

## Officer Report On Planning Application: 16/02289/S73A

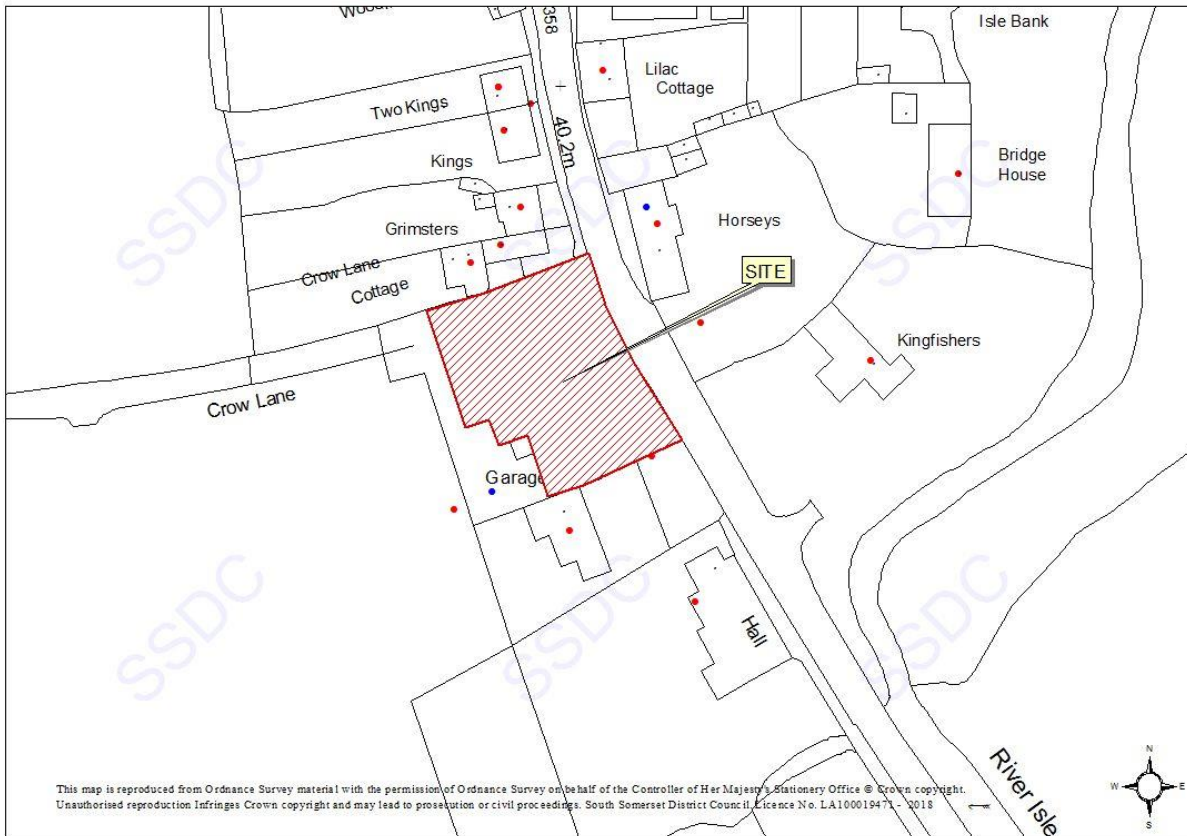
<b>Proposal :</b>	Application to vary condition 02 (approved plans) of planning permission 12/02295/FUL to amend site layout
<b>Site Address:</b>	Donyatt Garage Donyatt Ilminster
<b>Parish:</b>	Donyatt
<b>NEROCHE Ward (SSDC Member)</b>	Cllr Linda Vjeh
<b>Recommending Case Officer:</b>	Linda Hayden Tel: 01935 462534 Email: linda.hayden@southsomerset.gov.uk
<b>Target date :</b>	11th July 2016
<b>Applicant :</b>	Mr Fred Coate
<b>Agent: (no agent if blank)</b>	Mr Jim Bletcher 44 Mount Street Bishops Lydeard Taunton TA4 3LH
<b>Application Type :</b>	Minor Dwellings 1-9 site less than 1ha

### REASON FOR REFERRAL TO COMMITTEE

The application has been referred to committee by the Ward Member with the agreement of the Area Vice Chair to allow discussion of the planning issues.

### SITE DESCRIPTION AND PROPOSAL





This application relates to the former Donyatt Garage site which has been redeveloped to provide three dwellings, situated in the centre of Donyatt on the western side of the A358. Permission was granted in 2012 for the removal of all existing buildings on the site and the erection of three four-bedroom dwellings along with a covered parking area at the rear which is accessed from Crow Lane (12/02295/FUL).

The site sits just outside of the village Conservation Area.

The proposal seeks consent to vary condition 02 (approved plans) of planning permission 12/02295/FUL to allow the substitution of plans to accommodate alterations to the boundary wall and site layout. The plans have been amended to remove part of the boundary wall and re-site the electricity pole. In addition, a revised ownership certificate has been submitted confirming that an Article 14 Notice has been sent to Somerset County Council as it became apparent through the course of the application that some of the land adjoining Crow Lane was within the ownership of the County Council.

## HISTORY

### Relevant history:

16/02808/FUL - Alterations to include the erection of extensions to rear of dwelling to accommodate additional residential accommodation and hydrotherapy unit for dogs. Approved 02/08/2016.

15/03963/FUL - The erection of 1 No. detached dwellinghouse (revised application). Approved 28/2/2017.

14/05208/FUL - Renewal of temporary permission for the change of use of part of land to hydrotherapy unit and the retention of 2 No. associated buildings. Approved 19/12/2014.

13/00088/FUL - Temporary change of use of part of land to hydrotherapy unit and the erection of 2 No.

associated buildings. Approved 15/3/2013.

12/02296/FUL - The erection of extension to dwelling to accommodate a hydrotherapy unit for dogs and the erection of a detached double garage to be used as ancillary accommodation to dwelling. Approved 31/7/2012.

12/02295/FUL - Redevelopment of garage to include the erection of 3 No. detached dwellinghouses and the erection of a car port. Approved 26/7/2012.

05/02391/FUL - Demolition of existing buildings and erection of 6 houses and 2 bungalows with associated garages and parking (renewal 01/01654/FUL). Approved 12/10/2005.

01/01654/FUL - Demolition of existing buildings and erection of 6 houses with associated garages and parking. Approved 29/5/2002.

97/02836/COU - Use of garage building as offices and storage in connection with heating and plumbing business. Approved 9/2/1998.

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decisions must be made in accordance with relevant Development Plan documents unless material considerations indicate otherwise.

### Relevant Development Plan Documents

South Somerset Local Plan 2006:

Policies:-

SD1 - Sustainable Development

SS1 - Settlement Strategy

EQ2 - General Development

EQ3 - Historic Environment

TA5 - Transport Impacts of New Development

Section 72 of the Listed Buildings Act requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area. This requirement extends to all powers under the Planning Acts, not only those that relate directly to historic buildings. The desirability of preserving or enhancing the area should also, in the Secretary of State's view, be a material consideration in the planning authority's handling of development proposals that are outside the conservation area but would affect its setting, or views into or out of the area.

### **National Planning Policy Framework (March 2012):**

Chapter 4 - Promoting sustainable transport

Chapter 7 - Requiring good design

Chapter 12 - Conserving and enhancing the historic environment

National Planning Practice Guidance:

- Conserving and enhancing the historic environment
- Design

## CONSULTATIONS

### Donyatt Parish Council:-

#### Initial response (23/6/2016):

*'Donyatt Parish Council strongly does not support this application on the following grounds:*

*Thorough and detailed investigations must be carried out to ascertain whether Crow Lane has been narrowed as a result the recent development of the new dwelling's boundary wall that the Council is convinced has not been built according to the original plans. The Council visited the site and measured the width of Crow Lane at its access to the A358 which is now 4.95m. The Council has seen evidence that Crow Lane previously, when a garage site, was 6.4m in total. (Please see Land Registry Document attached) This development has caused immense difficulties for all users of Crow Lane and is potentially dangerous for a serious accident to occur when accessing onto the very busy A358 or accessing into Crow Lane from the A358. Issues are as follows:*

- Vehicles egressing Crow Lane, especially turning to Chard do not have sufficient visibility to exit Crow Lane safely as they must protrude onto the A358 to see if it is clear to proceed. The situation is exacerbated by a telegraph pole in the line of sight and black railings on top of a wall in front of the new development*
- Large vehicles especially farm vehicles cannot access Crow Lane from the south without going onto the northern carriageway facing oncoming traffic to 'swing' into the Crow Lane. Crow Lane is regularly used by a tenant farmer so movements will be high. Drivers of large delivery vehicles will also suffer the same problem.*
- The Council, together with Somerset Highways are monitoring the speed of traffic along the A358; the speed limit through the village is 30mph. There is substantial evidence of a continuing problem with vehicles travelling well in excess that limit, with SID data showing the median speed to be 37 mph and an average of some 30 vehicles per day travelling through the village at greater than 50 mph.*
- The vehicle flow for Crow Lane will increase substantially when all the houses are occupied together with the hydrotherapy business and other residents along Crow Lane which will only exacerbate the problem. Most families have at least two cars and households will have visitors and deliveries with resulting increased traffic flow There is a strong possibility that cars will be parked along Crow Lane which will make the present situation worse and there could be a situation where a vehicle has to reverse out of Crow Lane onto the A358 because there is nowhere to turn*
- There is also a problem for the tenant farmer at the rear of Crow Lane as a wall has been built directly in front of the access which leaves insufficient room to access and exit his fields.*
- It would be extreme to demolish the present buildings if found that the development of 12/02295/FUL was not built according to the plans however this present situation must be rectified. The Council suggest that the developer should be made to:*
  - Remove the perimeter wall along the entire length along Crow Lane and reinstate the original boundary along its length and its access onto the A358*
  - The air conditioning unit will also have to be moved*
  - Move the telegraph pole, but not on to Crow Lane itself*
  - Take down the black railings along the top of the front wall.*
  - Remove the wall around the parking spaces at the back of the development so the farmer can*

*access his fields in the appropriate manner*

*If the developer is not willing to implement the above, then the variation of condition 2 should not be granted.'*

**Response to additional information dated 27/6/2016 from applicant's agent (22/7/2016):**

*'Donyatt previous response, dated 23.6.16, still stands and the Parish Council concurs with the SSDC Highways Office's response of 17.7.16.'*

**Response to amended plans dated 22/12/2017 (1/2/2018):**

*'Donyatt Parish Council does not support this application on grounds that the amendments have not addressed the serious safety issues*

*In June 2016 the Council responded to this application to vary condition 2 as follows: (in italics)*

1) *Thorough and detailed investigations must be carried out to ascertain whether Crow Lane has been narrowed as a result the recent development of the new dwelling's boundary wall that the Council is convinced has not been built according to the original plans. The Council visited the site and measured the width of Crow Lane at its access to the A358 which is now 4.95m. The Council has seen evidence that Crow Lane previously, when a garage site, was 6.4m in total. (Please see Land Registry Document attached)*

***The Council is still convinced that part of the Highway, Crow Lane, has been built onto with the end of the dwellings wall and the stone wall.***

2) *This development has caused immense difficulties for all users of Crow Lane and is potentially dangerous for a serious accident to occur when accessing onto the very busy A358 or accessing into Crow Lane from the A358. Issues are as follows:*

- Vehicles egressing Crow Lane, especially turning to Chard do not have sufficient visibility to exit Crow Lane safely as they must protrude onto the A358 to see if it is clear to proceed. The situation is exacerbated by a telegraph pole in the line of sight and black railings on top of a wall in front of the new development*
- Large vehicles especially farm vehicles cannot access Crow Lane from the south without going onto the northern carriageway facing oncoming traffic to 'swing' into the Crow Lane. Crow Lane is regularly used by a tenant farmer so movements will be high. Drivers of large delivery vehicles will also suffer the same problem*
- The Council, together with Somerset Highways are monitoring the speed of traffic along the A358; the speed limit through the village is 30mph. There is substantial evidence of a continuing problem with vehicles travelling well in excess that limit, with SID data showing the median speed to be 37 mph and an average of some 30 vehicles per day travelling through the village at greater than 50 mph.*
- The vehicle flow for Crow Lane will increase substantially when all the houses are occupied together with the hydrotherapy business and other residents along Crow Lane which will only exacerbate the problem. Most families have at least two cars and households will have visitors and deliveries with resulting increased traffic flow There is a strong possibility that cars will be parked along Crow Lane which will make the present situation worse and there could be a situation where a vehicle has to reverse out of Crow Lane onto the A358 because there is nowhere to turn*

***Unfortunately, over 18 months on, the Council's concerns are justified as follows.***

- Vans have entered Crow Lane in a forward gear on several occasions and then find that they cannot turn around, their only option is to reverse out onto the A358.***

- ***The speed of traffic has increased with evidence that vehicles travel at median speed of 45mph***
- ***It is noted that the telegraph pole is proposed to be moved but there is still not sufficient visibility for vehicles to access Crow Lane safely***
- ***When all of the dwellings are occupied which they are not at present, more vehicles will be using Crow Lane with most families having two cars, households will have visitors and there will be more delivery vehicles.***
- ***Vehicles are parking along Crow Lane presumable on a visit and, as Crow Lane has been made narrower, larger vehicles will not be able to access the lane at all***

3) *There is also a problem for the tenant farmer at the rear of Crow Lane as a wall has been built directly in front of the access which leaves insufficient room to access and exit his fields.*

***The wall around the parking area at the rear of Crow Lane is causing problems with farm vehicles blocking six of the seven residences for some considerable time. If the wall was not there, the vehicle could have reversed up to the gate of the field.***

***In June 2016 the Council made the following recommendations for the Council to approve the application***

- *Remove the perimeter wall along the entire length along Crow Lane and reinstate the original boundary along its length and its access onto the A358*
- *The air conditioning unit will also have to be moved*
- *Move the telegraph pole, but not on to Crow Lane itself*
- *Take down the black railings along the top of the front wall.*
- *Remove the wall around the parking spaces at the back of the development so the farmer can access his fields in the appropriate manner*

***The Council are now recommending:***

- ***Remove the perimeter wall along the entire length along Crow Lane and reinstate the original boundary along its length and its access onto the A358. The boundary of the development site should be along the end wall of the dwellings***
- ***Remove the air conditioning unit as this is unsightly adjacent to a Conservation Area. The Conservation Area boundary runs along Crow Lane so it could be said that the air conditioning unit and the perimeter wall on Crow Lane actually jut out into the Conservation Area.***
- ***Move the telegraph pole, but not on to Crow Lane itself***
- ***Remove the boundary wall as indicated on the plan and also approximately 10 metres of the front wall with the railing so to create the necessary visibility splay***
- ***Remove the wall around the parking spaces at the back of the development so the farmer can access his fields in the appropriate manner***

*If the developer is not willing to implement the above, then the variation of condition 2 should not be granted.'*

In response to an email from the County Highway Authority in response to the Parish Council's comments of 1/2/2018, the Parish Council commented:

*'...the Parish Council has agreed that the response made on 1.2.2018 still stands.*

In response to the latest set of plans (14/5/2018), the Parish Clerk has advised that the Parish Council have not yet held a meeting to discuss the changes but councillors have said by email that *'they welcome the removal of the boundary wall and whether Crow Lane has been built upon or not - we are*

*now leaving this to the experts to decide'. The Parish Clerk has advised that a further consultation with the councillors has taken place and they would like to add that the heat exchanger is sited in a conservation area and would like it moved.*

**County Highway Authority:**

**1st response (22/6/2016):**

*'It is self-evident that there are no visibility splays provided with the amended plans package as submitted to the LPA, showing what actual visibility splays that can be achieved on site at this point in time. As this is an application seeking to vary a highway related condition, then there is a possibility that there will be an impact on highway safety and visibility.*

*As such I would require the developer to submit a revised plan showing the visibility splays that can be achieved on site at this point in time so that they can be formally assessed. If these are not provided, I would have no alternative other than to recommend a refusal on lack of information.'*

**2nd response (6/7/2016):**

*'...following a site visit on the same day have the following observations on the highway and transportation aspects of this proposal:-*

*The application is to vary condition 2, which is to amend the boundary wall and the site layout.*

*It is the opinion of the Highway Authority that if the variation of condition 2 is allowed this will mean that there is a potential highway safety concern with the junction with Crow Lane and the A358. The variation of the condition will also narrow the width of Crow Lane. This could obstruct the flow of traffic which again could cause a potential highway safety concern. If the variation of conditions is allowed it will also mean that the width of Crow Lane will be narrowed. This will have an impact on road users as well as highway safety. The narrowed lane would not allow vehicles to pass one another. As such any vehicle wishing to turn into Crow Lane while a vehicle has parked or is waiting to exit the junction will cause an obstruction on the A358, again which could be a potential highway safety concern.*

*The proposed variation of condition has also meant that visibility has been reduced. The A358 has a speed limit of 30mph and using Manual for Streets (MfS) the required visibility for a 30mph speed limit would be 2.4x43metres. Drawing titled "As Built Site Layout" shows that the visibility that can be achieved is only 2.4x20metres, less than half of the required amount and this could potentially lead to a highway safety concern.*

*The Highway Authority would recommend that the variation of condition is not approved due to the implications that the proposal would have on highway safety and the proposal is contradictory to section 4 of the National Planning Policy Framework (NPPF).'*

**3rd Response (19/1/2017):**

*'After our meeting on site on Tuesday 22 November 2016 and meetings with Somerset County Council Property Services the Highway Authority has the following comments as agreed during our site visit.*

*The Highway Authority does have concerns over the works that have been undertaken on Crow Lane on the site of the former Donyatt Garage. Further conversations with Somerset County Councils Property Services have also raised concerns over land ownership and a conflict between the dwellings that have been constructed as Somerset County Council owns some of the land beyond the adopted Highway.*

*From onsite observations, there are safety concerns with the access onto the A358 from Crow Lane,*

*including the location of the telegraph pole and the newly constructed wall that are both directly in the visibility splay. The restricted visibility poses a severe highway safety concern especially taking into consideration that the A358 has such a high traffic flow. The junction should have sufficient visibility to allow safe movement to and from Crow Lane and it is apparent the wall that has been constructed has not allowed for visibility.*

*The Highway Authority deemed that the visibility from the access in application 12/02295/FUL would have been sufficient taking into account that the wall both on Crow Lane and the A358 was to be set further back, there was sufficient radii on the junction with the A358 and the plan shows that there was no wall after the access into the parking area on Crow Lane and these are shown in the original plans, Drawing Number 1206.05. Taking this into account, the telegraph pole would have to be moved and the wall either splayed at 45 degrees or altogether removed as this would open up the visibility splays to enable the required visibility from the junction.*

*The details for visibility can be found in Manual for Streets (MfS) where the Highway Authority would require 2.4x43metres with no obstruction greater than 300mm*

*It was also noted that the wall leading from the parking area has a wooden fence above which increased the height and this also represents an obstruction to visibility and was not part of the original planning conditions. When leaving the area that has been allocated for car parking, the wooden fence now obstructs the level of visibility that can be achieved and as such would need to be removed to allow vehicular visibility along Crow Lane.*

*From onsite observations it was apparent that the developer has constructed a wall that runs adjacent to Crow Lane to the allocated parking area from the junction with the A358. The original plans showed that this wall was set back from the edge of the carriageway which would have a margin on the side of the carriageway. The applicant should be aware that although the wall has been constructed on or adjacent to the edge of the adopted highway, any construction should be set back from the edge of the highway a minimum of 450mm and would need a license from the Highway Authority to undertake such works on or adjacent to the highway.*

*When observing Crow Lane it was apparent that patched resurfacing had taken place and there was considerable damage to the carriageway surface. The developer would have to resurface Crow Lane along its entirety to have a fully consolidated surface. It is also noted that the works to resurface Crow Lane were not done so with an appropriate agreement, consent or license. The applicant must ensure that any future works on the highway are done so with the appropriate agreement, consent or license in place.*

*Ultimately the encroachment onto and adjacent with the highway represents a severe highway safety issue and as such this would need to be addressed in order for the Highway Authority to be satisfied that the highway safety element has been satisfactorily remedied and would allow for the safer movement of vehicles to and from Crow Lane.*

*Having consulted colleagues and the land registry office, it is apparent that the end dwelling is on land that is owned by Somerset County Council, although it is not Highway Land. As such the applicant should:*

- Move the wall on Crow Lane back*
- Move the telegraph pole out of the visibility splay with the junction with the A358*
- Change the access to the parking area to allow sufficient visibility along Crow Lane*
- The Developer would have to liaise with Somerset County Councils Property Services with regards to the acquisition of land.*

*Taking the above into account, there are concerns from the Highway Authority over the access and*



*highway safety implications of the access and from Somerset County Councils Property Services over land the developer has built on that was not (and is still not) under the control of the developer.'*

**4th response (24/1/2018) following receipt of amended plans and new ownership certificate:**

*'There are still land ownership issues that the applicant will need to address with Somerset County Council Property services.*

*When looking at the highway related aspects of this planning application, the submitted plans would appear to have taken into consideration the concerns that were raised by the Highway Authority and therefore would not raise an objection to application to vary the condition.'*

The County Highway Authority has also responded to a number of emails from a local resident and have stated the following:

- *'The Highway Authority cannot give a definitive position statement to confirm (or deny) if the development (boundary wall) has been built on the adopted public highway. It is however clear that the wall has not been set back from the edge of the carriageway as originally intended.*
- *It is however clear that the development has been built on land in the ownership of the County Council (which is not adopted public highway). The land issue is being dealt with by Somerset County Council's property services team.*
- *The telegraph pole is proposed to be moved (again) and the wall reduced in height as part of the S73 planning application 16/02289/S73A and the visibility increased to 2.4x22metres. However, Manual for Streets 2 (MfS2) does allow for the 'X' distance to be 2.0m rather than 2.4m in some circumstances which would provide visibility of 2.0x43m.*
- *As part of the S73 proposal, the telegraph pole has been moved and the wall splayed (rather than being at right angles) which will aid vehicles entering and exiting Crow Lane. This will help to reduce conflicting traffic movements at this junction.*
- *The Highway Authority cannot recommend to the Local Planning Authority that visibility splays greater than the posted speed limit are provided. The Highway Authority cannot insist on greater visibility splays, as a result of illegal activity. It would be a police enforcement matter if there is regular speeding concerns.*
- *It is anticipated that the traffic generated by the permitted dwellings will not be significantly different to that from the former garage. With regard to indiscriminate parking, should there be vehicles blocking or obstructing the highway, this is a police enforcement matter.*
- *The adopted highway on Crow Lane has never had the benefit of a turning head as part of the highway. Whilst it is acknowledged that vehicles were able to turn on private land prior to the residential development being constructed, the situation now with the adopted highway is no different than it has been historically.*
- *It should be noted that the average dwelling generates 6-8 vehicle movements per day which would mean that the site would generate an additional 24 vehicle movements which equates to approximately 2 in the peak hours. This is likely to be similar to (or less than) the traffic generated by the garage when it was in operation.*
- *It must be remembered that the development has been built on county council owned land but (probably) not on the adopted highway land. It is acknowledged that with the wall being built on*

*or at the edge of the adopted highway, the effective width of the carriageway is narrower, but the actual width is likely to be unchanged or only minimally altered.*

- *The wall defines the boundary of the private land. If the farmer had the benefit of use of private land previously, then this is not a consideration through the planning process. It should however be noted that the wall 'regularises' the parking arrangements and would prevent vehicles from parking to far across and potentially creating an obstruction on the access to the rear of the site.'*

There has been no response from the County Highway Authority to the latest set of amended plans.

### **Rural Estates Manager (Somerset County Council) (15/6/2016):**

*'I wish to object on behalf of Somerset County Council as an adjacent landowner, to the proposals to vary condition 02 of planning reference 12/02295/FUL, to amend the boundary wall and site layout.*

*As you know there has been a lot of agitation caused by this development which is clearly not in line with the plans that were originally submitted. The width of Crow Lane is crucial to access over 40 acres of land that is primarily used silage making in the summer and grazing in the winter. Grass cutting could easily amount to 3 separate cuts over the season and the production and removal of about 500 tonnes of silage from the land for winter storage. This will involve between 70 and 100 trailer loads using the lane. The fact that it has now been restricted by almost a metre and a half has meant considerable hardship for the Council's farming tenant who has difficulty in carrying on with his usual business to the extent that he has suggested to me that he would have to give it up if the situation continues.*

*This seems to be a very unfair position for both the landowner and tenant, when a clear breach of planning conditions has resulted in this situation. I believe a solution has been suggested whereby the boundary wall is removed and the house wall becomes the new boundary in relation to the road, so that the width is restored. The parking area also now has walls that were not in the original plans and these directly impinge on the field access. Removal of all these walls would cause no hardship to the residents compared to the current situation, which now seriously affects all users of Crow Lane. I would also ask that the AC unit is placed in a different location as it too causes an unnecessary obstruction to what is in effect a public highway.*

*I believe the original plans were deliberately drawn to show measurements that differed with the scale drawings. The new plans do not have enough detail (no measurements) and when scaled, do not reflect the position on the ground. This is very easy to verify.*

*I believe Crow Lane should be restored to an acceptable width so that the existing and new residents and workers in Donyatt can continue about their business as before without this imposed and unnecessary restriction.'*

### **Senior Historic Environment Officer:**

'As far as we are aware there are limited or no archaeological implications to this proposal and we therefore have no objections on archaeological grounds.'

### **REPRESENTATIONS**

There has been considerable correspondence received in response to this application which includes exchanges of emails between an objector and the County Highway Authority.

In response to the original submission, the following comments (summarised were made):

- The new build makes exiting Crow Lane onto the A358 difficult as; the road is narrower than planned; there are railings that interfere with visibility; a telegraph pole has been placed in the visibility splay. If the telegraph pole is moved on to the lane this will further reduce its width.

- Visibility is below that required on a 30mph road. Average vehicle speeds through the village are 45mph.
- The narrowness of the lane could lead to vehicles queueing on the A358 or having to reverse up the lane. Also results in; vehicles driving over private land to pass each other and park/turn; damage to neighbours vegetation; damage to neighbours vehicles; near misses at junction.
- The vehicle flow along the lane has increased substantially as there are 7 houses, an annexe, a hydrotherapy business and a farm access. Situation will worsen once all properties are occupied.
- Parking along the lane causes difficulties with access; inadequate parking is provided.
- There is no pedestrian path as required by the approved plans. The development is therefore less safe for pedestrians
- Dispute the information given in the application documentation; drawings are not to scale.
- There is a large and ugly air conditioning unit on the side of the property.
- The problems at the site will cause a devaluation of neighbouring property prices.
- Do not require that the development be demolished but that the boundary wall be sited in accordance with original approved plans.
- Perimeter wall should be removed; air conditioning unit should be relocated; edge of the house should form the boundary; pavement should be reinstated; walls removed from parking area; railings and telegraph pole moved from visibility splay.
- Narrowness of lane causes difficulties for farm vehicles using the farm access along the lane.
- The lane has always provided a right of access to the county land at the rear of the application site.
- Wall has been constructed on the highway owned by the County Council; the original deeds show the boundary of the garage with the lane being 5.5m wide. The planning authority should take responsibility for ensuring that the wall is removed from the highway. Legislation allows the highway authority to seek the removal of obstructions on the highway
- The planning authority has failed in its responsibility to; fully consider the original plans where there was a discrepancy between the written measurement and the actual plan; failed to notify the highway authority that the wall was being built in their land; did not comply with the parking strategy as advised by the County Highway Authority.
- The original plan should have been followed and the developer should not be allowed to ignore the original requirements.
- Lane needs to be resurfaced.
- Neighbour has had to provide additional parking provision for their property as it is no longer possible to park on the lane, resulting in a smaller garden and expense resulting from the unauthorised development.

A letter making general comments on the application from the previous site owner advises that discussions took place with the County Highway Authority to establish the extent of the highway and a plan was agreed. They state that their plan is a more accurate guide to the boundary than the land registry plan supplied by the Parish Council. Also includes wayleave payments to show that the electricity pole was on private land. Express concern that the removal of the railings would be a health and safety issue.

In response to the first set of amendments (with new ownership certificate) and highways responses, further responses were received repeating the concerns expressed above and making the following additional comments (summarised):

- Crow Lane is wider than Highways have stated and they are breaking the law by not maintaining the original width of the road. There is a road drain that showed the extent of the highway but this has now been built upon. It is unacceptable for the highway authority to not give a definitive response on the extent of the adopted public highway; they should err on the side of caution.
- The County Council may have the right to sell the land to the developer but cannot give up the highway rights over the land.

- A new application for a dwelling in the village was required to provide a 60m visibility splay. Question why is it acceptable for the development at the garage site to have a reduced splay which is not in accordance with guidance.
- The splay should be based on actual speeds through the village not on the basis of the speed limit. The effective carriageway width is 3.95m; highways advise that the minimum width of a two lane carriageway is 4.5m.
- The highway authority has previously stated that the encroachment of the development onto and adjacent the highway represents a severe highway safety issue question how they can now have no objection to the application.
- The highway authority appear to have ignored their previous requirement that the lane be resurfaced.
- Highways can require additional visibility splays to deal with real-world situations such as where speed limits are broken.
- Query the highways assessment of the number of traffic movements that will be generated; this will be more than that generated by the previous garage use when combined with the existing houses and businesses that also use the lane.
- Query if the calculations regarding pedestrian visibility (particularly children) have been applied.

## **CONSIDERATIONS**

Approval was granted in 2017 for this scheme and work has commenced on site.

With an existing permission remaining extant, the principle of development is considered to be established. The only matters that need to be considered here are those that the current application seeks to amend which relate to the alterations to the siting of the dwellings and the boundary wall. It should be noted that the latest set of amended plans now show the boundary wall alongside Plot 1 removed (it is understood that work has already commenced on this aspect). In addition, the telegraph pole is in the process of being re-sited so that it will be located adjacent to Plot 1.

### **Highways Issues**

The latest set of amended plans show the removal of the boundary wall that had caused the concerns about the narrowing of Crow Lane. In addition, the telegraph pole is in the process of being re-sited adjacent to Plot 1 (outside of the visibility splay). These changes will allow the width of the lane to be widened to at least 5.5m from the junction with the A358 to the rear parking area. As such, it is considered that these amendments have improved access along this part of the lane.

With regard to the visibility splay, the relocation of the telegraph pole means that the visibility will be as agreed in the original approved plans and the County Highway Authority have indicated that they are satisfied with the levels of visibility provided.

In terms of the levels of traffic activity, there has been no change to the amount of development at the site and as such this application will not result in any additional movements. The additional developments near the site that use the lane were considered in full knowledge of the housing development.

In terms of the extent of the highway, this is a matter for the County Council to establish and enforce. The applicant has submitted the necessary ownership certificate to confirm that notice of the application has been served upon Somerset County Council and as such it would not be appropriate to refuse the application on this basis. It should be noted, however, that the grant of planning permission in this case would not override the relevant legislation covering obstructions on an adopted highway or prevent enforcement by the County Council.

In terms of parking levels, these are as shown on the original approved plans and this application would

not alter the agreed arrangements.

In terms of the resurfacing of the lane, this will be a matter for the County Council to resolve with the developer as the lane is adopted highway. The fact that the lane is adopted also means that the access to the farm remains available.

In summary, the latest set of amended plans show the removal of the boundary wall and the relocation of the telegraph pole that had caused the concerns regarding the width of the road and visibility. Whilst the County Highway Authority have not commented on this latest set of plans, they did not object to the previous set of plans showing the side boundary wall retained. In the circumstances, it is not considered that the revised proposals could reasonably be refused on the grounds of highway safety. The proposal therefore accords with Policies TA5 and TA6 of the South Somerset Local Plan 2006-2028.

#### **Impact upon setting of Conservation Area**

The amended proposals show that the dwellings have been sited 0.8m closer to Crow Lane than the original approved scheme. Due to the relatively minor nature of the change, it is not considered that this variation has resulted in an unacceptable impact upon the setting of the conservation area.

The application therefore complies with policy EQ3 of the South Somerset Local Plan 2006-2028.

#### **Impact upon residential amenity**

The proposals have brought the end elevation of Plot 1 0.8m closer to the existing dwelling opposite. However, it is not considered that this relatively modest change has resulted in such a significant loss of amenity as to justify refusal of the application. It is noted that the side window on the plot was required to be obscurely glazed prior to occupation under the original scheme but clear glass has been installed. Given that this is a landing window that only serves the staircase it is not considered reasonable to require that this be obscurely glazed.

The recent amended plans, submitted to address the concerns about the narrowing of the lane, have now ensured that the lane is at least 5.5m wide from the junction with the A358 to the rear parking area.

The application therefore complies with policy EQ2 of the South Somerset Local Plan 2006-2028.

#### **Other Issues**

Air source heat pumps - these are permitted development and therefore did not require the benefit of planning permission.

#### **Summary**

Whilst it is unfortunate that works have taken place that were not in accordance with the approved plans, it is considered that the latest set of plans have adequately addressed the concerns regarding the width of the access. Furthermore, the telegraph pole will be taken out of the visibility splay. Given that the County Highway Authority did not object to the plans showing the retention of the wall it is not considered that it would be reasonable to refuse the application on the grounds of highway safety as the visibility at the access is now in accordance with the original approved plans. The issue regarding the extent of the adopted highway is one for the County Council to address as the appropriate certificate has been submitted with this planning application.

It is not considered that the changes have resulted in demonstrable harm to residential amenity or the setting of the conservation area.

#### **RECOMMENDATION**

Approve

01. The proposal variations to the approved plans are considered to respect the setting of the conservation area and cause no demonstrable harm to residential amenity or highway safety in accordance with the aims and objectives of policies EQ2, EQ3, TA5 and TA6 of the South Somerset Local Plan and the provisions of the National Planning Policy Framework.

**SUBJECT TO THE FOLLOWING:**

01. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan (1:1250), Drawing No.'s 1206.06, 1206.07, 1206.08, 1206.09, 1206.10, 1206.11, 1206.12, 1206.13A, 1206.14, 1206.15, 1206.16, 1206.17, 1206.18, 1206.19, 276/C2 and 276/L2B.

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

02. No infiltration of surface water drainage into the ground at the site is permitted other than with the express written consent of the LPA, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason: The use of SUDs in contaminated areas has the potential to cause mobilisation of contamination. Therefore this condition should be applied to areas in the site where contamination has been identified to protect controlled water.

03. 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 garages or outbuildings shall be erected other than those expressly authorised by this permission.

Reason: To safeguard the character and appearance of the setting of the conservation area and to accord with policies EQ2 and EQ3 of the South Somerset Local Plan 2006-2028.

04. 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 building, or other external alteration made without the prior express grant of planning permission.

Reason: To safeguard the character and appearance of the setting of the conservation area and to accord with policies EQ2 and EQ3 of the South Somerset Local Plan 2006-2028

05. 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 these buildings without the prior express grant of planning permission.

Reason: To safeguard the character and appearance of the setting of the conservation area and to accord with policies EQ2 and EQ3 of the South Somerset Local Plan 2006-2028.

06. The parking areas and car port allocated for parking on the submitted plan shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby approved.

Reason: In the interests of highway safety and to accord with Policy TA5 and TA6 of the South Somerset Local Plan 2006-2028.

**Informatives:**

01. The applicants attention is drawn to the comments of the Environment Agency in their letter dated 6 July 2012:-

'The site must be drained by a separate system of foul and surface water drainage, with all clean roof and surface water being kept separate from foul water.

Oil storage facilities should be sited in bunded areas. The capacity of the bund should be at least 10% greater than the capacity of the storage tank or, if more than one tank is involved, the capacity of the largest tank within the bunded area. Hydraulically inter-linked tanks should be regarded as a single tank. There should be no working connections outside the bunded area.

During construction the following comments apply: -

Discharge of silty or discoloured water from excavations should be irrigated over grassland or a settlement lagoon be provided to remove gross solids. This Agency must be advised if a discharge to a watercourse is proposed.

This Agency must be notified immediately of any incident likely to cause pollution.

Any movements of waste off or on to site must comply with the Duty of Care Regulations 1991. Any activity that uses waste materials on site must also comply with the Environmental Permitting Regulations 2010.'

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