalia could take place in the absence of a change of use, there is no particular reason to consider that this would occur. In my view this would however be necessary in order for the site to be suited to the use proposed, and for the use itself to succeed. The benefit could again be secured, along with specific details of the layout and landscaping of the site, by a suitably worded condition.
 14. The Council's objection to the change of use on the basis of its 'materials' is not fully developed or specifically explained, though the Council's appeal statement does include a reference to paving. Where new hard surfacing is required this could again be subject to agreement through use of a landscaping condition, and use of a suitable and sensitive finish could therefore be secured. In terms of the caravans themselves, I noted that timber cladding is a feature of a number of outbuildings visible in adjacent fields. In this context use of similar materials would not appear to be at odds with the setting.
 15. Proximity of the site to Little Norton Conservation Area (the conservation area) has been highlighted. I noted that the boundary of the conservation area is tightly drawn around a former mill, and otherwise excludes a large proportion of its immediate developed setting. Though the dwelling along the lane to the west of the site is included, most of its garden and the adjacent field which abut the site are not. The Council indicate that the closest part of the conservation area boundary to the site is around 60 metres away, and this comprises a linear extension of the boundary along the mill stream. The mill itself is some distance away, and no obvious relationship between the site and mill appear to exist aside from the fact that the same watercourse appears to run along the southern boundary. In view both of lack of current relationship, and given my findings above, the scale, layout and materials involved in the proposed use would have no direct or indirect effect on the setting of the conservation area.

16. I find that the development would therefore be in accordance with Policy EQ2 of the South Somerset Local Plan 2006-2018 (SSLP) which seeks other things high quality development that preserves or enhances the character and appearance of the district.

Other Matters

17. There is some dispute between the parties regarding whether or not the proposed change of use would represent farm diversification. In this regard I find that the application does not appear to meet the requirements of Policy EP5 of the SSLP, which addresses farm diversification. Nonetheless, and withstanding third party comments regarding need, the view expressed in the officer report that that the economic case presented with the application is "sufficiently robust", appears to be unchallenged. The Council's appeal statement again reiterates the economic benefits of the scheme, and despite appearing to also offer the somewhat contradictory view that harm to the character of the area would affect a cornerstone of the economy, the Council's refusal does not note non-compliance with Policy EP8 of the SSLP, which seeks to sustain the vitality and viability of tourism in the district, as a reason for refusal.
18. Use of the site by disabled visitors forms an important aspect of the appellant's business case referenced above, and some discussion regarding suitability has been raised by third parties. With reference to the Public Sector Equality Duty contained in the Equality Act 2010 (the EA 2010), I have had due regard under Section 149 of the EA 2010 to the requirement to take steps to meet the needs of persons who share a protected characteristic. The EA 2010 defines disability as one such characteristic. Whilst the details provided with the application do not fully explore what is meant by disabled in this context, the design details do not illustrate how the site or static caravan would be made fully accessible. For example, details of ramp provision are lacking, the double doors serving the static caravan do not provide a single door opening width adequate for wheelchair access, and the bathroom facilities do not appear to be fully accessible. In my opinion allowing the appeal without ensuring that these matters are properly addressed could prejudice the needs of persons sharing a protected characteristic. I am satisfied however that these points can be addressed by use of a condition requiring details of measures to be taken to ensure accessibility.
19. Third parties raise drainage issues and the potential for flooding of the site, however again no specific evidence has been provided. Given the topography of the site and its classification with Flood Zone 1, I find no particular reason to disagree with the Council's assessment of flood risk set out in the officer report. It would however be appropriate to apply conditions to the scheme requiring agreement of measures to be taken to deal with surface water drainage and sewerage requirements of the development to ensure that adverse effects arise.
20. Concerns have been raised regarding possible permanent occupation of the site, and reference has been made to the existing presence of caravans. Whilst I have no information regarding the lawfulness of the caravans currently on site, and it is not the purpose of this appeal to address the matter, I am satisfied that use of the proposed caravans solely as holiday accommodation could be secured by condition.

Conditions

21. I have applied conditions setting the time limit for implementation and listing the approved plans for sake of certainty. I have also applied conditions requiring details of landscaping works, highway access, drainage, sewerage and parking provision notwithstanding the limited information provided during the Council's consideration of the planning application. This is in order to ensure that the site can be safely accessed and used by visitors, to ensure that no adverse impacts to local drainage arise, that no adverse impact on the locality arises from external light sources, and that the site is appropriately screened and laid out, delivering the enhancement of the site proposed. I have combined conditions and modified wordings provided by the Council where applicable, applying standardised wording where available.
22. I have applied further conditions limiting the number, type and siting of caravans to be stationed on the site to those specifically proposed, and strictly limiting use of the caravans to that of holiday accommodation. This is in order to ensure limitation of the scope of the permission, avoiding potential for intensification over and above that which I have considered acceptable within the context of this appeal. It is also necessary in order to avoid alternative residential uses, the suitability of which have not been scrutinised. I have used the Council's suggested condition with minor amendments.
23. Rather than prohibit the use of generators as suggested by the Council, I have applied a condition requiring details of the measures to be taken to supply power to the site in order to ensure that appropriate facilities are provided, and whose provision would have no adverse impact on the setting.
24. I have not applied the Council's suggested condition terminating the approved use when not required for holiday lettings as it is unclear what the use of site would revert to. I have however included a condition requiring removal of the caravans once no longer required for an approved use, to avoid them cluttering the site.
25. In view of my finding with regard to the Public Sector Equality Duty, and the intended use of the site by disabled persons, I have applied an additional condition requiring details of measures to be taken to facilitate access to and movement around the site, including use of the static caravan accommodation. This will ensure that the needs of disabled visitors are met.

Conclusion

26. For the reasons set out above, and with regard to all other matters raised, the appeal is allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan 1:2500; block/site plan 130x130 showing turning area; block/site plan 90x90 showing visibility splays; Plan 001: shepherd hut; log cabin plans v2r0: impression view, foundations plan, ground floor plan, section, elevations, impression ground floor.
- 3) No more than 3 caravans, one of which is static, shall be stationed on the site at any time. These must be positioned in the locations identified on the approved plans, and be of the same design as those shown on the approved plans.
- 4) The occupation of the units of the caravans hereby approved shall be restricted to bona fide holidaymakers, none of whom shall occupy the units for a period in excess of 3 months in any calendar year without the written approval of the Local Planning Authority. None of the units shall at any time be occupied independently as any person's sole or main place of residence. The owners/operators shall maintain an up-to-date register of the names of occupiers of the units, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.
- 5) Once no longer required for the use hereby approved, the caravans shall be permanently removed from the site within one year of the approved use ending.
- 6) Notwithstanding any information in the submissions, no development shall commence until details of the hard and soft landscaping of the site have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) vehicular access, parking and turning layouts, platforms, pedestrian pathways, and seating and circulation areas, including details of their proposed finished levels, construction and surfacing;
 - ii) earthworks and water features including details of any changes to levels;
 - iii) a survey of existing hedges and trees, indicating those to be retained and measures to be taken for their protection during the course of the development;
 - iv) means of enclosure, including gates and boundary treatments, and details of measures to improve boundary planting;
 - v) other planting;
 - vi) minor artefacts and structures including bin storage facilities;
 - vii) external lighting.

Landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use, and shall thereafter be retained.

- 7) Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or

diseased shall be replaced in the next planting season with others of similar size and species.

- 8) Notwithstanding any details included within the submissions, no development shall take place until a scheme indicating the measures to be taken to enable disabled persons to gain access to and around the site, including measures to facilitate access to and use of the static caravan, has been submitted to and approved in writing by the local planning authority. The agreed scheme shall be implemented before the static caravan is brought into use, and shall be retained thereafter.
- 9) No development shall take place until details of the means by which the site will be supplied with power and works required to achieve this have been submitted to and approved in writing by the local planning authority. The approved power and water supply arrangements will be maintained thereafter, and no other arrangements made.
- 10) Notwithstanding any details included within the submissions, no development shall take place until arrangements for the disposal of foul and surface water have been submitted to and approved in writing by the local planning authority. None of the caravans hereby permitted shall be occupied until the approved arrangements have been implemented, and they will be maintained thereafter.



Costs Decision

Site visit made on 11 July 2018

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: **28th August 2018**

**Costs application in relation to Appeal Ref: APP/R3325/W/18/3199542
Land opposite Tinkabee Cottage, Little Norton, Norton-sub-Hamdon,
Stoke-sub-Hamdon TA14 6TE.**

- 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 D Hatton for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of the Council to grant planning permission for change of use of the land for the stationing of a log cabin and two shepherd huts.
-

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. The applicant claims that the Council has acted unreasonably in failing to give adequate reasons for refusal, and failing to determine similar cases in a consistent manner. Both are issues the PPG states can result in a substantive award of costs.
4. The applicant notes that the planning application was subject to negotiation and that that the Council's officer recommendation was for approval. However the Council is not bound by the recommendations of its officers, and so was entitled to take a contrary view in refusing the planning application. Nonetheless the applicant had a reasonable expectation that this contrary view would be fully explained.
5. The decision notice lists refusal of the planning application on the basis of scale, layout, materials, and failure to respect the rural character, appearance and general amenity of the area. The Council's appeal statement provides the source of further explanation, and identifies 3 main elements that would contribute to the alleged harm the development would cause.
6. Firstly, the appeal statement identifies visual harm due to the introduction of units of accommodation, paving, ancillary paraphernalia, parked and manoeuvring vehicles. As such the statement contradicts the Council landscape officer's observations that that the site is relatively unobtrusive, the proposed use low-key, and that the development could apparently be considered

acceptable within its landscape setting subject to restriction of lighting and maintenance and management of hedgerows. No explanation for this contradiction is provided within the Council's appeal statement, and in view of the mitigation measures recommended, no detailed identification of where, and specifically why visual harm would arise from the development within its setting is given. As such I agree with the applicant that the finding of visual harm is unsubstantiated and based on assertion rather than evidence.

7. Secondly, the appeal statement identifies harm to the character of the area due to increased traffic, activity and noise, and later implies an adverse economic effect to the rural economy on this basis. The Council's decision notice does not however conclude against development plan policies addressing economic development. Whilst the Council describes the rural character and tranquillity of the locality, and low levels of use of the lane, it does not substantiate its conclusion of harm through a clear comparative analysis of current and projected vehicular movements, or current and projected noise. The Council's statement that the site is currently 'just agricultural land' furthermore fails to acknowledge its current use as a smallholding and the vehicular movements and noise generated as a result of this use. As such the Council's findings of adverse impact again appear to be asserted rather than clearly quantified or evidenced.
8. Thirdly, the appeal statement identifies harm to the character of the area on the basis of the scale of the development. This is principally due to noise and visual impact, the first and second grounds dealt with above. Insofar as the Council indicates that the development is 'needlessly large', there is no explanation of the relevance or context within which 'need' has been judged.
9. In addition to the above the Council's decision notice specifically references 'materials', a further visual effect, however the Council's appeal statement does not directly address this point and provides no clear indication of why the materials indicated in the application, and which materials in particular are objectionable.
10. The applicant also claims that the Council failed to determine the planning application consistently, but, notwithstanding the discussion above, I generally agree with the Council's view that it is appropriate to assess the effects of development on the character and appearance of an area on a site specific basis. Whilst the applicant submitted a list of previous permissions as part of appeal submission, limited supporting information was provided, and no details of past refusals were included. I also note that the sites are not located in the immediate vicinity of the appeal site and that as such the effects and considerations are unlikely to have been identical. I conclude therefore that inconsistency in the Council's decision making has not been proven.

Conclusion

11. Though I do not agree with the applicant's claim for costs on grounds that the Council failed to determine planning applications consistently, I agree that the Council failed to adequately substantiate its reasons for refusal, relying on assertion or omitting explanation entirely, and that in this regard acted unreasonably.
12. With particular regard to the fact that the planning application had been subject to detailed negotiation, and that its approval was recommended by

officers, I also conclude that the applicant incurred unnecessary or wasted expense in mounting an appeal. Notwithstanding the Council's right to reach a contrary decision to that recommended by its officers, the reasons for refusal of the planning application set out in the Council's appeal statement did not demonstrate that the development would be inconsistent with development plan policy.

13. As such a full award of costs is justified.

Costs Order

14. 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 D Hatton, the costs of the appeal proceedings described in the heading of this decision.

15. 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Benjamin Webb

INSPECTOR

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 3.50pm.

Members of the public who wish to speak about a particular planning item are recommended to arrive for 3.45pm.

| SCHEDULE | | | | | |
|---------------|-------------|--------------|---|--|---------------|
| Agenda Number | Ward | Application | Brief Summary of Proposal | Site Address | Applicant |
| 13 | BURROW HILL | 18/01927/FUL | The erection of 5 dwellings. | Land south of Giffords Orchard, Stembridge, Martock. | Mr R Stuckey |
| 14 | ISLEMOOR | 18/00984/FUL | Alterations and conversion of former Public House into 3 residential flats and 1 dwelling and the erection of 2 dwellings with car parking and ancillary works. | Barn Owl Inn, Westport, Langport. | Mr R Westlake |

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

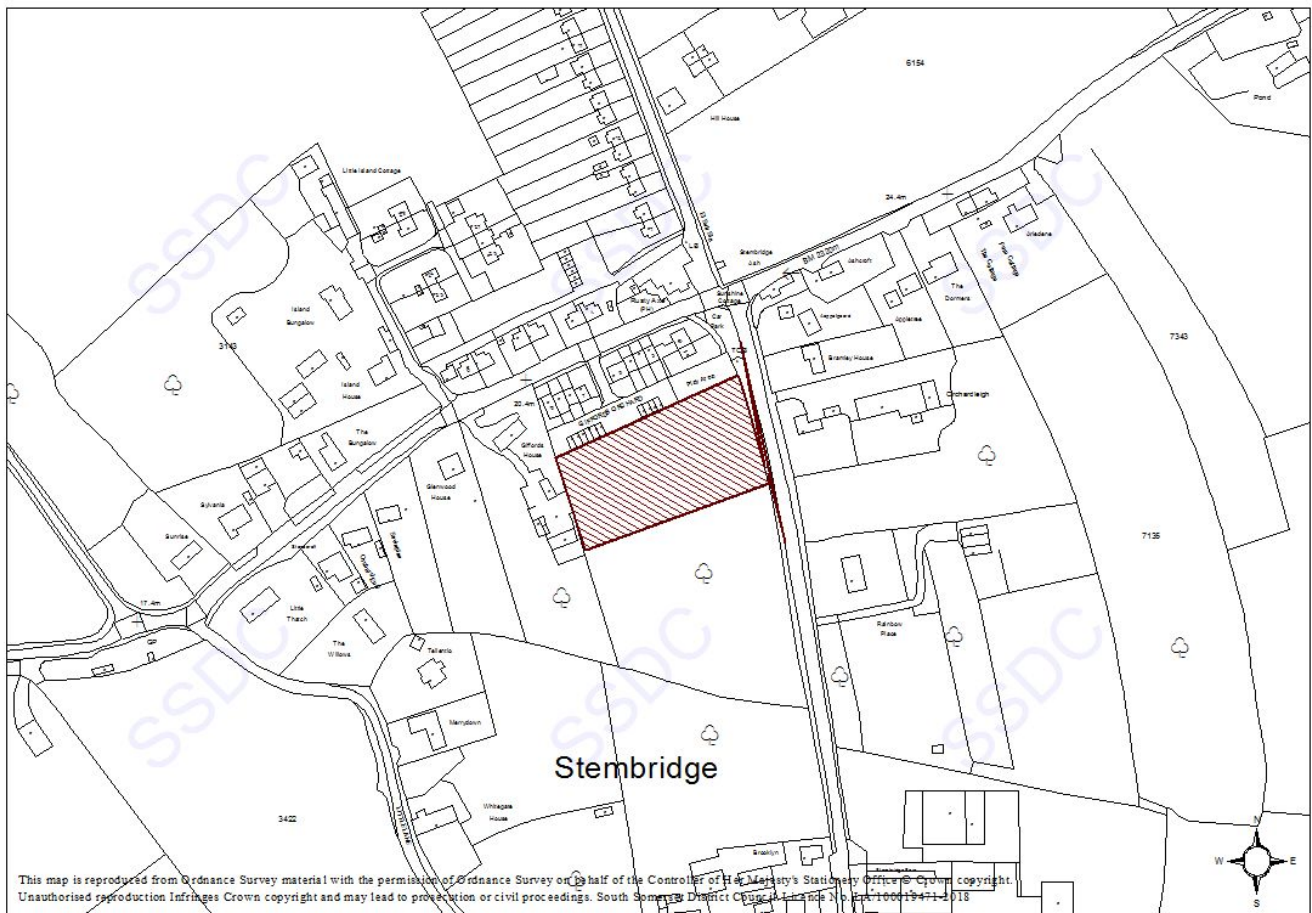
Officer Report On Planning Application: 18/01927/FUL

| | |
|---------------------------------------|---|
| Proposal : | The erection of 5 dwellings. |
| Site Address: | Land South Of Giffords Orchard, Stembridge, Martock. |
| Parish: | Kingsbury Episcopi |
| BURROW HILL Ward (SSDC Member) | Cllr Derek Yeomans |
| Recommending Case Officer: | John Millar Tel: (01935) 462465 Email: john.millar@southsomerset.gov.uk |
| Target date : | 14th August 2018 |
| Applicant : | Mr R Stuckey |
| Agent: (no agent if blank) | Mrs Helen Lazenby, Clive Miller Planning Limited, Sanderley Studio, Kennel Lane, Langport TA10 9SB |
| Application Type : | Minor Dwellings 1-9 site less than 1ha |

REASON FOR REFERRAL TO COMMITTEE

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

SITE DESCRIPTION AND PROPOSAL





The application site is located in the northern part of an existing farmed orchard to the north of the village of Stembridge, and to the west of Kingsbury Episcopi. It is just to the south of the Rusty Axe Inn, close to the junctions of Folly Road, New Cross Hill, Stembridge and Hill Drive. There is relatively dense development to the north of the application site, with the 1970s Giffords Orchard housing development immediately to the north, with other development in depth in the vicinity, particularly of Stembridge, the road to the north. There is lower density, linear development to the east and south. The part of the orchard that contains the application site has been cleared of trees, however the remainder stretching approximately 200m to the south, has recently been served with a Tree Preservation Order.

The application is made for the erection of 5 dwellinghouses in a row to the south of Giffords Orchard. The proposed dwellings would comprise three 3 bedroom and two 4 bedroom properties, of which there would be three detached units and a pair of semi-detached. It is proposed to construct the properties from a mix of natural stone and timber cladding, with double roman roof tiles. Access is sought from New Cross Hill.

HISTORY

None

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, SS1, SS2, SS4, SS5, TA5, TA6, EQ1, EQ2, EQ4, EQ5

National Planning Policy Framework
Chapters 2, 4, 5, 8, 9, 12, 14, 15

National Planning Practice Guidance
Design, Natural Environment, Rural Housing, Planning Obligations

Policy-related Material Considerations
Somerset County Council Parking Strategy (September 2013)
Somerset County Council Highways Development Control - Standing Advice (June 2017)

CONSULTATIONS

Parish Council: Object for the following reasons.

1. Storm water - The site location dictates that all storm water will run down the hill to the South of the site into Little Lane. Although the highway drainage was updated down the hill a couple of years ago it still does not cope well with heavy rainfall and Little Lane itself floods regularly within hours of a heavy downpour, leaving Little Lane impassable. Storm water from the roofs of five new properties together with car port roofs can and will exacerbate flooding in Little Lane.
2. Residential impact - It is felt that residents in Giffords Orchard and Beech House will lose some privacy if these properties are built and although the proposed new properties may gain the views of the orchard this is at the detriment of the existing properties in Giffords Orchard, who have enjoyed these views for years.
3. SS2 Development in Rural Settlements - Housing should only be permitted in rural settlements that have key services. Stembridge has one public house. Kingsbury Episcopi has one public house, two churches, a recreation ground which now has a community centre and shop, but as there is no pavement between Stembridge and Kingsbury Episcopi this will inevitably add to more vehicle movements to access them. The Primary School is within walking distance, but again there are no pavements and at this time there is no capacity for more children, they are being turned away, and as these houses could well be occupied by families again this will mean more vehicle movements to transport the children to other schools. These properties are not affordable housing, they are not for present or future generations from this area and it is highly unlikely they would be purchased by local people because of the price.
4. Infrastructure - Broadband speeds are still very slow, despite a new box being installed in Stembridge, water pressure is already low, does the mains sewerage have capacity for five large dwellings and mobile phone coverage is very poor, five more large dwellings will put a further strain on all of these services.
5. Parking - Although each property has a car port and parking spaces, in reality there is never enough parking and inevitably the side of road will be where vehicles will park, including the entrance into the development.

SCC Highway Authority: The proposal is for the development of five new dwellings on existing agricultural land (formally an orchard) in Stembridge, with access from New Cross Hill, a classified un-numbered road.

The Highway does not object to this proposal, as explained below, but does recommend a number of conditions be imposed on any planning consent.

The 5 houses would be expected to generate between 30 and 40 vehicle trips per day, which would not have a material impact on the existing highway network at this location, The Highway Authority therefore does not object to the principle of this development.

The optimal parking provision for this site as set out in the adopted Somerset County Council Parking Strategy (SPS) for a residential development in a Zone B area such as this location is: (14-15 spaces for this proposal).

The proposed overall parking provision of 18 spaces for the 5 dwellings is therefore somewhat in excess of the optimum provision. However, the Highway Authority would in this case wish to ensure that sufficient car parking is provided within the site boundary, to reduce the risk of cars parking on the existing classified road. With this in mind, the Highway Authority raises no objection to the levels proposed.

The Planning Statement refers to the provision of a garden store for cycles, and a condition should be included to provide one secure cycle parking space for each bedroom provided. In addition, electric vehicle charging facilities should be provided as required under the SPS.

The access is within an existing 30mph speed limit, and the applicant has demonstrated that appropriate visibility (being splays of 2.4m by 43m) can be achieved. As access is from a classified road, vehicles must be able to turn within the site to egress in forward gear, and this has been demonstrated by the applicant. The Highway Authority would therefore not object to the proposed access to the public highway, subject to the imposition of a number of conditions to control implementation.

It is noted that the applicant has stated on the application form that the development would create new public roads within the site. However, from the plans and supporting information provided, this would appear not to be the case, and the internal layout has been assessed on the assumption it is to remain in private ownership. If this is not correct, the applicant should confirm which areas are to be offered for adoption.

However, the applicant should be aware that the proposed development may create a private 'street' and as such the Advance Payment Code may apply. If planning consent is granted it may subsequently be possible for the developer to apply for an exemption under Sections 219 to 225 of the Highways Act 1980, providing the applicant can demonstrate satisfactory and enforceable long term arrangements have been made for securing the future maintenance of the road.

With the above in mind, the Highway Authority does not object to this application but recommends that the following conditions be imposed if planning permission is granted:

SSDC Highway Consultant: Refer to SCC comments.

Wessex Water: Wessex Water have raised no objections to this application. Further comment is made in which it is advised that additional runoff created by new roofs and driveways should not increase the risk of flooding. It is suggested that the proposed disposal of surface water via soakaways is acceptable subject to the final agreement of details by the Local Planning Authority. It is also advised that there is a main foul sewer to the east of the site. Advice is given in respect to making new connections for drainage and water supply.

Natural England: No objection.

SSDC Ecologist: No comments or recommendations to make.

Tree Officer: No objection, however has requested a suitable condition to ensure that no damage occurs to the adjoining protected orchard.

REPRESENTATIONS

12 letters of objection have been received from 9 local residents, with concerns raised in the following areas:

- Approval would set a precedent for further development of the orchard.
- The scheme will increase the risk of flooding as existing roadside drainage is inadequate, and the road floods regularly.
- Impact on residential amenity, particularly overlooking of properties and gardens to the east and north.
- Loss of outlook from existing properties.
- Adverse impact on local landscape character, and associated harm to the rural context of the locality.
- Insufficient parking, which is likely to lead to parking on the public highway.
- The site is unsustainable, and the proposal does not comply with the requirements of Local Plan policy SS2, specifically meeting an identified local need and having reasonable access to services.
- Local infrastructure is insufficient i.e. low broadband speed, poor mobile phone signal and no mains gas. Also the local primary school is at capacity.
- Loss of commercial apple orchard.
- Insufficient local consultation has taken place.

1 letter of support has been received on the basis that the proposal will help support village life.

CONSIDERATIONS

Principle of Development

The site is located at the northern edge of Stembridge, close to the public house and a short distance from the local primary school. It is also relatively close to the other services available in the adjoining settlement of Kingsbury Episcopi. Policy SS1 (Settlement Strategy) of the Local Plan highlights the areas where new development is expected to be focused, grouping certain towns and villages into a hierarchy, of settlements including the Strategically Significant Town (Yeovil), Primary Market Towns, Local Market Towns and Rural Centres. All other settlements, including Stembridge and Kingsbury Episcopi, are 'Rural Settlements', which policy SS1 states "will be considered as part of the countryside to which national countryside protection policies apply (subject to the exceptions identified in policy SS2. Policy SS2 states:

"Development in Rural Settlements (not Market Towns or Rural Centres) will be strictly controlled and limited to that which:

- Provides employment opportunities appropriate to the scale of the settlement; and/or
- Creates or enhances community facilities and services to serve the settlement; and/or
- Meets identified housing need, particularly for affordable housing.

Development will be permitted where it is commensurate with the scale and character of the settlement, provides for one or more of the types of development above, and increases the sustainability of a settlement in general. Proposals should be consistent with relevant community led plans, and should

generally have the support of the local community following robust engagement and consultation. Proposals for housing development should only be permitted in Rural Settlements that have access to two or more key services listed at paragraph 5.41 (i.e. local convenience shop, post office, pub, children's play area/sports pitch, village hall/community centre, health centre, faith facility, primary school)."

Usually applications in locations such as this would be considered against the settlement strategy contained within Local Plan policies SS1 and SS2, however the Local Planning Authority are currently unable to demonstrate a five year supply of housing sites. As such, development proposals should be considered in the context of the National Planning Policy Framework, which states that these policies should be considered out of date, as they are relevant to the supply of housing. In such circumstances, the main consideration will be whether any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

As a starting point, in the current policy context, Stembridge is a settlement that does contain at least two of the key services listed in paragraph 5.41 of the Local Plan and therefore is considered to be a generally sustainable location, in terms of policy SS2. Specifically there is a public house and primary school. There is also another public house, church, village hall, shop and recreation ground within the adjoining village of Kingsbury Episcopi. It is also noted that there are some bus services operating locally that stop outside of the Rusty Axe public house, a short distance to the north. Taking this into account, and noting the lack of 5 year land supply, it is considered that the development of this site for residential purposes could be acceptable in principle, subject of course to the assessment of other appropriate local and national policy considerations, to determine whether there are any adverse impacts that would significantly and demonstrably outweigh the benefits.

It is noted the objections have been raised in respect to the sustainability of the location, particularly the fact that the school, and nearby services in Kingsbury Episcopi can only be accessed by a walking along an unpaved road. This is acknowledged, however in terms of SS2, and the need to have access to at least 2 local services, the public house is easily accessed from the site, and while not ideal, the school is a relatively short distance, and is usually accessed by car, or by walking along this section of road. It is also noted that there have been other consents granted in the Stembridge area in recent years.

Scale, Design and Appearance

The proposed development comprises two 4 bedroom houses and three 3 bungalows, of which three would be detached, and two semi-detached. The proposed layouts spreads developed form east to west across the northern part of the site. In terms of overall development pattern this is unusual, with local development mainly of linear type, however the site is immediately south of Giffords Orchard, and 20th century housing development, as well as being south of other similarly aged housing where development in depth is particularly prevalent. The proposed houses, in terms of design, scale and materials are considered to be acceptable and adequately respect the character of the immediate surroundings.

Particular concern has been raised about the impact on the viability of the remainder of the orchard, and the potential for further development. This is noted, and has been given consideration by the Local Planning Authority. In particular the orchard extending some 200m south, with the exception of the application site, where trees have been removed, has had a Tree Preservation order imposed on it. The confirmation of this order should give reassurance that additional protection is in place to ensure that further spread of development can be sufficiently controlled. The LPA would have concerns about further development spread southwards, however the proposal as submitted is not considered to have an unacceptable detrimental impact in this regard. Furthermore, the retention of the orchard is seen as key to reducing the impact of the development, and helping to preserve the rural setting between the parts of Stembridge around the site, and further to the south.

Overall, the proposed development is considered to be acceptable from a visual perspective.

Residential Amenity

Concerns were raised by neighbouring residents in Giffords Orchard, to the north, and from Beech House, to the east. In both cases, objections are raised in respect to overlooking, with concern that both the houses themselves, and private gardens will be overlooked. In first considering Beech House, there would be views from plot 1 of the proposal site towards this adjoining dwelling. Notwithstanding this, the distances between the properties would be in excess of 27 metres, which is well over the distances that would be considered to cause unacceptable harm to residential amenity. In this case, the combination of distance, orientation and the fact that the site is separated by the main road do lead to the conclusion that while there may be a degree of overlooking toward this neighbouring property, it would not be reasonable to recommend refusal on the basis of unacceptable harm. Similarly, the properties to the rear are separated by a parking court, with back to back distances between the properties of nearly 32 metres, and approximately 24 metres from the rear of the proposed dwellings to the rear gardens of the Giffords Orchard properties. Plot 5 does come close to the western boundary of the site, abutting the garden of Giffords House. Nonetheless, there are no openings proposed in the west facing elevations.

In respect to overbearing impact, and the possibility of overshadowing, the distance between the proposed properties, and existing dwellings is such that no additional harm is considered to be identified in this respect.

Highway Safety

In assessing highway safety, the County Highway Authority have commented, raising no objections. It is noted that the site can accommodate the appropriate visibility splays, along with parking and turning space. Despite concerns from the Parish Council and local residents in respect to the number of parking spaces proposed, the 18 indicated on the submitted plans are actually in excess of the optimum standards set out by the Highway Authority's Parking Strategy, these being between 14 and 15 spaces. Additionally matters such as providing a properly consolidated surface, drainage to prevent surface water runoff onto the public highway, can be secured by condition.

There are a number of highway conditions requested, not all of which are considered relevant. These conditions will be assessed for reasonableness and imposed accordingly. On this basis, it is considered that the proposal would be acceptable from a highway safety point of view.

Drainage

Concerns have been raised about localised surface water flooding, and the connection of the site to existing foul sewerage provision.

In respect to foul water, Wessex Water have raised no objection, noting that there is a public foul sewer running along the main road, to the east of the site. Clearly, the developer would have to agree appropriate means of connection to existing sewers and water supplies, however Wessex Water have provided details of how to apply for connection to the public system. At this stage there is no reason to assume that connection is not possible, however should this not be able to take place, there are several other options available, however these would ultimately be assessed and dealt with at Building Regulations stage. In this respect, any foul drainage approach will have to be compliant with the appropriate Building Regulations, and any other relevant non-planning legislation.

In considering surface water runoff, the concerns about local flooding are acknowledged, and as such the final drainage systems will need be appropriately addressed. The applicant will have to demonstrate that the final scheme can suitably accommodate any additional surface water runoff, however it is not considered that this could not be achievable. The applicant will have to investigate the ability of land to use infiltration techniques such as soakaways, however should this not be possible, the site is considered large enough to be able to accommodate alternative attenuation measures, as appropriate.

It is considered that an appropriate drainage scheme can be required by condition. It would be unreasonable to expect the drainage scheme to deal with localised flooding issues, however it would certainly have to accommodate any additional runoff generated from this site, and contain it to avoid runoff onto adjoining land.

Ecology

The Council's Ecologist has considered the proposal and raised no objections. Incidentally, all trees on the application site have been felled, however the wider orchard will be unaffected by the development, with additional protection afforded by the recent serving of a Tree Preservation Order.

Other Issues

As of 3rd April 2017, the Council adopted CIL (Community Infrastructure Levy), which is payable on all new residential development (exceptions apply). Should permission be granted, an appropriate informative will be added, advising the applicant of their obligations in this respect.

Conclusion

The proposed development is considered to be acceptable. The design, scale and appearance of the properties are considered to respect the character of the area and will sit appropriately within the local rural setting. It is considered that the proposal will not unacceptably harm to residential amenity, and there will be no adverse impact on highway safety.

RECOMMENDATION

Approve with conditions

01. The proposal reason of size, scale and materials, is acceptable as it respects the character of the site and its surroundings, and has no detrimental impact on local ecology, local flood risk, residential amenity or highway safety. As such, the proposed development is considered to accord with the aims and objectives of policies SD1, TA5, TA6, EA1, EQ2 and EQ4 of the South Somerset Local Plan and the aims and objectives of the NPPF.

SUBJECT TO THE FOLLOWING:

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

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

02. The development hereby permitted shall be carried out in complete accordance with the following approved plans: 6753-01, 6753-02, 6753-03, 6753-04, 6753-05, 6753-06 and 6753-07.

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

03. No work shall be carried in respect to the construction of the external surfaces of the dwellings hereby permitted unless details of materials (including the provision of samples) to be used for the external walls and roofs, have been submitted to and approved in writing by the Local Planning Authority. Such details shall include finish of the roof verges, and the provision of a sample panel of new stonework for inspection on site. Once approved such details shall be fully implemented and thereafter shall not be altered without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity, in accordance policy EQ2 of the South Somerset Local Plan (2006-2028) and the aims and objectives of the National Planning Policy Framework.

04. No work shall be carried in respect to the installation of any windows (including any roof lights) and doors, unless details of the recessing, materials and finish have been submitted to and approved in writing by the Local Planning Authority. Once approved such details shall be fully implemented as such.

Reason: In the interests of visual amenity, in accordance policy EQ2 of the South Somerset Local Plan (2006-2028) and the aims and objectives of the National Planning Policy Framework.

05. Prior to commencement of the development, site vegetative clearance, demolition of existing structures, ground-works, heavy machinery entering site or the on-site storage of materials, a scheme of tree and hedgerow protection measures shall be prepared by a suitably experienced and qualified arboricultural consultant in accordance with British Standard 5837: 2012 - Trees in relation to design, demolition and construction and submitted to the Council for their approval. Upon approval in writing from the Council, the tree and hedgerow protection measures (specifically the fencing and signage) shall be installed and made ready for inspection. A site meeting between the appointed building/groundwork contractors and a representative of the Council (to arrange, please call: 01935 462670) shall then be arranged at a mutually convenient time. The locations and suitability of the tree and hedgerow protection measures shall be inspected by a representative of the Council and confirmed in-writing by the Council to be satisfactory prior to any commencement of the development (including groundworks). The approved tree and hedgerow protection requirements shall remain implemented in their entirety for the duration of the construction of the development and the protective fencing and signage may only be moved or dismantled with the prior consent of the Council in-writing.

Reason: To preserve the health, structure and amenity value of existing landscape features (trees and hedgerows), in accordance policy EQ2, EQ4 and EQ5 of the South Somerset Local Plan (2006-2028) and the aims and objectives of the National Planning Policy Framework.

06. No works shall be undertaken until there has been submitted to and approved in writing by the Local Planning Authority, a scheme of tree and shrub planting. Such a scheme shall confirm the use of planting stock of UK-provenance only, the planting locations, numbers of individual species, sizes at the time of planting, details of root-types or grafting and the approximate date of planting. The installation details regarding ground-preparation, weed-suppression, staking, tying, guarding and mulching shall also be included in the scheme. All planting comprised in the approved details shall be carried out within the next planting season following the commencement of any aspect of the development hereby approved; and if any trees or shrubs which within a period of ten years from the completion of the development die, are removed or in the opinion of the Council, become seriously damaged or diseased, they shall be replaced by the landowner in the next planting season with trees/shrubs of the same approved specification, in the same location; unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity and to ensure the planting of new trees and shrubs, in accordance policy EQ2, EQ4 and EQ5 of the South Somerset Local Plan (2006-2028) and the aims and objectives of the National Planning Policy Framework.

07. The applicant shall ensure that all vehicles leaving the site 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 the commencement of construction of the dwellings hereby approved, and thereafter maintained until the construction works discontinue.

Reason: In the interests of highway safety, in accordance with policy TA5 of the South Somerset Local Plan and the aims and objectives of the National Planning Policy Framework.

08. Before the dwellings hereby permitted are first occupied, a properly consolidated and surfaced access in accordance with that shown on drawing 6753-01 shall be constructed (not loose stone or gravel) details of which shall have been submitted to and approved in writing by the Local Planning Authority. The access shall be constructed in accordance with the agreed design and shall be maintained in the agreed form thereafter at all times.

Reason: In the interests of highway safety, in accordance with policy TA5 of the South Somerset Local Plan and the aims and objectives of the National Planning Policy Framework.

09. The gradient of the proposed access shall not be steeper than 1 in 10. Once constructed the access shall thereafter be maintained in that condition at all times.

Reason: In the interests of highway safety, in accordance with policy TA5 of the South Somerset Local Plan and the aims and objectives of the National Planning Policy Framework.

10. Any entrance gates erected shall be hung to open inwards and shall be set back a minimum distance of 5.0m from the nearside carriageway edge.

Reason: In the interests of highway safety, in accordance with policy TA5 of the South Somerset Local Plan and the aims and objectives of the NPPF.

11. No work shall commence in relation to the construction of the dwellings hereby permitted unless details of foul and surface water drainage to serve the development, including details to prevent the discharge of surface water onto the highway, or elsewhere beyond the site, have been submitted to and approved in writing by the Local Planning Authority. Such approved drainage details shall be completed and become fully operational before the dwelling hereby permitted is first occupied. Following its installation such approved scheme shall be permanently retained and maintained thereafter.

Reason: To ensure that the site is adequately drained, in the interests of residential amenity, highway safety and to protect against increased risk of flooding, in accordance with policies SD1, TA5 and EQ1 of the South Somerset Local Plan and the aims and objectives of the National Planning Policy Framework.

12. The proposed access road, including turning head, shall be constructed in accordance with details shown on the submitted plan, drawing number 6753-01, and shall be available for use before first occupation of any dwelling hereby approved. Once constructed the access road and turning head shall be maintained thereafter in that condition at all times.

Reason: In the interests of highway safety, in accordance with policy TA5 of the South Somerset Local Plan and the aims and objectives of the National Planning Policy Framework.

13. The areas allocated for parking and turning on the submitted plan, drawing number 6753-01, shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of highway safety, in accordance with policy TA5 of the South Somerset Local Plan and the aims and objectives of the National Planning Policy Framework.

14. There shall be no obstruction to visibility greater than 600 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 43 metres either side of the access. 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, in accordance with policy TA5 of the South Somerset Local Plan and the aims and objectives of the National Planning Policy Framework.

15. The proposed new residential development shall include 16amp electric charging points for electric vehicles, accessible to all residences, details of which shall have been submitted to and approved in writing by the Local Planning Authority, as required by Policy TA1 (ii) (low carbon travel) of the adopted South Somerset Local Plan and paras 35, 93 and 94 of the NPPF. Once approved, such details shall be completed and maintained in accordance with the details and timetable agreed.

Reason: To ensure that the development is resilient and sustainable in accordance with policy TA1 of the South Somerset Local Plan (2006-2028) and the aims and objectives of the National Planning Policy Framework.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order), the use of any garage hereby permitted, as part of this development shall not be used other than for the parking of domestic vehicles and not further ancillary residential accommodation, or any other purpose whatsoever.

Reason: In the interests of highway safety, in accordance with policies TA5 and TA6 of the South Somerset Local Plan (2006-2028) and the aims and objectives of the National Planning Policy Framework.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no additional windows, including dormer windows, or other openings (including doors) shall be formed in the dwellings hereby permitted without the prior express grant of planning permission.

Reason: In the interests of residential amenity in accordance with policy EQ2 of the South Somerset Local Plan and the aims and objectives of the NPPF.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no extensions to the dwellings hereby permitted without the prior express grant of planning permission.

Reason: In the interests of residential amenity, and to safeguard the character and appearance of the area in accordance with policy EQ2 of the South Somerset Local Plan and the aims and objectives of the NPPF.

Informatives:

01. Please be advised that approval of this application by South Somerset District Council will attract a liability payment under the Community Infrastructure Levy. CIL is a mandatory financial charge

on development and you will be notified of the amount of CIL being charged on this development in a CIL Liability Notice.

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

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

02. The applicant will be required to secure an appropriate legal agreement/ licence for any works within or adjacent to the public highway required as part of this development, and they are advised to contact Somerset County Council to make the necessary arrangements well in advance of such works starting.
-

Agenda Item 14

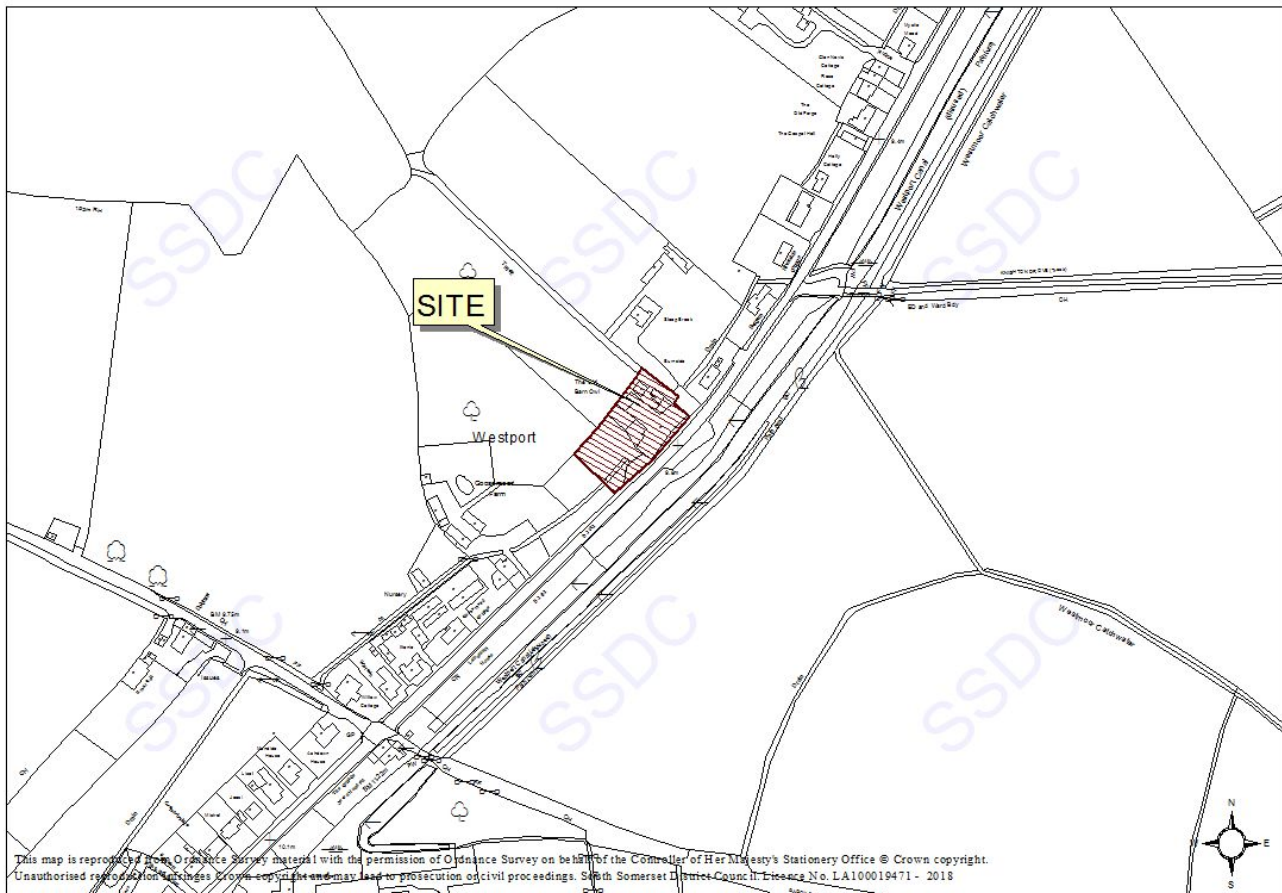
Officer Report On Planning Application: 18/00984/FUL

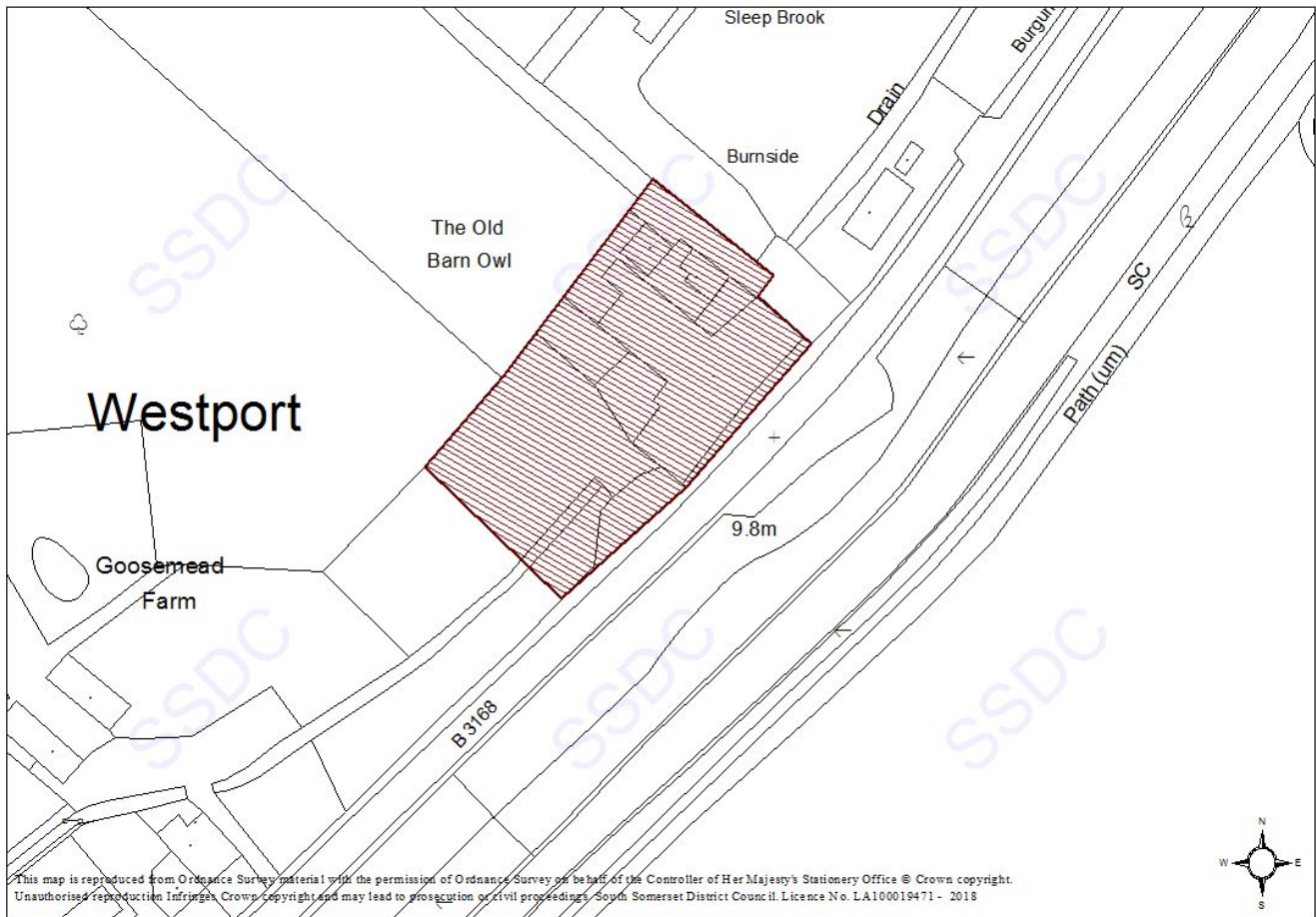
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|------------------------------------|---|
| Proposal : | Alterations and the conversion of former Public House into 3 residential flats and 1 dwelling and the erection of 2 dwellings with car parking and ancillary works. |
| Site Address: | Barn Owl Inn, Westport, Langport. |
| Parish: | Hambridge/Westport |
| ISLEMOOR Ward (SSDC Member) | Cllr Sue Steele |
| Recommending Case Officer: | Stephen Baimbridge Tel: (01935) 462497 Email: stephen.baimbridge@southsomerset.gov.uk |
| Target date : | 21st June 2018 |
| Applicant : | Mr Robert Westlake |
| Agent: (no agent if blank) | Rackham Planning, 10 Knole Close, Almondsbury, Bristol BS32 4EJ |
| Application Type : | Minor Dwellings 1-9 site less than 1ha |

REASON FOR REFERRAL TO COMMITTEE

The application is referred to the Area North Committee at the request of the Ward Member and agreement of the Area Chair.

SITE DESCRIPTION AND PROPOSAL





The site holds a fairly central location in the linear settlement of Westport. To the north-east of the property is an agricultural track with residential properties on the other side, and to the south-west are further residential properties. The linear development pattern in this part of the settlement is only to the north-west side of the road. To the north-west of the site is open countryside.

The property is a public house situated on the edge of the highway, the B3168, with B & B rooms and associated parking to the south-west.

The application seeks permission for alterations and the conversion of the public house into three residential flats and one dwelling and the erection of two dwellings with car parking and ancillary works.

HISTORY

14/05352/FUL: Change of use conversion from function room/skittles alley in to 6 no. bedroom with ensuite short term holiday letting units and 1 no. 2 bedroom self-contained holiday unit with kitchenette - application approved with conditions

97/01160/FUL: Erection of detached garage - application approved with conditions

95/07104/FUL: erection of an extension to form skittle alley - application approved with conditions

92/02138/FUL: Erection of extension to form skittle alley - application approved 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

SS4 - District Wide Housing Provision

SS5 - Delivering New Housing Growth

SS6 - Infrastructure Delivery

EP15 - Protection and Provision of Local Shops, Community Facilities and Services

HG2 - The Use of Previously Developed Land (PDL) for New Housing Development

HG3 - Provision of Affordable Housing

HG5 - Achieving a Mix of Market Housing

EQ1 - Addressing Climate Change in South Somerset

EQ2 - General Development

EQ4 - Biodiversity

TA1 - Low Carbon Travel

TA4 - Travel Plans

TA5 - Transport Impact of New Development

TA6 - Parking Standards

National Planning Policy Framework (NPPF)

Chapter 2 - Achieving sustainable development

Chapter 5 - Delivering a sufficient supply of homes

Chapter 8 - Promoting healthy and safe communities

Chapter 6 - Building a strong, competitive economy

Chapter 9 - Promoting sustainable transport

Chapter 12 - Achieving well-designed places

Chapter 14 - Meeting the challenge of climate change, flooding and coastal change

Chapter 15 - Conserving and enhancing the natural environment

Planning Practice Guidance (PPG)

Conserving and Enhancing the Historic Environment

Design

Ensuring the vitality of town centres

Policy-related Material Considerations

Somerset County Council Parking Strategy (September 2013)

Somerset County Council Highways Development Control - Standing Advice (June 2015)

CONSULTATIONS

Hambridge and Westport Parish Council: The Parish Council raised no objections with the application which it fully supports.

Somerset Highways Authority: The Highways Authority sought for the cycle parking to be increased, and queried whether the applicant's red line at the access extends to the highway. A number of conditions were also proposed with regard to the visibility splays, the provision of a consolidated surface, parking, and the provision of a footway across the frontage of the site.

SSDC Highway Consultant: Refer to the comments of the Highways Authority.

Wessex Water: No comments received.

Natural England: Natural England has no comments to make on this application.

SSDC Ecologist: I'm satisfied with the ecological assessment ('Building Inspection', Abricon, April 2018). This concludes that bats are unlikely to be present.

Evidence of, and further potential for, nesting birds was observed, including swallows which are have suffered a severe decline in numbers in recent years and is now a species of conservation concern. Whilst they are building or using a nest, swallows are legally protected by the Wildlife and Countryside Act 1981 which makes it an offence to disturb the birds or the nest. Swallows tend to remain faithful to nesting sites/areas and will return to the same vicinity in following years. Therefore, in order to protect nesting swallows and to retain suitable nesting sites in the vicinity, I recommend the following condition:

Development shall not commence until details (locations, design, and timing) of alternative nest site provision for swallows has been submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full unless otherwise agreed in writing by the local planning authority.

No removal of vegetation that may be used by nesting birds (trees, shrubs, hedges, bramble, ivy or other climbing plants) nor works to nor demolition of buildings or structures that may be used by nesting birds, shall be carried out between 1st March and 31st August inclusive in any year, unless previously checked by a competent person for the presence of nesting birds. If nests are encountered, the nests and eggs or birds, must not be disturbed until all young have left the nest.

Reason: For compliance with the Wildlife and Countryside Act 1981, and for the conservation of biodiversity (swallows), in accordance with NPPF and Policy EQ4 of the South Somerset Local Plan.

REPRESENTATIONS

Five letters/emails have been received from two members of the public; one categorised as a representation and the other three as objections. The points raised are as follows:

Corrections

The statement that the No.54 stops at the Barn Owl is incorrect. The nearest that it comes to Westport is on the main A road from Taunton, stopping at Fivehead and Curry Rivel.

The Continuum is no longer a school and in any case when it was open it was for 10-16 year olds.

On the basis of incorrect information being submitted it was queried what else may be incorrect.

Drainage and Sewerage

There are local sewerage problems and this development would exacerbate these problems. It was requested that a call be made to Wessex Water to verify the number of calls the author made over the last ten years for herself and neighbours.

The parking areas and garages could aggravate existing problems of water runoff onto the agricultural land owned by the author and their neighbour, thereby lessening the enjoyment of their land. Is any thought given to where the surface water is going to end up? There should be a plan regarding drainage and perhaps a meeting to discuss the potential for flooding and the capability of the existing sewerage facilities to cope.

The last owners of the pub experienced an investigation by SSDC environment officers regarding sewerage escaping into the drainage ditch running under the existing pub building. Was this rectified? The water/sewerage use from permanent occupiers of 16 bedrooms could possibly be greater than past volumes experienced.

Highways and Transport

The only buses in the village are school buses and a once a week service taking people who have no transport to the doctors surgery in Langport, meaning that families or the elderly will struggle to get into towns.

The development will result in increased traffic with no pavements between Westport and Hambridge and beyond a 40mph limit which is regularly ignored. This is a danger to pedestrians, pets, and cyclists.

The shared access track is used by the author, the farmer, and agricultural contractors and transporters during the summer months.

The comments of the Highways Authority are noted.

Services

Hambridge only has a small shop and post office, near the small primary school.

There was a monthly meeting at the Barn Owl every month by the Neighbourhood Watch.

Design

The scheme should be reduced, perhaps to create a park.

The scheme is too dense and more in-keeping with a town than a small hamlet. The public house has now become an unsustainable business and the locals would welcome the site being improved by supplying houses but they should be more in-keeping with the area.

Other

The post and rail fence is the responsibility of the developer and thought should be given to the potential of children living and playing close to livestock.

CONSIDERATIONS

Assets of Community Value

The Community Right to Bid came into effect on 21st September 2012. It gives community organisations the right to identify assets they believe are of value to their community, and nominate them to be listed on the Council's Register of Assets of Community Value. If the asset then comes up for sale, the community will be given time to make a bid to buy it on the open market. The legislation does not guarantee that the community will be able to buy the asset, it just allows them some time to prepare a bid for it on the open market.

The Barn Owl Inn has not been nominated as an asset of community value and does not therefore appear on the Council's Register of Assets of Community Value or its Register of Unsuccessful Nominations. As it has not been nominated, there has been no assessment of its significance to the social wellbeing and interests of the local community.

Principle of Development

Policy EP15

The principle of converting the public house to residential development hinges on its compliance with Policy EP15: Protection and Provision of Local Shops, Community Facilities and Services. The Policy states:

"...Proposals that would result in a significant or total loss of site and/or premises currently or last used for a ... public house or other service that contributes towards the sustainability of a local settlement will not be permitted except where the applicant demonstrates that:

- alternative provision of equivalent or better quality, that is accessible to that local community is available within the settlement or will be provided and made available prior to commencement of redevelopment; or*
- there is no reasonable prospect of retention of the existing use as it is unviable as demonstrated by a viability assessment, and all reasonable efforts to secure suitable alternative business or community re-use or social enterprise have been made for a maximum of 18 months or a period agreed by the local planning Authority prior to application submission."*

This policy is in compliance with paragraph 92, Chapter 8 (Promoting healthy and safe communities) of the NPPF, which seeks to *"...guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs..."*

In testing significance, the loss of the public house should not be considered in the context of the operation or lack thereof of the existing business. Rather, it is the loss of the community use which must be considered.

EP15 - Test 1: Significance

The agent has argued that the loss of the public house will not be significant by reason of the limited services that it provided and the services provided nearby that are of an equivalent or better quality and are accessible to that local community.

The services that are listed by the agent are all located in the settlement of Hambridge rather than in Westport. Those services therefore fail to be *"available within the settlement"* as the policy requires.

In the case of 13/02322/FUL, on the site adjacent to the south-west of this site, the Regulation Committee resolved to approve the application for a new dwellinghouse on the basis that the location is sustainable, in relation to access to services and facilities. I have considered that it was the Council's view that Hambridge and Westport should be 'clustered' for the purposes of considering development

under Policy SS2. Nevertheless, each case is to be determined on its merits, and in this determination, permission is being sought to change the use of the settlement's only service, thus making the settlement less sustainable. Moreover, the wording of Policy EP15 is explicit in requiring the services to be provided in the same settlement.

With respect to the accessibility between the settlements of Westport and Hambridge, the agent has provided a map of public rights of way. The map shows a number of footpaths and one bridleway. The bridleway runs west to east and would not facilitate accessibility between the settlements. The footpaths are sinuous and do not allow for a direct route to be taken parallel to the B3168 which connects the settlements. Taking footpath L 9/24 then footpath L 9/22 would be the most direct route to take but would still involve travel along the B3168 which is a 40mph speed limit road which at time of inspection was host to a convoy of large, fast-moving, tractors and other large agricultural vehicles. With no pavements to accommodate safe and sustainable travel, it is not considered that the population of Westport are reasonably likely to travel to services within Westport, namely the Lamb and Lion pub, 0.9 miles from the application site. Accordingly, the loss of the public house as the only service within the settlement must be considered significant.

Even if consideration were to be given to the 'clustering' of Westport and Hambridge, the loss of 50% of the provision of public houses is considered 'significant', especially given the relatively few other services available.

As previously mentioned, it should not be argued that the loss of *this* public house would be insignificant because it has been closed for a significant time. Rather, it is whether the use of the property, not the specific property itself, would be a significant loss.

Overall, it is considered that the proposal fails to meet the first test, of significance, and must comply with the second test.

EP15 - Test 2: Viability and Marketing

It must be demonstrated that there is no reasonable prospect of retention of the existing use as it is unviable as demonstrated by a viability assessment, and all reasonable efforts to secure suitable alternative business or community re-use or social enterprise have been made for a maximum of 18 months or a period agreed by the local planning Authority prior to application submission.

It is accepted that the use of the building as a public house is unviable but not that all reasonable efforts to secure suitable alternative business or community re-use or social enterprise have been made for a maximum of 18 months or a period agreed by the local planning Authority prior to application submission.

The Marketing History section of the Viability Report sets out a potted history of marketing since 2003. This history is patchy and owners of the property changed hands throughout that period. It cannot be used as evidence to prove that there is no market for a suitable alternative business or community re-use or social enterprise.

In September 2015 the property was marketed for nine months without interest. This led to the property going to auction in December 2016 where it was sold to the current owner and applicant. In the Viability Report it is argued that after the nine months of marketing it would have been marketed by the auctioneers immediately leading to a total marketing period of 15 months. This argument though is flawed on the basis that the application was purchased recently by the current owner and applicant, with no further marketing having taken place.

The proposal is therefore non-compliant with policy EP15 of the Local Plan.

Residential Development

On the basis of the Regulation Committee's resolution to approve the application for a new dwellinghouse on the basis that the location is sustainable, in relation to access to services and facilities, in line with policy SS2, the principle of some residential development is acceptable.

Layout and Density

Concern has been raised about the density of the proposed scheme, arguing that it would be more befitting of a town than a hamlet. For the hamlet, the scheme is uncharacteristically dense, however it is not considered to be harmful to local character. This is because the three flats and one of the dwellings would be accommodated by the conversion of the existing public house and B&B rooms so would not add to the built form on site. And whilst flats are not typical accommodation in the hamlet, they would provide a more affordable option for residents in a local market dominated by more expensive, detached properties.

The two semi-detached dwellings proposed are acceptable and are considered to have a relationship with neighbouring properties - Locks Nest and the converted public house - which would not be out-keeping with the spacing between dwellings in this linear development pattern.

Visual Amenity

The proposed conversion would be undertaken by demolishing areas of the property and making good and other alterations of an acceptable form and with materials to match the existing property.

The semi-detached dwellings are taller than Locks Nest and the public house but not considerably. Moreover, their position set back from the highway and behind a planting scheme minimises their impact on local character. The general scale of the semi-detached properties is considered to be acceptable as are the materials which are generally in-keeping with local character.

The proposal is considered not to result in demonstrable harm to visual amenity and is in accordance with policy EQ2.

Residential Amenity

It is not considered that the window layouts or scale, bulk, and positioning of the dwellings are such that they would give rise to undue overlooking or loss of privacy, or an overbearing relationship with neighbouring properties or each other. Therefore the proposal would not harm local residential amenity, in accordance with policy EQ2.

Highway Safety

In accordance with the comments from the Highways Authority, it is not considered that the proposed development would result in a net increase in vehicle movements when compared to the existing A4 use of the site. For the access into the car park, it is considered reasonable to impose a condition to ensure that visibility splays are not impinged upon either by the wall or by vegetation. In relation to the access to house 1, the access is not in the ownership of the applicant but the agent has confirmed that there is a right of access across the land. As the applicant does not own the land, no condition can be imposed to control the visibility splays or ensure that the access be consolidated, but considering that this is an existing, lawful access, with no net increase in vehicle movements projected, it is considered to be acceptable.

Parking for all of the properties, with the exception of house 1, meets the Parking Standards. The house should provide three spaces but provides two in a double garage. It is not considered that this would, in

itself, constitute severe harm to highways safety given that there is scope for another vehicle to be parked onsite without reducing the opportunity to turn a vehicle around and exit in a forward gear.

Since the submission of the application, amended plans have been received to boost cycle parking provision. No electric charging points have been proposed in line with policy TA1 of the Local Plan, but this could be controlled via condition should the application be permitted.

It is not considered that proposal would prejudice highways safety, and is in general accordance with policies TA5 and TA6.

Contributions

Policies HG3 of the South Somerset Local Plan requires on site provision of affordable housing or a financial contribution towards the provision of affordable housing elsewhere in the district.

In May 2016, the Court of Appeal made a decision (SoS CLG vs West Berks/Reading) that clarifies that Local Authorities should not be seeking contributions from schemes of 10 units or fewer or 1,000 square metres or fewer.

It is considered that whilst policy HG3 is valid, the most recent legal ruling must be given significant weight and therefore it is not possible to seek an affordable housing obligation from this development. In addition, it also no longer appropriate to seek any contributions towards Sports, Arts and Leisure (Policy SS6) as the same principle applies.

The development is liable to pay the Community Infrastructure Levy (CIL).

Other

Wessex Water were consulted on the application but did not comment.

It is acknowledged that drainage and sewerage issues are a concern locally. If necessary, it is understood that Wessex Water would seek mitigation measures such as package treatment plants or other means. Therefore, should the application be permitted, a condition should be imposed that a sewerage system is implemented to the satisfaction of the utilities provider.

It is not known whether there were any sewerage issues and, if there were, it is not known whether they were rectified. However, leaking sewerage would be an issue for the Environment Agency to address rather than the District Council.

With respect to addressing surface water run-off, this could be addressed through the imposition of a condition.

It is not considered that the siting of new dwellings adjacent to agricultural land that may well be used for livestock is objectionable in planning terms. Should future occupiers have concerns about this relationship, there are controls both within and outside of the planning arena to control this matter.

Conclusion

The proposal does not comply with policy EP15, which renders the scheme unacceptable in principle. The loss of the public house as a community use would result in harm to the sustainability of the settlement. The loss of the last communal building in the settlement would be harmful to the social sustainability of the settlement. The loss of this local service will also place a greater emphasis on the need to travel by car, contrary to chapter 9 of the NPPF. The loss of the building can also be seen as the loss of a business use which supported the rural economy, though given that the business is

unviable, and could be changed to a community use, this harm is limited.

Given the significance of policy EP15 to protect all district-wide community uses, it is not considered reasonable to dilute the policy to allow the loss of public houses based only on a viability argument; otherwise this would remove the need to appropriately market and to seek substitute community uses.

The harm identified is not considered to be outweighed by the benefits of increased housing supply, even in the context of the Council's inability to demonstrate a five year housing land supply.

RECOMMENDATION

Refuse

FOR THE FOLLOWING REASON:

01. The proposed development by reason of the loss of the public house, which has not been satisfactorily marketed and which would constitute a significant loss to the community, would be contrary to policy EP15 of the South Somerset Local Plan (2006-2028) and Chapters 2, and would result in harm to the sustainability of the settlement, contrary to chapter 2 of the NPPF. The identified harm has not been outweighed by the benefits of the scheme.

Informatives:

01. In accordance with paragraph 38 of the NPPF, the council, as local planning authority, approaches decisions on proposed development in a positive and creative way, working proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area by:
 - o offering a pre-application advice service, and
 - o as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions

The applicant did not take up the Council's pre-application service, and in this case there were no minor or obvious solutions to overcome the significant concerns caused by the proposals.
