

24/19/0021

WEST OF ENGLAND DEVELOPMENTS (TAUNTON) NO 2 LTD

**Erection of bungalow on land to rear of 16 Town Farm, North Curry
(resubmission of application 24/18/0012)**

Location: LAND TO REAR OF 16 TOWN FARM, NORTH CURRY, TAUNTON

Grid Reference: 331800.125262

Full Planning Permission

Recommendation

**Recommended decision: Conditional Approval
Subject to no adverse comments from the County Archaeologist**

Recommended Conditions (if applicable)

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A3) DrNo 16.16.101 Site Location Plan
(A3) DrNo 16.16.102 Existing Site Plan
(A3) DrNo 16.16.103 Block Plan
(A3) DrNo 16.16.104 Site Plan
(A3) DrNo 16.16.105 Bungalow Floor Plan
(A3) DrNo 16.16.106 Bungalow Elevations
(A3) DrNo 16.16.107 Garage Plans & Elevations

(A3) DrNo 16.16.110 Location Plan
(A2) DrNo 1795.102 Rev B Extended Orchard Proposals

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

3. Prior to the construction of the building samples of the materials to be used in the construction of the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained as such.

Reason: To safeguard the character and appearance of the area.

4. (i) A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior such a scheme being implemented. The scheme shall include details of the species, siting and numbers to be planted.

(ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development.

(iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species.

Reason: To ensure that the proposed development does not harm the character and appearance of the area.

5.
 - i) Before development commences (including site clearance and any other preparatory works) a scheme for the protection of trees to be retained shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location of the protective fencing, and shall specify the type of protective fencing, all in accordance with BS 5837:2012.
 - ii) Such fencing shall be erected prior to commencement of any other site operations and at least two working days' notice shall be given to the Local Planning Authority that it has been erected.
 - iii) It shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities whatsoever shall take place within the protected areas without the prior written agreement of the Local Planning Authority.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase.

Reason for pre-commencement: To ensure protection of trees on site.

6. The development hereby permitted shall not be commenced until details of a strategy to protect wildlife and specifically reptiles has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of Blackdown Environmental's submitted report, dated July 2019 and include:
 - Details of protective measures to include method statements to avoid impacts on protected species during all stages of development;
 - Details of the timing of works to avoid periods of work when the species could be harmed by disturbance;
 - Measures for the retention and replacement and enhancement

measures including places of rest for species.

Once approved the works shall be implemented in accordance with the approved details and timing of the works and thereafter the resting places and agreed accesses for species name shall be permanently maintained. The development shall not be occupied until the scheme for the maintenance and provision of the new resting places and related accesses has/have been fully implemented

Reason: To protect species name and their habitats from damage.

Reason for pre-commencement: To ensure protection and enhancement for wildlife.

7. No works shall be undertaken on site until the Local Planning Authority has first approved in writing details of a programme of access which will be afforded to a named archaeologist to observe and record all ground disturbance during construction (such works to include any geological trial pits, foundations and service trenches). The named archaeologist shall thereafter be allowed access in accordance with the details so approved.

Reason: To enable the remains of archaeological interest which may exist within the site to be appropriately recorded.

Reason for pre-commencement: Any works on site have the potential to disturb archaeological interests.

Notes to Applicant

1. In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and entered into pre-application discussions to enable the grant of planning permission.

Proposal

The application seeks full planning permission for the construction of a detached bungalow with three bedrooms and a detached garage, together with hard and soft landscaping. The building would measure 14.5m by 11.4m and the height would be 2.3m to eaves and 5.8m to the ridge. The building would have a double roman tile roof over brick walls with white upvc doors and windows. Adequate parking and turning would be provided and there would be replacement tree planting on site for those previously felled.

Site Description

The application site is located on the western side of North Curry, surrounded by residential properties in a mix of styles. The site lies to the rear garden of 16 Town

Farm and was formerly used as a small orchard. The site area is 1056 square metres and the site is effectively screened from public views due to its position behind the buildings fronting Sycamore Row.

Relevant Planning History

24/01/0033 - Erection of 3 houses and 2 flats for Social Housing and Alterations to existing barn (parallel to the pavement) at Town Farm, North Curry - CA 8/3/02

24/01/0034 - Residential Development (total of 14 units) Including Conversion and Extension of Existing Building to form 2 Units at land to the rear of Town Farm, North Curry- CA 8/3/02

24/18/0012 - Erection of bungalow on land rear of 16 Town Farm, North Curry - RF

Consultation Responses

NORTH CURRY PARISH COUNCIL - Following the discussion, Mr Cable proposed the Parish Council object to the granting of permission, the Chairman added this is on the same basis as the previous objection, excluding the comments previously put forward regarding the orchard fruit trees, which were cut down. The following comments and quotes were discussed and agreed to resend:

1. According to the Chief Solicitors Report to the Planning Committee of 21.05.2003 in relation to the Town Farm Development application "... They have now reached an agreement between them whereby the Parish Council would relinquish the open space to the rear of the site in exchange for the transfer to the Parish Council of the barn at the front of the site. **The 'open space' would then be taken into the curtilages of the properties to be built on the site, with a small area being retained as a 'paddock'.**

To ensure the retention of the open area between the houses to be built and the open countryside, the land would be transferred **subject to a covenant that no structures of any sort would be erected on the land** and the Local Planning Authority would retain control over any fencing to be erected. **Additionally**, in respect of the paddock **the developer would enter into a covenant to maintain the paddock in good agricultural order.**"

Subsequently the Section 106 Agreement between West of England Developments and the Council commits to the following: Para. 2.2 "The Parish Council and the Council hereby agree that **the Developer may use the Public Open Space Land** (as defined in the Principal Agreement) **as garden or paddock for the purpose of the Development Proposal provided that the Developer shall not construct or permit to be constructed upon the Public Open Space Land** as so defined any building or other structure whatsoever (other than hedges or fences dividing individual garden areas such fencing to be approved in writing to the council)"

Para. 6. 'The developer hereby agrees (in consideration of the agreement by the Parish Council and the Council in clause 2) that

6.1 any area of land retained as paddock will be maintained in good agricultural order'.

The Parish Council would neither want to see, nor set a precedent of, erosion of open space/areas committed to under Section 106 agreements. This piece of land should be under a covenant preventing construction on it in accordance with the S106 agreement.

2. Development of this site would be contrary to both: **Section 18 of the National Planning Policy Framework**:

“118. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;’

‘planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss;’

Mr Cable proposed that the PC also object on the basis of poor access to the site and that the trees that were cut down be replaced on the paddock site, in an effort to re-establish the orchard. The Chairman also reiterated that this should remain an open space with no structure on it; this was seconded by Ms Smith, and was carried.

SCC - TRANSPORT DEVELOPMENT GROUP - The proposal is for a single dwelling which is unlikely to have a severe impact on the highway network, give the existing level of development that is served from Knapp Lane. The access would usually be considered substandard in terms of visibility for a 30mph speed limit, however given that the traffic speeds on Knapp Lane are constrained by the physical characteristics of the highway, this should be acceptable.

It seems that the parking and turning provision for the development is in line with the adopted Policy and the guidance contained within Standing Advice and this should be conditioned.

Provided that this is the case, there is no objection to the proposal on highway grounds.

TREE OFFICER - No objection.

The remnant orchard that was present on this site was unfortunately largely felled in April of last year. Of the 14 trees on the site, 10 of them were either felled, or partially felled or ring-barked. A TPO had been served, but the trees were cut before the TPO could be received. After this, it was considered that the site as an orchard was essentially lost, as only the remaining undamaged trees at the northern end were likely to survive. The 10 trees that had been cut were likely to die or would be likely to shed limbs from what remained. The TPO system does not allow for the protection of dead or dangerous trees.

The site is now very overgrown, but it appears that the remains of three trees are present in the middle of the site, one of which appears to have re-sprouted from the stump. These remains would not merit protection by TPO. However, there is a group of trees at the northern end of the site that is shown to be retained. Three of these are apple trees. There’s also a birch and a palm tree. I think that these should be protected by a planning condition, and protected carefully during construction in the usual way. Also a good number of new trees should be included in a landscape scheme, as indicated on the current site plan.

LEAD LOCAL FLOOD AUTHORITY - No comment to make.

Representations Received

40 letters of objection on the following grounds:

- Overdevelopment and destruction of an old orchard
- Backland out of keeping with the area
- Orchard should be preserved for locals
- Access not suitable onto dangerous lane with poor visibility
- Increase danger to motorists, cyclists and pedestrians
- Access dangerous
- Green buffer and historic orchard should not be built on
- Loss of green land and habitat
- Important wildlife space, loss of biodiversity
- Disruption to nearby bungalow
- Detrimental impact on local amenity
- Loss of privacy
- Noise and disturbance
- Development unnecessary
- No need for housing
- No change from previous refusal
- Trees lost should have been protected and those left should be
- Heritage impact
- Infrastructure cannot cope
- Concern over surface water drainage
- Legal agreement relating to the site and covenant on the land
- Setting of precedent

Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for Taunton Deane comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local

Plan (2015), and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below.

SD1 - Presumption in favour of sustainable development,
SP1 - Sustainable development locations,
DM1 - General requirements,
A1 - Parking Requirements,
D7 - Design quality,
D10 - Dwelling Sizes,
D12 - Amenity space,
ENV1 - Protection of trees, woodland, orchards and hedgerows,
ENV2 - Tree planting within new developments,
ENV4 - Archaeology,

This takes into account the recent adoption of the SADMP.

Local finance considerations

Community Infrastructure Levy

Creation of dwelling is CIL liable.
Proposed development measures approx. 158sqm.

The application is for residential development outside the settlement limits of Taunton and Wellington where the Community Infrastructure Levy (CIL) is £125 per square metre. Based on current rates, the CIL receipt for this development is approximately £19,750.00. With index linking this increases to approximately £26,500.00.

New Homes Bonus

The development of this site would result in payment to the Council of the New Homes Bonus.

1 Year Payment

Taunton Deane Borough	£1,639
Somerset County Council	£410

6 Year Payment

Taunton Deane Borough	£9,834
Somerset County Council	£2,459

Determining issues and considerations

The proposal is for the erection of a single bungalow on land to the rear of existing two storey development at Town Farm and Sycamore Row within the historic village of North Curry. The land is within the settlement and surrounded by residential development. The main issues are suitability of the site in terms of location, character and design, biodiversity and the access.

The location is within the settlement limits of the village where development in principle is considered acceptable. It is in a backland position and was originally designated open space and possible allotment land for the Town Farm development granted in 2002. This land was referred to in the original Section 106 agreement for the site and was subsequently amended to paddock land with a clause in the legal agreement that it not be built on. Circumstances have clearly changed since the agreement was completed as the site does not form a buffer any longer and is now surrounded by residential development. This however is a legal issue that would need to be relaxed if development was to be granted. The covenant is not a relevant planning issue in the consideration of the application.

The land itself has been an undeveloped orchard area historically as evidenced from historic maps. The character of the area is as an overgrown orchard and a number of trees on the site have been subsequently felled prior to a TPO being formally served. The character of the surrounding area is of mainly two storey dwellings and while a bungalow design could be argued to be out of keeping with the general character of the village, there is a bungalow immediately to the east. However this site is not in the conservation area and has no specific designation and a bungalow would not have any adverse impact on the amenity of neighbours.

Policy ENV1 of the SADMP seeks to minimise the loss of trees and orchards among other natural features and seeks a net gain where possible. It is proposed to plant replacement trees for those removed as part of the development, and an alternative public orchard area planted on open space in the village has been provided to compensate for the loss of the area. The site is privately owned and trees will be planted to supplement those already on the site which would result in a net gain. This being the case the impact of a single storey property and tree planting is not considered to adversely impact on the character of the area to warrant a refusal of the proposal and it is considered to comply with policies ENV1 and ENV2. A biodiversity survey has been carried out and it is recognised that the NPPF seeks biodiversity enhancements. It is considered that subject to a suitable condition to protect wildlife and secure enhancements identified in the report, there is no significant harm to protected species to warrant a refusal.

The access to the site is proposed via an existing access onto Knapp Lane in a location around 45m with the junction with Queen Square. The access serves existing properties and the addition of a single dwelling is not considered to generate significant traffic to warrant a highway concern, particularly as the visibility in both directions is considered adequate. The proposal has parking and turning within the site which complies with policy A1 of the SADMP and the Highway Authority raise no objection.

In summary the development would result in the provision of a bungalow that would not impact on the amenity of neighbouring dwellings. The access is suitable to serve a single dwelling and the main issue is the loss of an historic orchard area. A

replacement public orchard area has been provided and replacement tree planting for those previously lost can be conditioned as well as the protection of those trees to remain. On balance the proposal is considered to comply with policies of the development plan and is recommended for approval.

In preparing this report the planning officer has considered fully the implications and requirements of the Human Rights Act 1998.

Contact Officer: Mr G Clifford