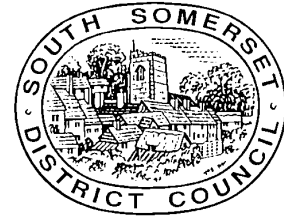


South Somerset District Council

Notice of Meeting



Area South Committee

Making a difference where it counts

Wednesday 3rd January 2018

4.00 pm

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

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



The following members are requested to attend this meeting:

Cathy Bakewell
John Clark
Gye Dibben
John Field
Nigel Gage
Peter Gubbins
Kaysar Hussain

Andy Kendall
Sarah Lindsay
Mike Lock
Tony Lock
Sam McAllister
Graham Oakes
Wes Read

David Recardo
Gina Seaton
Peter Seib
Alan Smith
Rob Stickland

For further information on the items to be discussed, please contact the Democratic Services Officer on 01935 462011 or democracy@southsomerset.gov.uk

This Agenda was issued on Monday 18 December 2017.

Alex Parmley, *Chief Executive Officer*

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



Information for the Public

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

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

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

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

Meetings of the Area South Committee are held monthly, usually at 2.00pm, on the first Wednesday of the month at the Council Offices, Brympton Way, Yeovil (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 South Committee

Wednesday 3 January 2018

Agenda

Preliminary Items

- 1. Minutes of previous meeting**
- 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 District Council's Regulation Committee

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

Councillors Peter Gubbins, Graham Oakes, David Recardo and Gina Seaton.

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. Public question time**
- 5. Chairman's announcements**
- 6. Reports from representatives on outside organisations**

This is an opportunity for Members who represent the Council on outside organisations to report items of interest to the Committee.

Items for discussion

7. **Houses in Multiple Occupation (HMO's)** (Pages 6 - 10)
8. **Area South Forward Plan** (Pages 11 - 13)
9. **Appeals** (Pages 14 - 27)
10. **Exclusion of Press and Public** (Page 28)
11. **Yeovil Refresh - Confidential (Executive Decision)** (Pages 29 - 39)

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 7

Houses in Multiple Occupation (HMO's)

Director: Martin Woods, Director – Service Delivery
Service Manager: David Norris, Development Manager
Lead Officer: Simon Fox, Area Lead Officer, Development Management
Contact Details: Simon.fox@southsomerset.gov.uk or 01935 462509

Purpose of Report

To provide members with information in relation to the Yeovil HMO (Houses in Multiple Occupation) Article 4 Direction and to seek their views on a potential enlargement of it.

Public Interest

HMO's are an important element of our housing stock and it is necessary to ensure there is sufficient capacity to meet increasing demands. It is also equally important to ensure that the location and quality of HMO's are properly assessed to ensure that there is no adverse impact upon residents or surrounding properties.

Recommendation

That members consider the officer's report and provide direction as to whether they wish officers to embark upon a specific extension of the current Article 4 Direction covering HMO's to include Mitchelmore Road and Roping Road as part of Zone 2 (Central). To round off the zone given the extent to which the zone covers Goldcroft it is proposed to also include several addresses on Sparrow Road and those properties at Kingston View, Yeovil.

Background

Area South members instructed and then agreed to impose an Article 4 Direction which now requires a planning application to be submitted to use a dwelling as an HMO for more than 3 unrelated people thereby allowing the impacts to be properly considered. The Direction only relates to certain areas of Yeovil. The Direction was initially made on 19th May 2016 and the Council undertook consultation for 28 days which ended on 17th June 2016. The Direction came into force on 19th November 2016.

A map showing the current zones in Yeovil covered by the Article 4 is attached (*Appendix 1*).

Consideration

During the initial consideration regarding the extent of each zone Mitchemore Road and Roping Road were excluded from Zone 2 which generally includes Higher Kingston, The Avenue, Crofton Road, Colmer Road, Crofton Park, King Street, Crofton Avenue and parts of Goldcroft northwards to Sparrow Road.

A representation from a local resident of Mitchelmore Road, plus an increased awareness through planning pre-application queries indicates a growing number of HMOs over the last few years plus local demand from landlords interested in buying/extending property to provide more bedsit accommodation. Both roads are obviously very close to the hospital and have property types suitable for conversions. On street-parking is already restricted given the proximity to the hospital.

The mantra with the initial Article 4 was to allow control of the concentration and impacts of HMO accommodation rather than restrict and prevent it outright.

Since the imposition of the Article 4 in November 2016 only one planning application has resulted (48 Goldcroft- 17/01197/COU). This was approved at Committee in May 2017.

The LPA has planning application validation requirements and written guidance to help applicants make their applications and works alongside Environmental Health (Housing Standards) and Building Control colleagues to provide advice to potential applicants at an early stage.

Our website www.southsomerset.gov.uk/hmo contains all the HMO planning information.

Comments have been sought from colleagues in Environmental Health (Housing Standards) and the Housing Teams as to any implications of extending Zone 2.

Options

1. To agree to 'make' the new Direction covering Mitchelmore Road, Roping Road, Kingston View and several addresses in Sparrow Road as detailed on the attached map (*Appendix 2*);
2. To agree to 'make' the new Direction covering a different area (larger or smaller) than shown on the attached map; or
3. To agree to not 'make' the new Direction.

If Option 1 or 2 is chosen then Members may further resolve to instruct officers to:

- Carry out the required consultations and publicity as set out in the relevant legislation with a view to the Direction as amended coming into force later in 2018.

This constitutes 28 days of consultation via public notice, press advert, SSDC Social Media, and press release.

The Direction would then 'come into force' within 6 months of the date of the commencement of the consultation.

Financial Implications

The creation of an Article 4 would mean that any application that is required as a result would not require a planning application fee for Change of Use.

Local planning authorities may be liable to pay compensation to those whose permitted development rights have been withdrawn if they:

- refuse planning permission for development which would have been permitted development if it were not for an article 4 direction; or
- grant planning permission subject to more limiting conditions than the GPDO would normally allow, as a result of an article 4 direction being in place.

Compensation may be claimed for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.

All claims for compensation must be made within 12 months of the date on which the planning application for development formerly permitted is rejected (or approved subject to conditions that go beyond those in the GPDO).

Carbon Emissions and Climate Change Implications

The making of an Article 4 Direction will not have any impacts.

Equality and Diversity Implications

It is considered that the requirement to make a planning application for HMO's within certain areas of the town would not require an impact assessment to be carried out.

Background Papers

Area South reports 'Houses in Multiple Occupation (HMO's)' dated February and April 2016.

Article 4 Direction for Houses in Multiple Occupation (HMO)

Proposed Zones to be Affected

Zone 4

Zone 2

Zone 1

Zone 3

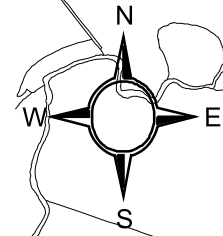
Zone 3

Zone 5

Page 9

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1:9,000



Sparrow Road

Goldcroft

Hospital

Reckleford

**Zone 2
Central Ward**

 HMO Zone 2

 HMO Zone 2 Extension



Agenda Item 8

Area South Committee Forward Plan

Communities Lead: Helen Rutter, *Communities Lead*
Service Manager: Natalie Fortt, *Area Development Lead - South*
Agenda Co-ordinator: Jo Boucher, *Democratic Services Officer*
Contact Details: jo.boucher@southsomerset.gov.uk or (01935) 462011

Purpose of the Report

This report informs Members of the agreed Area South Forward Plan.

Recommendations

Members are asked to:-

1. Comment upon and note the proposed Area South Forward Plan as attached at Appendix A.
2. Identify priorities for further reports to be added to the Area South Forward Plan, developed by the SSDC lead officers

Area South Committee Forward Plan

The forward plan sets out items and issues to be discussed by the Area Committee over the coming months.

The forward plan will be reviewed and updated each month, by the joint lead officers from SSDC, in consultation with the Area Committee Chairman. It is included each month with the Area Committee agenda, where members of the Area Committee may endorse or request amendments.

Members of the public, councillors, service managers, and partners may request an item is placed within the forward plan for a future meeting, by contacting the Democratic Services Officer.

Background Papers

None

Appendix A

Notes

- (1) Items marked in *italics* are not yet confirmed, due to the attendance of additional representatives.
- (2) For further details on these items, or to suggest / request an agenda item for the Area South Committee, please contact the Democratic Services Officer; Jo Boucher.

Meeting Date	Agenda Item	Background/ Purpose	Lead Officer
7th February 2018	Yeovil Vision & Regeneration Update	Update report on Yeovil Vision and Regeneration	Helen Rutter, Communities Lead / Natalie Fortt, Area Development Lead - South
	SSDC Welfare Benefit Work in South Somerset	Annual Update on the Welfare Benefit Work in South Somerset	Catherine Hansford, Welfare Benefits Team Leader
	Yeovil Western Corridor Update Presentation	Quarterly update presentation from SCC on the Yeovil Western Corridor Improvements	Richard Needs, SCC
	Citizens Advice South Somerset (CASS) Presentation	Presentation from Citizens Advice South Somerset	Angela Kerr, CEO or Kim Watts Client Services Manager, CASS
7th March 2018	Yeovil Chamber of Trade	Yeovil Chamber of Trade Presentation	David Woan, President Chamber of Trade
	Yeovil Half Marathon	Yeovil Half Marathon Presentation	Steve Elliott, Total Buzz Events
	Strategic Key Sites within Area South	Section 106 update report on the Strategic Key Sites within Area South	Neil Waddleton, Section 106 Officer
	Work of the Conservation Service	Annual report on the work of the Conservation Service.	Rob Archer, Conservation Manager
	Historic Buildings at Risk	Confidential report on the Historic Buildings at risk within Area South.	Rob Archer, Conservation Manager & Andrew Tucker Conservation Officer

Meeting Date	Agenda Item	Background/ Purpose	Lead Officer
	One Public Estate Programme	Update report	Nena Beric, Project Manager
4 th April 2018	Area South Development Update Report	Update on the work carried out by the Area South Development Team and progress on activities and projects contained within the ADP	Natalie Fortt, Area South Development Lead

Agenda Item 9

Planning Appeals (For information)

Director: Martin Woods, Service Delivery
Lead Officer: Martin Woods, Service Delivery
Contact Details: martin.woods@southsomerset.gov.uk or (01935) 462071

Purpose of the Report

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

Recommendation

That the report be noted.

Background

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.

Appeals Allowed

Ward: Yeovil East

Proposal: The erection of a single storey rear extension, the installation of 2 No. new windows to the north elevation of existing building and the re-positioning of air conditioning units (Revised application)

Appellant: Matthews Properties Ltd

Site: 5 Wyndham Street Yeovil BA20 1JJ

Ward: Coker

Proposal: Alterations and conversion of equestrian building to 1 No. dwelling

Appellant: Mr B Spearing

Site: The Stables Old Road Higher Odcombe Yeovil Somerset

Appeals Dismissed

Ward: Brympton

Proposal: The erection of a front boundary fence (Retrospective)

Appellant: Mrs Marnie Lavery

Site: 9 Champion Drive Yeovil BA22 8QS

Financial Implications

None

Implications for Corporate Priorities

None

Other Implications

None

Background Papers: Planning application files



Appeal Decision

Site visit made on 13 November 2017

by **Robert Parker BSc (Hons) Dip TP MRTPI**

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

Decision date: 27th November 2017

Appeal Ref: APP/R3325/W/17/3180083 5 Wyndham Street, Yeovil BA20 1JJ

- 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 Gerrard Matthews of Matthews Properties Ltd against the decision of South Somerset District Council.
 - The application Ref 17/01890/FUL, dated 25 April 2017, was refused by notice dated 16 June 2017.
 - The development proposed is extension to existing A5 hot food takeaway.
-

Decision

1. The appeal is allowed and planning permission is granted for extension to existing A5 hot food takeaway at 5 Wyndham Street, Yeovil BA20 1JJ in accordance with the terms of the application, Ref 17/01890/FUL, dated 25 April 2017, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Gerrard Matthews of Matthews Properties Ltd against South Somerset District Council. This application is the subject of a separate decision.

Main Issues

3. The main issues in this case are:
 - a) the effect of the proposal on the living conditions of nearby residents, with particular reference to noise and disturbance; and
 - b) whether the proposal would prejudice the safe and efficient operation of the local highway network.

Reasons

Living conditions

4. The appeal property is located within, but on the periphery of Yeovil Town Centre, as defined in the South Somerset Local Plan (2006-2028) (SSLP). The building forms the end of a terrace, its side gable facing onto a small parking area and beyond that a busy traffic junction on the A30 Reckleford Road. The surrounding area contains a varied mix of commercial and residential uses. This includes flats on the upper floors of the appeal property itself and within No 6 Wyndham Street adjacent.

5. The ground floor was originally a fish and chip shop but it has been occupied as a Domino's pizza takeaway since 2001. There are no planning restrictions over the established use, but the premises are licensed to trade until 0300 hrs. Data provided by the appellant shows that pizza orders have risen year-on-year, tripling over the last decade. The Council is concerned that continued growth would be detrimental to residential amenity in the area.
6. I agree with the appellant that trading figures are driven more by the demand for pizza than the size of the appeal premises. There is no greater likelihood that a person will order a pizza simply because the premises have been extended. This is not least because many customers never set foot in the building, having placed their order by telephone for delivery. That said, the internal layout of the existing unit does present certain limitations and by expanding the floorspace and providing a small eating-in area the proposal would have the potential to facilitate continued growth in trade. I consider the appeal with this in mind.
7. One of the Council's primary concerns is that the proposal would lead to an increase in comings and goings from customers and delivery drivers. This is difficult to quantify as it relies partly on the future demand for pizza. However, despite the growth in orders over recent years there is no substantive evidence to show that current activity is a particular source of annoyance for local residents. The Senior Environmental Protection Officer does not object to the application and no representations were received, despite the posting of a site notice and letters being sent to 35 addresses. This suggests to me that the business co-exists in relative harmony with its neighbours.
8. Residents already live cheek by jowl with town centre uses and in this context some evening and late night noise is to be expected. According to figures provided by the appellant, business at Domino's varies from day-to-day but peak trade is during the evening, with orders tailing off between 2100 and 2200 hrs onwards. This pattern would be unlikely to change, even if orders continue to rise in line with past trends.
9. The proposal would increase the floorspace of the building by approximately 54m² or 36 percent. The Council describes this as large but in my opinion it would be a relatively modest extension. Whilst future increases in trade cannot be ruled out, the evidence fails to persuade me that the proposal would lead directly to unacceptable noise or disturbance for nearby residential occupiers. Accordingly, I conclude that there would be no material harm to living conditions and no conflict with Policy EQ2 of the SSLP or the National Planning Policy Framework (the Framework) insofar as they seek to secure a good standard of amenity for local residents.

Highway issues

10. Wyndham Street is one-way, with the traffic flowing in the direction of Reckleford Road. There are a handful of short stay parking spaces within a designated bay on the side of the street nearest the appeal premises. Elsewhere, parking is restricted using double yellow lines. Pavement widths are relatively generous.
11. Notwithstanding the availability of on-street parking in the vicinity and a car park for staff and delivery mopeds at the side of the premises, the Council is concerned that the proposal would encourage customers and delivery drivers to park illegally. Photographs have been supplied to illustrate that this happens already, with parked cars straddling the kerb and double yellow lines

opposite the appeal premises. Despite this breach of traffic regulations, there is no firm evidence to demonstrate that the practice creates a significant hazard or obstructs the flow of traffic or pedestrians. Even if it did, there are enforcement powers available. It would be unreasonable to withhold planning permission in such circumstances.

12. Neither the Highway Authority nor the Council's own highway consultant objected to the planning application. Based on my own observations, I concur with these consultees that there are no highway grounds on which to dismiss the appeal. I therefore conclude that the proposal would not prejudice the safe and efficient operation of the local highway network. As such, there would be no conflict with the transport policies of the Framework.

Other Matters

13. I note that there are plans to rejuvenate the area through the Yeovil Refresh initiative. Public realm schemes have been drawn up for Sherborne Road and Newton Road, to be funded by S106 monies, in order to attract private investment. There are similar aspirations for Wyndham Street. It is argued that the appeal proposal would create a dominant use that impacts disproportionately on the locality and undermines regeneration efforts. In my opinion, this significantly overstates the potential effects. The scheme would not prejudice the Council's position and, if anything, the works to the frontages of Nos 5 and 6 Wyndham Street and bin store would represent a modest enhancement to the street scene.
14. The Council raises no objections to the design of the proposed development. I have no reason to take a different stance. The flat roof extension would be hidden from public view behind existing boundary walling and the proposed installation of a new shop window in the side gable would be neutral in terms of its effect on the character and appearance of the area.

Conditions

15. In addition to the standard time limit condition I have attached a condition to specify the approved plans, to provide certainty. In the interests of the character and appearance of the area a condition is necessary to ensure that the Council retains control over external materials, colours and finishes, including in relation to the bin store, railings and forecourt surfacing. A condition is also required to secure details of all new plant and machinery, to protect the living conditions of adjoining residents.
16. The Council has requested a condition to restrict trading past 2300 hrs daily. Given my findings above, and the fact that the premises have been trading up until now without demonstrable harm to local amenity, such a condition would be unreasonable. The Council retains an adequate level of control under the premises licensing process, should problems occur in the future.

Conclusion

17. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Parker

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: Drawing nos. DB355-EX-01, DB355-EX-02, DB355-EX-03, DB355-GA-04, DB355-EL-05 and DB355-EL-06 Rev A, 1194/11C, 1194/12A, 1194/13A, 1194/14A, 1194/16 and manufacturer specification of Manchester Cast Iron Bollard SFD560.
- 3) No development shall take place until details of all external materials, colours and finishes for the following have been submitted to and approved in writing by the local planning authority:
 - a) Rear extension
 - b) Bin store
 - c) Brick paviments
 - d) Railings/gate
 - e) Shop frontsDevelopment shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of the specification for all new plant and machinery, including the air handling unit and extraction system, have been submitted to and approved in writing by the local planning authority. The plant and machinery shall be installed in accordance with the approved details and maintained in working order thereafter, in accordance with the manufacturer's recommendations.

Costs Decision

Site visit made on 13 November 2017

by **Robert Parker BSc (Hons) Dip TP MRTPI**

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

Decision date: 27th November 2017

Costs application in relation to Appeal Ref: APP/R3325/W/17/3180083 5 Wyndham Street, Yeovil BA20 1JJ

- 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 Gerrard Matthews of Matthews Properties Ltd for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of planning permission for extension to existing A5 hot food takeaway.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant is seeking a substantive award of costs with reference to paragraph 049¹ of the PPG, on the grounds that the Council's refusal reasons were vague and generalised and unsupported by any objective analysis to demonstrate why expert advice from professional consultees was overridden.
4. There were no objections to the proposal from the Highway Authority, or from the Council's highway consultant or Environmental Protection Unit. However, the case officer was not obliged to accept this advice, provided that relevant evidence could be provided on appeal to support a contrary decision.
5. The decision to refuse planning permission was taken having regard to the appellant's own trading figures, which show that there has been a steady growth in orders over the past decade. Whether the proposal would facilitate a continuation of this trend and the consequent effects on highway safety and residential amenity are primarily matters of planning judgement. At times such considerations can be finely balanced.
6. Although I have not found in favour of the Council, the decision to refuse was based on a rational and coherent line of argument. Specific evidence in the form of photographs was provided at the appeal stage in order to illustrate the particular concerns regarding illegal parking on Wyndham Street.

¹ Reference ID: 16-049-20140306

7. Overall, I am satisfied that the Council has met its obligation to give proper consideration to the application and has adequately substantiated its decision to refuse planning permission with evidence. I therefore consider that the Council has not been shown to have behaved unreasonably. Thus the appellant's costs in mounting the appeal were not unnecessarily incurred. For this reason, an award of costs is not justified.

Robert Parker

INSPECTOR



Appeal Decision

Site visit made on 28 November 2017

by **Stephen Hawkins MA MRTPI**

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

Decision date: 08 December 2017

Appeal Ref: APP/R3325/W/17/3177572

The Stables, Old Road, Higher Odcombe, Yeovil BA22 8XA

- 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 B Spearing against the decision of South Somerset District Council.
 - The application Ref 17/0689/FUL, dated 10 April 2017, was refused by notice dated 23 May 2017.
 - The development proposed is conversion of workshop and store to residential dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for conversion of a workshop and store to a residential dwelling at The Stables, Old Road, Higher Odcombe, Yeovil BA22 8XA in accordance with the terms of the application, Ref 17/0689/FUL, dated 10 April 2017, subject to the conditions in the Schedule at the end of this Decision.

Main Issue

2. The main issue in this appeal is the effect of the proposal on the character and appearance of the area.

Reasons

Character and appearance

3. The appeal site is centred on a building erected following the grant of planning permission in 2003, for use as stables and a tack room. The building is mainly constructed in modern materials and it has three large garage door openings in its principal elevation. The building is located adjacent to a rural road, in the corner of a paddock lying just beyond the built-up part of Lower Odcombe. It is in an area of countryside which together with nearby public space forms a relatively narrow gap of open land providing visual and physical separation between Lower Odcombe and Higher Odcombe. The site and the adjacent paddock play a small but significant part in maintaining the sense of separation between the two villages.
4. A previous scheme to convert the building to a dwelling was dismissed at appeal earlier in 2017¹. In that appeal, the Inspector nevertheless considered that the building had an industrial character; the insertion of windows and replacement of the garage doors with openings that were more domestic in

¹ Ref: APP/R3325/W/16/3160614.

nature would enhance the immediate setting and would have no direct effect on the sense of separation between the two villages.

5. The proposal would create a one bedroom dwelling contained within the existing building envelope. The elevational alterations to the building, including cladding the walls in natural local stone and timber, would be materially similar to the previous appeal. However, the substantial garage extension which largely led to that appeal being dismissed has been omitted from the current proposal. The dwelling would have a relatively modest curtilage and the majority of the paddock would remain open as it is outside of the site. Consequently, the appearance of the dwelling would not be at odds with its surroundings and there would be no significant encroachment of residential built form into the open areas of land separating the two villages. Therefore, in my view there is nothing to indicate that the visual harm identified in the previous appeal has not been overcome by this proposal.
6. I acknowledge that the proposal is likely to result in some extra pedestrian and vehicular activities, as well as additional lighting at night. When I visited, the site was more or less vacant. However, in the past it is likely that the site would have been attended at least twice a day by the appellant or members of his family to care for horses kept there. Other routine visits, such as deliveries of feed and hay, collection and disposal of dung and attendance by veterinary surgeons and farriers would also have taken place. Therefore, a not insignificant level of activity and disturbance would be associated with the subsisting equestrian use of the site. Given the modest size of the dwelling, it is likely to be occupied by a couple. Accordingly, any disturbance associated with extra activity at the site is likely to be limited and localised; it would not be substantially different from that which could arise from the subsisting equestrian use and it would not significantly erode the rural qualities of the locality.
7. As a result, I find that the proposal would not harmfully erode any of the existing landscape qualities of the open land separating the two villages and it would not cause unacceptable harm to the character and appearance of the area. Consequently, the proposal would accord with Policy EQ2 of the adopted South Somerset Local Plan 2006-2028 (LP), as it would promote local distinctiveness and preserve the character and the appearance of this part of the District. In the previous appeal, the Inspector regarded LP Policy EQ2 as being out-of-date in the absence of a demonstrable five-year housing land supply. However, the Supreme Court² has since confirmed that whether the presumption in favour of sustainable development at paragraph 14 of the National Planning Policy Framework (the Framework) is engaged depends not on how individual policies are defined, but whether the operation of Development Plan policies has resulted in a shortfall in a five-year supply of housing land. The proposal would also accord with LP Policy SD1, which provides for approving proposals which accord with LP policies without delay.
8. Because I have found that the proposal accords with the above policies, it is not necessary for me to consider what weight should be applied to the LP against paragraph 14 of the Framework. Moreover, the proposal would be consistent with the Framework, in particular the core planning principle of recognising the intrinsic character and beauty of the countryside and

² Suffolk Coastal District Council v Hopkins Homes Ltd & SSCLG and Richborough Estates Partnership & SSCLG v Cheshire East BC [2017] UKSC 37.

supporting thriving rural communities within it at paragraph 17, as well as the requirement to protect and enhance valued landscapes at paragraph 109.

Other matters

9. A number of additional concerns have been raised by Odcombe Parish Council and interested parties. The accessibility of the site, the effect of the proposal on the setting of the nearby Odcombe Conservation Area, a suggestion that the building does not comply with the approved plans and concern about repeated attempts to develop the site were all matters addressed in the previous appeal. I have not had anything drawn to my attention which would give me a reason to revisit the previous Inspector's findings in relation to those matters.
10. Due to the modest size of the dwelling, it is unlikely to generate appreciable extra traffic or significantly increase the noise and disturbance that would be experienced by nearby residents compared with the subsisting use. The dwelling would not create an unfortunate precedent for further development on adjacent land, as any future planning applications would have to be assessed on their individual planning merits. Whilst it has been suggested that the building is not redundant, this would not preclude the proposal from being consistent with national policy concerning the re-use of buildings in rural areas. Interested parties dispute whether the building is on previously developed land. However, this is not central to my decision. The Council did not object to the proposal in relation to any of the above matters and I have found no reasons to disagree with their conclusions.

Conditions

11. In addition to the standard commencement condition, I have imposed a condition specifying the approved plans in the interests of certainty. I have imposed a condition requiring the submission and approval of details of the external materials, in the interests of preserving the character and appearance of the area. For a similar reason and to ensure that the dwelling has a visually satisfactory setting, I have imposed conditions requiring the implementation of an approved scheme of landscaping, to include planting of native hedge species. I have also imposed a condition restricting the use of the adjacent timber stable to purposes incidental to the enjoyment of the dwelling, order to safeguard the living conditions of future occupiers.
12. Further, I have imposed a condition removing permitted development rights in respect of the alteration, extension or enlargement of the dwelling and erection of buildings within its curtilage. In doing so I am mindful of Planning Policy Guidance (PPG) advice that conditions which generally restrict the future use of permitted development rights should only be used exceptionally³. However, having regard to the potential harm to the character and appearance of the area that could arise from such development, partly identified in the previous appeal, such a condition would, exceptionally in this case, be reasonable and necessary. I have not imposed the condition suggested by an interested party concerning retaining the rest of the paddock in open use. The paddock is outside of the site. Consequently, any erection of buildings on the paddock or a material change of use would require planning permission and the suggested condition is unnecessary.

³ Paragraph: 017 Reference ID: 21a-017-20140306.

Conclusion

13. The proposal would accord with the Development Plan and it would be consistent with the Framework. Therefore, I conclude that the appeal should be allowed.

Stephen Hawkins

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: 1514/01B, 1514/02B, 1514/03A, 1514/04A, 1514/05B & 1514/06B (dated 6 April 2017).
- 3) No development above the existing level of the ground adjacent to the dwelling hereby approved shall take place until samples of all external facing materials have been submitted to and approved by the Local Planning Authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development above the existing level of the ground adjacent to the dwelling hereby approved shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, to include the planting of a new hedge of native species along the boundaries with the adjacent paddock. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner; and 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.
- 6) The stable building identified on drawing no 1514/01B shall not be used other than for purposes incidental to the enjoyment of the dwelling hereby approved.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no enlargement, improvement or other alteration of the dwellinghouse, including any addition or alteration to its roof or any porch, and no erection of any buildings incidental to the enjoyment of the dwellinghouse within its curtilage.

Appeal Decision

Site visit made on 28 November 2017

by **Stephen Hawkins MA MRTPI**

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

Decision date: 11th December 2017

Appeal Ref: APP/R3325/D/17/3178258

9 Champion Drive, Yeovil BA22 8QS

- 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 Marnie Lavery against the decision of South Somerset District Council.
 - The application Ref 17/00510/FUL, dated 1 February 2017, was refused by notice dated 29 March 2017.
 - The development proposed is described as "*erection of a fence inside the boundary line between our driveway and neighbour's driveway at the front of the house*".
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made retrospectively as the fence is in situ. However, this matter does not affect the planning merits of the development. Therefore, it has had no material bearing on my decision.

Main Issues

3. The main issues in this appeal are the effect of the fence on the character and appearance of the area and its effect on highway safety.

Reasons

Character and appearance

4. The appeal property is a detached dwelling located towards the end of a small residential cul-de-sac of similar detached properties forming part of a planned modern housing estate. On this part of the estate the dwellings are usually set back from the street behind amply sized front gardens, which are generally enclosed by hedges and other planting of varying height or low walls. These factors contribute significantly to the largely open, pleasantly spacious and suburban qualities of the locality.
5. Erected to replace a substantial hedge, the fence largely consists of solid vertical timber boarding supported by concrete posts. The fence extends perpendicular to the front of the appeal dwelling adjacent to the boundary with 11 Champion Drive, right up to the edge of the cul-de-sac. Therefore, the fence is of a significant length. Whilst part of the fence close to the cul-de-sac is around 1.2 metres high, with an overall height of around 1.75 metres the

greater part of the fence is appreciably taller than most of the boundaries at the front of other properties in the vicinity.

6. Due to the above factors, the fence is viewed at the front of the appeal property as a substantial built feature, with a somewhat austere and unyielding profile. Therefore, its appearance is entirely at odds with the softer shapes and more limited heights of other frontage boundaries generally found in the vicinity. Consequently, the fence is viewed as a discordant feature in the street scene. Moreover, due to its physical characteristics described above, the fence has also resulted in a more enclosed and urban feel at the front of the appeal property, which is entirely at odds with and significantly erodes the otherwise pleasant and coherent visual qualities of the locality.
7. I have been referred to examples of other boundary enclosures of varying height and materials erected at adjoining and nearby properties. However, I did not see any boundaries between properties that had a materially similar visual impact to the fence in this appeal in terms of their height, length or their context. Also, from the limited details supplied I am not clear whether the Council has permitted those examples, given that a condition of the original planning permission for this area of housing removed 'permitted development' rights for the erection of frontage walls, fences, gates and other means of enclosure¹. Therefore, the examples referred to carry only limited weight.
8. Although the appellant suggested that the fence could be reduced in height, other than in relation to the section adjacent to the cul-de sac I have not been given any firm details in that respect. Therefore, I cannot accurately assess whether a reduction in the overall height of the fence would overcome the harm identified above.
9. Consequently, the fence unacceptably harms the character and appearance of the area. It follows that the fence does not accord with Policy EQ2 of the adopted South Somerset Local Plan 2006-2028 (LP), as it is not of high quality design and it does not respect its local context or preserve the character and appearance of the local area.

Highway safety

10. The section of fence adjacent to the cul-de-sac considerably exceeds the 0.6 metre maximum height that the Council requires in order to afford adequate inter-visibility between vehicles and pedestrians when entering or leaving the appeal property and other nearby accesses. Reduction in the height of this section of fence could have been secured by a planning condition, had I been minded to allow the appeal and grant planning permission. Therefore, the unacceptable harm to highway safety caused by the fence would have been addressed. Consequently, subject to compliance with the condition the fence would accord with LP Policy TA5, as there would be a safe access on foot and by private transport.

Other Matters

11. I acknowledge that the fence requires less maintenance than planting and that the appellant has already paid to erect it. However, I can only afford those matters limited weight in my decision. I have taken account of the appellant's concerns regarding the representations made at application stage by interested

¹ Condition 04 on 97/00168/REM.

parties. Even so, I have determined the appeal on its planning merits. I also note the appellant's comments regarding erecting the fence following advice on the need for planning permission given by a Council officer. Nevertheless, that is a matter between the appellant and the Council.

Conclusion

12. Whilst the unacceptable harm to highway safety could be addressed, the fence unacceptably harms the character and appearance of the area. Therefore, it does not accord with the Development Plan.
13. For the reasons given above I conclude that the appeal should be dismissed.

Stephen Hawkins

INSPECTOR

Agenda Item 10

Exclusion of the Press and Public

The Committee is asked to agree that the following item (agenda item 12) be considered in Closed Session by virtue of the Local Government Act 1972, Schedule 12A under paragraph 3: "Information relating to financial or business affairs of any particular person (including the authority holding that information)." It is considered that the public interest in maintaining the exemption from the Access to Information Rules outweighs the public interest in disclosing the information.

Agenda Item 11

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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