

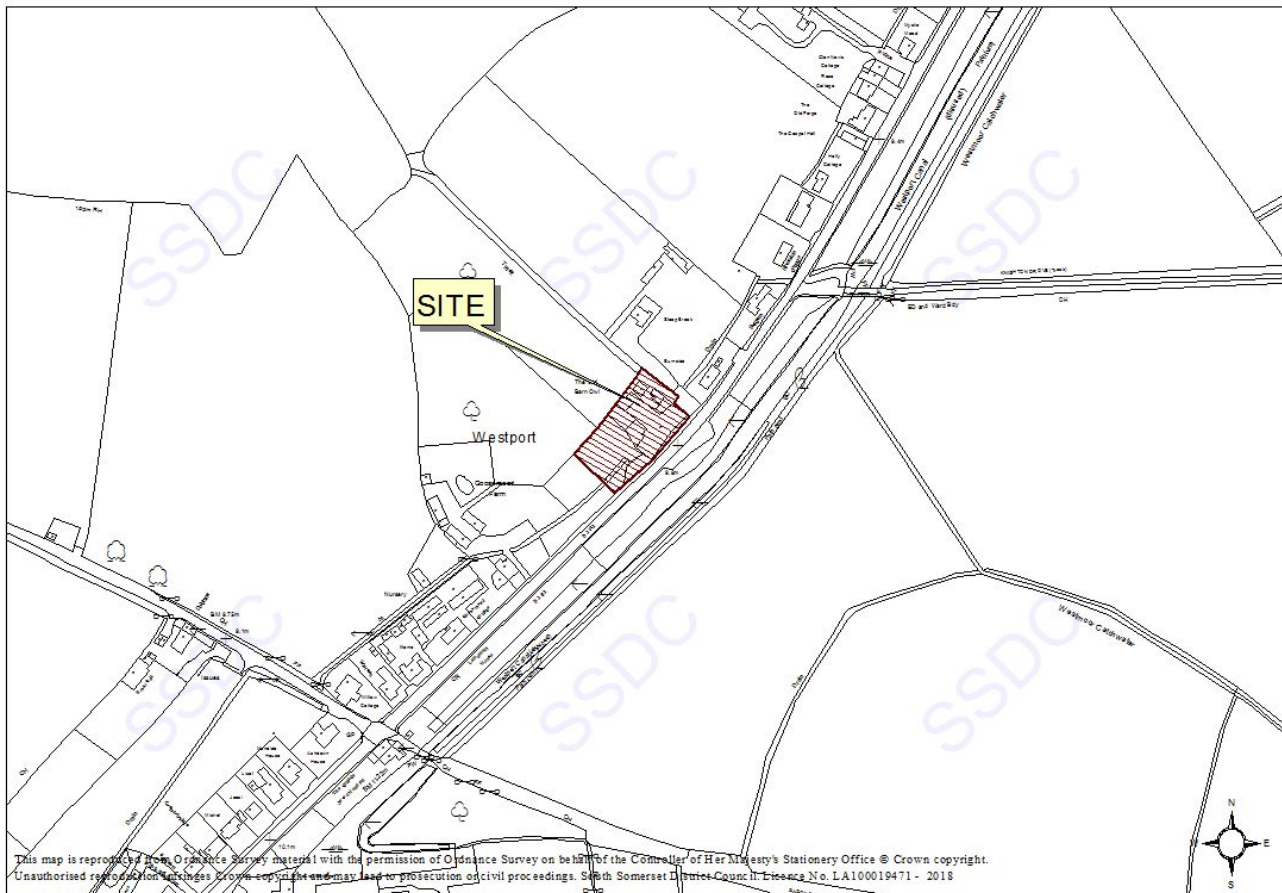
Officer Report On Planning Application: 18/00984/FUL

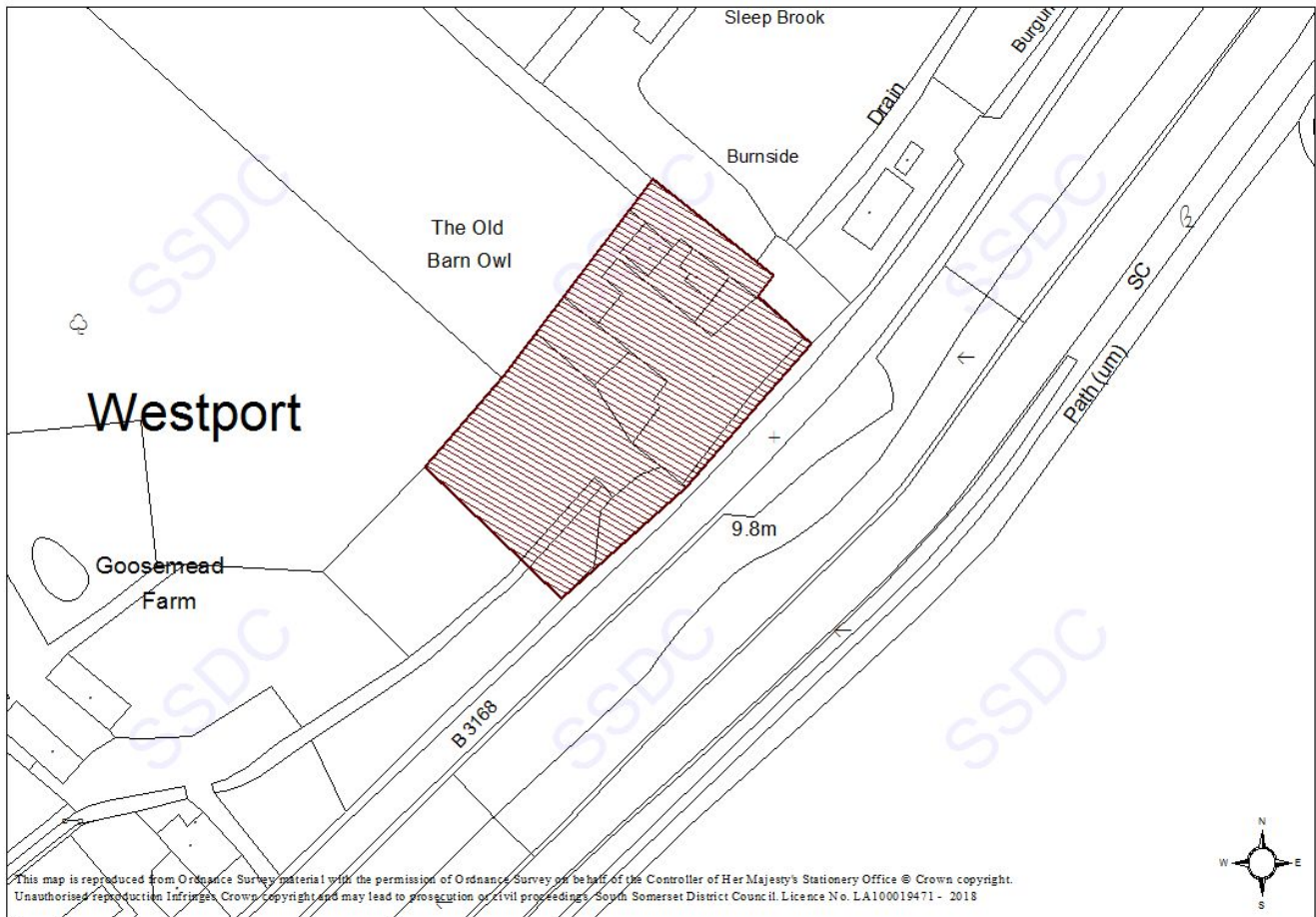
Proposal :	Alterations and the conversion of former Public House into 3 residential flats and 1 dwelling and the erection of 2 dwellings with car parking and ancillary works.
Site Address:	Barn Owl Inn, Westport, Langport.
Parish:	Hambridge/Westport
ISLEMOOR Ward (SSDC Member)	Cllr Sue Steele
Recommending 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 is 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.
