

## SWT Planning Committee

Thursday, 12th September, 2019,  
1.00 pm



Somerset West  
and Taunton

The John Meikle Room - The Deane  
House

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**Members:** Simon Coles (Chair), Roger Habgood (Vice-Chair),  
Ian Aldridge, Sue Buller, Ed Firmin, Marcia Hill, Martin Hill,  
Mark Lithgow, Chris Morgan, Simon Nicholls, Ray Tully,  
Brenda Weston, Gwil Wren, Craig Palmer and Loretta Whetlor

### Agenda

**1. Apologies**

To receive any apologies for absence.

**2. Minutes of the previous meeting of the Planning Committee**

To approve the minutes of the previous meeting of the Committee.

**3. Declarations of Interest or Lobbying**

To receive and note any declarations of disclosable pecuniary or prejudicial or personal interests or lobbying in respect of any matters included on the agenda for consideration at this meeting.

(The personal interests of Councillors and Clerks of Somerset County Council, Town or Parish Councils and other Local Authorities will automatically be recorded in the minutes.)

**4. Public Participation**

The Chair to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public who have requested to speak, please note, a three minute time limit applies to each speaker and you will be asked to speak before Councillors debate the issue.

(Pages 5 - 10)

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|--|------------------------|
| <p><b>5. 36/19/0009</b><br/>Erection of an agricultural building for the housing of livestock at Lower Huntham Farm, Huntham Lane, Stoke St Gregory</p>  | <p>(Pages 11 - 18)</p> |
| <p><b>6. 36/19/0010</b><br/>Erection of an agricultural building for the housing of livestock at Lower Huntham Farm, Huntham Lane, Stoke St Gregory</p>  | <p>(Pages 19 - 26)</p> |
| <p><b>7. 43/18/0065</b><br/>Erection of 23 No. dwellings including 5 affordable units with vehicular access, public open space, landscaping and associated works on land off Taunton Road, Wellington as amended by revised Flood Risk Assessment and revised plans.</p> | <p>(Pages 27 - 60)</p> |
| <p><b>8. Appeals Lodged</b><br/>No appeals received</p>  |                        |
| <p><b>9. Appeals Decided</b></p>   | <p>(Pages 61 - 86)</p> |



**JAMES HASSETT**  
**CHIEF EXECUTIVE**

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Members of the public are welcome to attend the meeting and listen to the discussions. There is time set aside at the beginning of most meetings to allow the public to ask questions. Speaking under "Public Question Time" is limited to 3 minutes per person in an overall period of 15 minutes. The Committee Administrator will keep a close watch on the time and the Chair will be responsible for ensuring the time permitted does not overrun. The speaker will be allowed to address the Committee once only and will not be allowed to participate further in any debate. Except at meetings of Full Council, where public participation will be restricted to Public Question Time only, if a member of the public wishes to address the Committee on any matter appearing on the agenda, the Chair will normally permit this to occur when that item is reached and before the Councillors begin to debate the item.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group. These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room. Full Council, Executive, and Committee agendas, reports and minutes are available on our website: [www.somersetwestandtaunton.gov.uk](http://www.somersetwestandtaunton.gov.uk)

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**SWT Planning Committee - 22 August 2019**

Present: Councillor Simon Coles (Chair)

Councillors Sue Buller, Marcia Hill, Martin Hill, Mark Lithgow, Craig Palmer, Ray Tully, Brenda Weston, Gwil Wren, Mark Blaker (In place of Loretta Whetlor), Norman Cavill (In place of Roger Habgood) and Caroline Ellis (In place of Simon Nicholls)

Officers: Tracey Meadows, Rebecca Miller, Andrew Penna, Denise Grandfield and Sarah Wilsher

Also Present: Helen Vittery (SCC), Mrs Anne Elder and Councillor Phil Stone

(The meeting commenced at 1.00 pm)

**44. Apologies**

Apologies were received from Councillors Aldridge, Habgood, Morgan Nicholls and Whetlor

**45. Minutes of the previous meeting of the Planning Committee**

(Minutes of the meeting of the Planning Committee held on 1 August 2019 circulated with the agenda)

**Resolved** that the minutes of the Planning Committee held on 1 August 2019 be confirmed as a correct record.

Proposed by Councillor Marcia Hill, seconded by Councillor Coles

The **Motion** was carried.

**46. Declarations of Interest or Lobbying**

Members present at the meeting declared the following personal interests in their capacity as a Councillor or Clerk of a County, Town or Parish Council or any other Local Authority:-

Name	Minute No.	Description of Interest	Reason	Action Taken
Cllr C Buller	Item 7	Ward Member	Personal	Spoke and Voted
Cllr C Ellis	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr M Lithgow	Item 5	Wellington Ward Member	Personal	Spoke and Voted
Cllr G Wren	Item 6	Ward Member	Personal	Spoke and Voted
All Councillors	Item 7			

declared that that they had received an email regarding				
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47. **Public Participation**

Application No.	Name	Position	Stance
3/17/19/001	Mr D Quartly	Applicant	Infavour
24/19/0021	Mr Jolliffe	Local Resident	Objecting
	Mrs S Carter	Local Resident	
	Mr J Carter	Local Resident	
	Mr A Meehan	Local Resident	
	Mr T Turner	On behalf of North Curry PC	
	Mr A Lehner	Applicant	Infavour
	Cllr Stone	Ward Member	Objecting

48. **Public Question time**

Questions from Mr Martin Pakes

Application No. 38/19/0119 – Michael Paul House.

The development proposed 25 car parking spaces for 57 flats. The original application was refused in part to the lack of car parking spaces. However the latest application had been approved even though 23 spaces was significantly lower than the Somerset Parking Strategy. The Council’s own approved scheme for Coal Orchard envisages 42 flats with no dedicated car parking spaces. Why are there dual standards?

Application 38/19/0075 – former Cattle Market site works

Did the Council proceed with construction works without planning permission?

Response from the Garden Town Coordinator, Andrew Penna was that Mr Pakes would receive a written response to his questions from Officers.

49. **3/17/19/001**

**3/17/19/001 - Change of use from agriculture to agriculture and equestrian with erection of stables at The Barn Huis Moor, Cleeve Road, Huish Champflower, Taunton**

**Comments made by the public included:**

- No comments from Highways;
- There were no problems with access onto and out of the site;
- Concerns with security;
- Horses were checked twice daily;

**Comments made by Members included:**

- Concerns with the mixed usage;
- Concerns with the hard standing and where the muck was going to be stored;
- Concerns that the development was in flood Zone 1;
- Concerns with the Rights of Way;
- Concerns that as the site photos were taken in the summer the site would look differently in the winter;
- This development would not look out of place in a rural setting;

Councillor Mark Hill proposed and Councillor Lithgow seconded a motion that the application be **APPROVED**

The **Motion** was carried

50. **18/19/0012**

**18/19/0012 Erection of balcony to side of Mil House, Halse Road, Halse**

**Comments made by members included;**

- This balcony would enhance the building;
- As the development was in a conservation area down lighting on the balcony was needed;
- Out of keeping with the area;

Councillor Lithgow proposed and Councillor Marcia Hill seconded a motion that the application be **APPROVED**

The **Motion** was carried

51. **24/19/0021**

**24/19/0021 Erection of bungalow on land to rear of 16 Town Farm, North Curry (resubmission of application 24/18/0012)**

**Comments made by members of the public included;**

- Concerns that the development was on a blind road with no pedestrian footpath or visibility splay;
- Concerns with the large farming vehicles using the narrow road daily;
- The 30mph limit on this road was not acceptable for the amount of traffic;
- Concerns that this development would set a precedent for future developments;
- The development was unsuitable and not necessary for the village;
- This was a back land development;
- This development went against Policies, EMDI, permanent loss of historic orchard area, CP8 and DM1D, back land development and detrimental to the character of the area;
- 16 Town Farm and the community had access to this land for the last 15 years;
- Concerns with Highway comments;
- Orchard listed on Traditional Orchard Habitat Inventory and had been identified as a habitat of principle importance;
- 7 Trees were felled before a TPO was issued;
- Concerns that the remaining 8 trees were damaged by ring barking;
- The planting of new trees on the other side of the village was not a substitute for the loss of this orchard;
- The site was of ecological value and not worth the sacrifice of one single bungalow;
- The newly erected fence was not erected when Highways made their observations;
- Concerns with parking on the Public Highway;
- Knapp Lane was a hazard to road users;
- The area was part of a S106 to act as a green buffer between the new Town Farm development;
- Concerns that residents had not been consulted;
- Concerns that there was only a standard response from Highways;
- The County Archaeologist had no objection to this application;
- SWT Tree Officer stated that no trees were worthy of protection on the site;
- Highways stand by original conclusion that they did not have any concerns with this development;
- Development has separate access;
- The Wildlife survey was still ongoing;
- Application was fully compliant within the settlement limit in a sustainable village;
- The area was under private license for 15 Town Farm;
- Previous refusal reasons had been fully addressed;

#### **Comments made by members included;**

- Concerns with traffic issues;
- Concerns with the loss of an historic orchard;
- North Curry had had a vast amount of development, why destroy this parcel of green land for a bungalow;



- The residents and PC were against this application;
- This piece of land needs to be accessible to the public;
- Concerns with harm to the Community;
- Biodiversity issues;
- Access issues;
- Policy ENV1, the value to local people should count;
- Highway concerns and the impact on cyclists;
- NPPF Para 109, protecting natural landscapes, we should be seeking to positively promote this;
- The Orchards were a recognised habitat and of recognised value;
- Over development of the site;
- Climate change was real, we needed to keep the trees onsite;

Councillor Buller proposed and Councillor Marcia Hill seconded a motion that the application to be **REFUSED**

### **Reason**

The applicant's preliminary ecology report failed to demonstrate that the development would not have an unacceptable impact on biodiversity, contrary to the objectives of the National Planning Policy Framework which seeks minimisation of impacts on biodiversity and promotion of net gains for biodiversity. The development is therefore considered to be contrary to the NPPF and Policy ENV1 of the Site Allocations and Development Management Plan.

## 52. **42/19/0021**

**42/19/0021 Erection of a two storey extension and a single storey extension to the sides of 4 The Paddock, Honiton road, Trull**

### **Comments made by members included;**

- Concerns with the size of the garage;
- Impact on neighbours;

Councillor Marcia Hill proposed and Councillor Lithgow seconded a motion that the application be **APPROVED**

The **Motion** was carried

## 53. **Latest appeals and decisions received**

### **Latest appeals and decisions received**

Noted that four appeals and five decisions had been received

(The Meeting ended at 3.45 pm)

36/19/0009

MRA GOTHARD

## Erection of an agricultural building for the housing of livestock at Lower Huntham Farm, Huntham Lane, Stoke St Gregory

Location: LOWER HUNTHAM FARM, HUNTHAM ROAD, STOKE ST GREGORY, TAUNTON, TA3 6EY

Grid Reference: 334018.126062 Full Planning Permission

## Recommendation

### Recommended decision: Refusal

- 1 Whilst the submitted plans, and description of development, indicate that a stand-alone building is to be constructed, the Applicant has confirmed the intention to link the structure to existing/permitted structures on the site. This would have a significant detrimental effect on the character and appearance of the rural area, contrary to policies DM2 and CP8 of the adopted Taunton Deane Borough Council Core Strategy.

- 2 Lack of information

The Local Planning Authority has requested information in regards to:

- a) lack of accurate drawings and plans encompassing entirety of development to demonstrate how the proposal fits in with other approvals and planning permissions, notably (i) block plan detailing entire development, and (ii) including credible internal floor plan
- b) information on total numbers of cattle to be housed within the entirety of the building (including other consents/applications/notifications) and on how cattle will be managed in terms of issues such as whether they will be turned out in summer months, entirely kept indoors, etc, will they be housed and put to pasture only at this site or at others and associated questions
- c) management of slurry and arising waste products, how will it be managed and disposed of, where, and related issues
- d) transport assessment detailing expected vehicle movements for movement of cattle, feedstuffs, waste materials and related matters
- e) ecological assessment
- f) landscaping scheme for entire site
- g) details of internal and external lighting
- h) drainage details

None of this information has been supplied and it is therefore considered that the Local Planning Authority do not have information to support the proposed development.

- 3 The proposed development is considered, when evaluated as a cumulative whole building, to represent significant harm to the landscape and rural character of the area, and the additional building would be a prominent

feature in the landscape, exacerbated by its position on elevated ground, when viewed from public footpaths to the south of the site, and would add to the bulk and massing of the existing building, and to be out of scale with size of the landholding at the site, and to be contrary to adopted Core Strategy policies CP8 (Environment) and DM2 (Development in the Countryside)

- 4 The proposed building, seen as a cumulative whole, is considered to be out of keeping and at an overly large scale in comparison with the current intensity of land use, buildings, and local character. It could give rise to negative impacts on residential amenity, biodiversity, and could cause light pollution, and considered cumulatively could cause significant increases in traffic accessing the site. It is therefore considered to be contrary to the adopted Taunton Deane Borough Council Core Strategy policies CP8 and DM2.

### **Recommended Conditions (if applicable)**

#### Notes to Applicant

- . 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 has looked for solutions to enable the grant of planning permission. However in this case the applicant was unable to satisfy the key policy test and as such the application has been refused.

### **Proposal**

Erection of agricultural building for housing livestock (stage 2 of 3). Building would have pitched roof with mainly open sides with timber space-boarding to the gable ends. This application represents the approximate centre of the complete building. The developer has partially built-out a structure so this application is in part retrospective

### **Site Description**

The proposed development site is an open agricultural field bordered by a mature hedgerow to the western road boundary. The main farm is located to the south of the site with various extant agricultural buildings located to the north-east, including livestock sheds. The site is relatively level and is on raised ground above the Sedgemoor marshes to the east. There is a slurry lagoon next to the site proposed for development, and the site benefits from a pre-existing access to the highway

### **Relevant Planning History**

- 36/18/0016/AGN - Agricultural Building - No Objection - 9/7/2018
- 36/18/0017/AGN - Agricultural Building - No Objection - 9/7/2018
- 36/18/0018/AGN - Agricultural Building - Planning Permission Required - 21/8/2018

- 36/18/0025/AGN - Agricultural Building - Planning Permission Required - 21/8/2018
- 36/18/0026/AGN - Agricultural Building - Planning Permission Required - 21/8/2018
- 36/18/0044 - agricultural building for storage of farm machinery (Baileys Farm) - C/A - 26/02/2019
- 36/19/0008 - agricultural livestock building (stage 1) (Lower Huntham Farm) - C/A - 13/05/2019
- 36/19/0010 - agricultural livestock building (stage 3) (Lower Huntham Farm) - current

## Consultation Responses

*STOKE ST GREGORY PARISH COUNCIL - 36/19/0009 Lower Huntham Farm*

We support this application provided that it is adequately screened by trees since the site is very visible from West Sedgemoor. We also feel that thought should be given to excavating the site in order to lower the profile of the building within the landscape.

*SCC - TRANSPORT DEVELOPMENT GROUP - no observations*

*SWT LANDSCAPE -*

*I have commented on the building as it current sits in the landscape (it is still under construction).*

*I walked the public right of way following the course of the Sedgemoor Old Rhyne, to the south of the site, as was keen to understand local views from the recreational route of the East Deane Way. One field separated the PRow from the location of the building and this field was planted with maize crop - limiting views to a large extent from this lower level. The building was however visible on the ridgeline from points on the route - principally the roof.*

*I also looked to the site from local roads including those across the lower-lying West Sedge Moor (around Fivehead) to understand visibility in the wider landscape context. From the north-south facing lane to the east of Upper Fivehead views were permitted to the site from the edge of the Moor. The building was clearly discernible on the ridgeline - principally the roof structure (the roof covering on this side was not yet in place).*

*In close proximity to the site, specifically the view from Huntham Lane, the development forms an extensive, uninterrupted building mass on the skyline and has blocked previous contextual views across West Sedge Moor to the prominent wooded scarp beyond.*

*The main concerns relate to the scale of the building and its position - visible on the sensitive ridgeline and appearing oversized in its small-scale, overtly rural context.*

*The site occurs within the Landscape Character Area of the north Curry Sandstone Ridge. The following is taken from the adopted Taunton Deane LCA:*

*"The strength of landscape character of the North Curry Sandstone Ridge is judged to be strong. The Ridge has a number of characteristic features that combine to create a very distinctive landscape - the uninterrupted and pronounced landform rising above the Moors, the scattering of farms, the distinctive sandstone and red*

*brick villages, the prominent churches and the landmark feature of Thorn Hill".*

*The Landscape Strategy for the North Curry Sandston Ridge states, "...the landscape strategy for this area is to conserve and enhance the simple, small-scale nature, and largely uninterrupted, character of the ridge. The dramatic juxtaposition between the ridge and adjacent Moors should be protected".*

*I do not believe the siting, scale or design of the building protects, conserves or enhances landscape character as outlined in Core Policy CP8 Environment.*

*I trust these comment inform your assessment of the site.*

**ENVIRONMENTAL HEALTH - NOISE & POLLUTION** - no comments received

## **Representations Received**

4no. letters of representation has been received, 3 objecting to the proposal and one which raised concerns but did not directly object, citing possible traffic impacts and mud on the road.

Issues raised are:

What has been built is not same as approved plans, notably pitch of roof, height

Landscape impacts

Traffic impacts

Disposal of slurry and waste materials

Industrial farming

Drainage and flooding

Noise and amenity impacts

Not enough land at the site

## **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.

CP8 - Environment,

DM2 - Development in the countryside,

This takes into account the recent adoption of the SADMP.

## **Local finance considerations**

None

## **Determining issues and considerations**

The main issues are the principle of development, unauthorised development at the site, design and materials, landscape impacts, waste disposal, residential amenity, and access/traffic issues

### **Principle of development**

This application seeks to erect stage 2 of a 3 stage livestock building, with two (almost) concurrent applications reference 36/19/0008 and 36/19/0010. Application reference 36/19/0008 was approved conditionally on 13 May 2019 for use as a livestock shed. There is another planning approval at the site which is a material consideration, reference 36/18/0044 for a machinery storage shed, and two prior approvals references 36/18/0016/AGN and 36/18/0017/AGN, which are also material considerations.

The site has witnessed the building out of one large building, in part representing external dimensions which may match up closely to the two consented developments (as full planning applications) except for the fact that the approved schemes had end elevations which are not included in the development. However the local planning authority has not taken any onsite measurements or conducted a survey of the extant building so it is not possible to confirm, at this stage, if any part of the structure, as built, matches up to approved drawings. Additionally at no stage was the application described as being a singular element of a large building, all of the applications thus far have been for what could be stand-alone buildings, including the two prior approvals granted at the site

The applicant has implemented what the planning authority do not consider to be an authorised development, even excluding the sections represented by the two current applications of which this is one.

The application is assessed by the planning authority in terms of its cumulative impacts as one sixth of a large building, and inseparable from the wider, and largely built-out structure. In this context, as the developer has chosen to build a structure before the granting of planning permission for this application and related application 36/19/0010, the evaluation is based upon the cumulative impacts of one large stand-alone building, not as discreet 'stand-alone' entity, in its own right. Whilst the planning authority acknowledge that the impacts of the development, as applied for, if it was to be a stand-alone and relatively short building (12m approx. length to north and south side elevations) in comparison to its width (33m approx. east and west elevations) to the front and rear elevations, would be very different in terms of landscape and visual impacts, and impacts from the intensity in use of the site, the authority cannot evaluate the application in isolation and ignore empirical evidence of what is being built-out on the site. This application seeks to regularise a section of the as-built development and will be viewed as such. A block plan has been submitted (undated, email received 21/6/2019) showing the relative positions of the various applications, permissions and notifications at the site. This shows the

proposed building under this reference 36/19/0009 as being at the end of the larger building to the north-east. However submitted plans in respect of this application show the position as being approximately equivalent to the centre of the larger building.

### **Main issues**

It is proposed to be sited in a field between two parts of the enterprise, with a range of agricultural buildings, including livestock buildings and silage clamps, located to the north and served by the same access.

The application site is not subject to any landscape or heritage designations and, taken as a singular, stand-alone building the proposed is unlikely to have significant impacts on biodiversity. However as part of a much larger structure with what could amount to one section (two bays) of the larger building (equivalent to twelve bays, each two bays equivalent in length to one planning unit, as applied for or consented) then the biodiversity impacts could be much greater. No information has been supplied in regards to existing flora and fauna at the site and potential impacts on biodiversity.

No details of internal or external lighting have been supplied. Additionally no information has been supplied on expected trip generation to and from the site which would result from the erection of a twelve bay, part storage-part livestock building.

No information has been supplied indicating how waste matter would be dealt with except in so far as the site is in close proximity to an extant slurry lagoon, however the planning authority have been provided with no information demonstrate that this lagoon has the capacity to cope with the intensification in the use of the site for housing cattle and attendant waste, that this application and the related, concurrent application 36/19/0010 would generate.

Email correspondence between the applicant and case officer from the LPA clearly shows that further information was requested and has not been supplied. It is therefore not possible for the LPA to make a robust evaluation of potential impacts of the individual application and, of greater material significance, the cumulative development. Accordingly the application must be refused due to lack of necessary information.

There is a public right of way across the field to the north of Huntham Road towards Stoke Road. The site is within the Open Countryside outside of defined settlement limits to North Curry and Stoke St Gregory. Core Strategy policy DM2 (Development in the Countryside) states that outside of defined settlement limits, that developments for agricultural uses will be supported subject to the buildings being 'commensurate with the role and function of the agricultural ...unit'. Core Strategy policy CP8 'Environment' supports development provided that it protects habitats and biodiversity, protects and conserves the landscape, and natural and historic assets, and is appropriate in terms of scale, siting and design.

The current proposal is not considered to be commensurate in scale and function with the landholding at the Huntham Lane site, taking into account the extant permissions for a livestock building and machinery store, and the two prior notification approvals.



The justification given for the proposed building is that it would allow for livestock to be kept in well-ventilated conditions thereby improving animal welfare and production. Additionally the justification cites the fact that it would also reduce travel between various sites serving the agricultural enterprise and allow the business to function in a more efficient manner.

Whilst this explanation was accepted for the related earlier application 36/19/0008 the continuing succession of applications, both prior approvals and planning applications would enable, if all were approved and built-out, the establishment of an extremely large part-cattle, part-general purposes agricultural building, as has been partially constructed at the site. At some point the scale and intensity of use of the land will have more significant impacts in terms of the landscape, traffic movements, waste generation, amenity impacts and potential adverse impacts on biodiversity. There has to be a point beyond which proposed development cannot be considered to be at scale which is acceptable, this application is therefore considered to represent that point.

The landscape officer has commented that when seeing the site in "close proximity... specifically the view from Huntham Lane, the development forms an extensive, uninterrupted building mass on the skyline and has blocked previous contextual views across West Sedge Moor to the prominent wooded scarp beyond". Further commenting that in terms of "siting, scale..." and "design of the building" it does not protect, conserve or enhance the landscape character, as required under policy CP8.

## **Conclusion**

The planning authority consider that whilst this application, if seen individually and as a stand-alone building, would not, by itself, have significant detrimental impacts, when viewed holistically as part of a much more significant scheme, which is what is being implemented on the ground, then it does represent over-development of the site, potentially detrimental impacts on residential amenity, unwarranted visual and landscape impacts, significant potential for a marked increase in traffic generation despite the justification of a consolidation of operations, and a series of potential risks to biodiversity, and flooding and drainage risks from a lack of details regarding sustainable surface water management, and risks from the disposal or management of arising waste materials such as slurry which have not been adequately accounted for or detailed in the submitted documentation, despite direct requests for such information. It is therefore recommended that the application is refused due to inconsistencies between the submitted drawings and the actual development, as being built-out on site, the building being at a scale, when considered in its entirety, which is not commensurate with the size of the landholding at the site and existing or consented facilities, detrimental impacts on amenity and visual impacts, and a lack of information with which to fully evaluate impacts on the entire development.

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

**Contact Officer: Mr Alex Lawrey**



36/19/0010

MR A GOTHARD

### **Erection of an agricultural building for the housing of livestock at Lower Huntham Farm, Huntham Lane, Stoke St Gregory**

Location: LOWER HUNTHAM FARM, HUNTHAM ROAD, STOKE ST GREGORY, TAUNTON, TA3 6EY

Grid Reference: 334035.126084 Full Planning Permission

## **Recommendation**

### **Recommended decision: Refusal**

- 1 Whilst the submitted plans, and description of development, indicate that a stand-alone building is to be constructed, the Applicant has confirmed the intention to link the structure to existing/permitted structures on the site. This would have a significant detrimental effect on the character and appearance of the rural area, contrary to policies DM2 and CP8 of the adopted Taunton Deane Borough Council Core Strategy.

- 2 Lack of information

The Local Planning Authority has requested information in regards to:

- a) lack of accurate drawings and plans encompassing entirety of development to demonstrate how the proposal fits in with other approvals and planning permissions, notably (i) block plan detailing entire development, and (ii) including credible internal floor plan
- b) information on total numbers of cattle to be housed within the entirety of the building (including other consents/applications/notifications) and on how cattle will be managed in terms of issues such as whether they will be turned out in summer months, entirely kept indoors, and other related matters, will they be housed and put to pasture only at this site or at others and associated questions
- c) management of slurry and arising waste products, how will it be managed and disposed of, where, and related issues
- d) transport assessment detailing expected vehicle movements for movement of cattle, feedstuffs, waste materials and related matters
- e) ecological assessment
- f) landscaping scheme for entire site
- g) details of internal and external lighting
- h) drainage details

None of this information has been supplied and it is therefore considered that the Local Planning Authority do not have information to support the proposed development.

- 3 The proposed development is considered, when evaluated as a cumulative whole building, to represent significant harm to the landscape and rural

character of the area, and the additional building would be a prominent feature in the landscape, exacerbated by its position on elevated ground, when viewed from public footpaths to the south of the site, and would add to the bulk and massing of the existing building, and to be out of scale with size of the landholding at the site, and to be contrary to adopted Core Strategy policies CP8 (Environment) and DM2 (Development in the Countryside)

- 4 The proposed building, seen as a cumulative whole, is considered to be out of keeping and at an overly large scale in comparison with the current intensity of land use, buildings, and local character. It could give rise to negative impacts on residential amenity, biodiversity, and could cause light pollution, and considered cumulatively could cause significant increases in traffic accessing the site. It is therefore considered to be contrary to the adopted Taunton Deane Borough Council Core Strategy policies CP8 and DM2.

### **Recommended Conditions (if applicable)**

#### Notes to Applicant

- . 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 has looked for solutions to enable the grant of planning permission. However in this case the applicant was unable to satisfy the key policy test and as such the application has been refused.

### **Proposal**

Erection of an agricultural building for the housing of livestock at Lower Huntham Farm, Huntham Lane, Stoke St Gregory. Building would have pitched roof with mainly open sides with timber space-boarding to the gable ends. This application represents the north-east end of the complete building. The developer has partially built-out a structure so this application is in part retrospective

### **Site Description**

The proposed development site is an open agricultural field bordered by a mature hedgerow to the western road boundary. The main farm is located to the south of the site with various extant agricultural buildings located to the north-east, including livestock sheds. The site is relatively level and is on raised ground above the Sedgemoor marshes to the east. There is a slurry lagoon next to the site proposed for development, and the site benefits from a pre-existing access to the highway

### **Relevant Planning History**

- 36/18/0016/AGN - Agricultural Building - No Objection - 9/7/2018
- 36/18/0017/AGN - Agricultural Building - No Objection - 9/7/2018

- 36/18/0018/AGN - Agricultural Building - Planning Permission Required - 21/8/2018
- 36/18/0025/AGN - Agricultural Building - Planning Permission Required - 21/8/2018
- 36/18/0026/AGN - Agricultural Building - Planning Permission Required - 21/8/2018
- 36/18/0044 - agricultural building for storage of farm machinery (Baileys Farm) - C/A - 26/02/2019
- 36/19/0008 - agricultural livestock building (stage 1) (Lower Huntham Farm) - C/A - 13/05/2019
- 36/19/0009 - agricultural livestock building (stage 2) (Lower Huntham Farm) - current

## Consultation Responses

*STOKE ST GREGORY PARISH COUNCIL* - We support this application provided that it is adequately screened by trees since the site is very visible from West Sedgemoor. We also feel that thought should be given to excavating the site in order to lower the profile of the building within the landscape

*SCC - TRANSPORT DEVELOPMENT GROUP* - no observations

*SWT LANDSCAPE* - *I have commented on the building as it current sits in the landscape (it is still under construction).*

*I walked the public right of way following the course of the Sedgemoor Old Rhyne, to the south of the site, as was keen to understand local views from the recreational route of the East Deane Way. One field separated the PRoW from the location of the building and this field was planted with maize crop - limiting views to a large extent from this lower level. The building was however visible on the ridgeline from points on the route - principally the roof.*

*I also looked to the site from local roads including those across the lower-lying West Sedge Moor (around Fivehead) to understand visibility in the wider landscape context. From the north-south facing lane to the east of Upper Fivehead views were permitted to the site from the edge of the Moor. The building was clearly discernible on the ridgeline - principally the roof structure (the roof covering on this side was not yet in place).*

*In close proximity to the site, specifically the view from Huntham Lane, the development forms an extensive, uninterrupted building mass on the skyline and has blocked previous contextual views across West Sedge Moor to the prominent wooded scarp beyond.*

*The main concerns relate to the scale of the building and its position - visible on the sensitive ridgeline and appearing oversized in its small-scale, overtly rural context.*

*The site occurs within the Landscape Character Area of the north Curry Sandstone Ridge. The following is taken from the adopted Taunton Deane LCA:*

*"The strength of landscape character of the North Curry Sandstone Ridge is judged to be strong. The Ridge has a number of characteristic features that combine to*

*create a very distinctive landscape - the uninterrupted and pronounced landform rising above the Moors, the scattering of farms, the distinctive sandstone and red brick villages, the prominent churches and the landmark feature of Thorn Hill".*

*The Landscape Strategy for the North Curry Sandston Ridge states, "...the landscape strategy for this area is to conserve and enhance the simple, small-scale nature, and largely uninterrupted, character of the ridge. The dramatic juxtaposition between the ridge and adjacent Moors should be protected".*

*I do not believe the siting, scale or design of the building protects, conserves or enhances landscape character as outlined in Core Policy CP8 Environment.*

*I trust these comment inform your assessment of the site.*

**ENVIRONMENTAL HEALTH - NOISE & POLLUTION** - no comments received

## **Representations Received**

4no. letters of representation has been received, 3 objecting to the proposal and one which raised concerns but did not directly object, citing possible traffic impacts and mud on the road.

Issues raised are:

What has been built is not same as approved plans, notably pitch of roof, height

Landscape impacts

Traffic impacts

Disposal of slurry and waste materials

Industrial farming

Drainage and flooding

Noise and amenity impacts

Not enough land at the site

## **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.

CP8 - Environment,

This takes into account the recent adoption of the SADMP.

## **Local finance considerations**

none (reg 6 exempt)

## **Determining issues and considerations**

The main issues are the principle of development, unauthorised development at the site, design and materials, landscape impacts, waste disposal, residential amenity, and access/traffic issues

### **Principle of development**

This application seeks to erect stage 3 of a 3 stage livestock building, with two (almost) concurrent applications reference 36/19/0008 and 36/19/0009. Application reference 36/19/0008 was approved conditionally on 13 May 2019 for use as a livestock shed. There is another planning approval at the site which is a material consideration, reference 36/18/0044 for a machinery storage shed, and two prior approvals references 36/18/0016/AGN and 36/18/0017/AGN, which are also material considerations.

The site has witnessed the building out of one large building, in part representing external dimensions which may match up closely to the two consented developments (as full planning applications) except for the fact that the approved schemes had end elevations which are not included in the development. However the local planning authority has not taken any onsite measurements or conducted a survey of the extant building so it is not possible to confirm, at this stage, if any part of the structure, as built, matches up to approved drawings. Additionally at no stage was the application described as being a singular element of a large building, all of the applications thus far have been for what could be stand-alone buildings, including the two prior approvals granted at the site

The applicant has implemented what the planning authority do not consider to be an authorised development, even excluding the sections represented by the two current applications of which this is one.

The application is assessed by the planning authority in terms of its cumulative impacts as one sixth of a large building, and inseparable from the wider, and largely built-out structure. In this context, as the developer has chosen to build a structure before the granting of planning permission for this application and related application 36/19/0009, the evaluation is based upon the cumulative impacts of one large stand-alone building, not as discreet 'stand-alone' entity, in its own right. Whilst the planning authority acknowledge that the impacts of the development, as applied for, if it was to be a stand-alone and relatively short building (12m approx. length to north and south side elevations) in comparison to its width (33m approx. east and west elevations) to the front and rear elevations, would be very different in terms of landscape and visual impacts, and impacts from the intensity in use of the site, the authority cannot evaluate the application in isolation and ignore empirical evidence of what is being built-out on the site. This application seeks to regularise a section of

the as-built development and will be viewed as such. A block plan has been submitted (undated, email received 21/6/2019) showing the relative positions of the various applications, permissions and notifications at the site. This shows the proposed building under this reference 36/19/0010 as being in the centre of the larger building. However submitted plans in respect of this application show the position as being at the north-east end of the larger building.

### **Main issues**

It is proposed to be sited in a field between two parts of the enterprise, with a range of agricultural buildings, including livestock buildings and silage clamps, located to the north and served by the same access.

The application site is not subject to any landscape or heritage designations and, taken as a singular, stand-alone building the proposed is unlikely to have significant impacts on biodiversity. However as part of a much larger structure with what could amount to one section (two bays) of the larger building (equivalent to twelve bays, each two bays equivalent in length to one planning unit, as applied for or consented) then the biodiversity impacts could be much greater. No information has been supplied in regards to existing flora and fauna at the site and potential impacts on biodiversity.

No details of internal or external lighting have been supplied. Additionally no information has been supplied on expected trip generation to and from the site which would result from the erection of a twelve bay, part storage-part livestock building.

No information has been supplied indicating how waste matter would be dealt with except in so far as the site is in close proximity to an extant slurry lagoon, however the planning authority have been provided with no information demonstrate that this lagoon has the capacity to cope with the intensification in the use of the site for housing cattle and attendant waste, that this application and the related, concurrent application 36/19/0009 would generate.

Email correspondence between the applicant and case officer from the LPA clearly shows that further information was requested and has not been supplied. It is therefore not possible for the LPA to make a robust evaluation of potential impacts of the individual application and, of greater material significance, the cumulative development. Accordingly the application must be refused due to lack of necessary information.

### **Design and Landscape impacts**

The submitted drawings include elevations represented for west and east elevations which show timber boarding gable ends with five openings and metal gates, to both gable ends. As one would be internal it is not considered reasonable to associate the elevation labelled as 'west' to represent would be likely to be no internal elevation as it would be seamlessly joined to another part of the building, or very limited internal partitioning at the most. Seen in isolation, as a stand-alone building, the proposed development has limited impacts to the side elevations (labelled as 'north' and 'south'). Seen as a cumulative whole however the scale, massing and sheer volume of the development is disproportionate to the setting, overbearing and out of character with the surrounding countryside.



There is a public right of way across the field to the north of Huntham Road towards Stoke Road. The site is within the Open Countryside outside of defined settlement limits to North Curry and Stoke St Gregory. Core Strategy policy DM2 (Development in the Countryside) states that outside of defined settlement limits, that developments for agricultural uses will be supported subject to the buildings being 'commensurate with the role and function of the agricultural ...unit'. Core Strategy policy CP8 'Environment' supports development provided that it protects habitats and biodiversity, protects and conserves the landscape, and natural and historic assets, and is appropriate in terms of scale, siting and design.

The current proposal is not considered to be commensurate in scale and function with the landholding at the Huntham Lane site, taking into account the extant permissions for a livestock building and machinery store, and the two prior notification approvals.

The justification given for the proposed building is that it would allow for livestock to be kept in well-ventilated conditions thereby improving animal welfare and production. Additionally the justification cites the fact that it would also reduce travel between various sites serving the agricultural enterprise and allow the business to function in a more efficient manner.

Whilst this explanation was accepted for the related earlier application 36/19/0008 the continuing succession of applications, both prior approvals and planning applications would enable, if all were approved and built-out, the establishment of an extremely large part-cattle, part-general purposes agricultural building, as has been partially constructed at the site. At some point the scale and intensity of use of the land will have more significant impacts in terms of the landscape, traffic movements, waste generation, amenity impacts and potential adverse impacts on biodiversity. There has to be a point beyond which proposed development cannot be considered to be at scale which is acceptable, this application is therefore considered to represent that point.

The landscape officer has commented that when seeing the site in "close proximity... specifically the view from Huntham Lane, the development forms an extensive, uninterrupted building mass on the skyline and has blocked previous contextual views across West Sedge Moor to the prominent wooded scarp beyond". Further commenting that in terms of "siting, scale..." and "design of the building" it does not protect, conserve or enhance the landscape character, as required under policy CP8.

## **Conclusion**

The planning authority consider that whilst this application, if seen individually and as a stand-alone building, would not, by itself, have significant detrimental impacts, when viewed holistically as part of a much more significant scheme, which is what is being implemented on the ground, then it does represent over-development of the site, potentially detrimental impacts on residential amenity, unwarranted visual and landscape impacts, significant potential for a marked increase in traffic generation despite the justification of a consolidation of operations, and a series of potential risks to biodiversity, and flooding and drainage risks from a lack of details regarding sustainable surface water management, and risks from the disposal or management

of arising waste materials such as slurry which have not been adequately accounted for or detailed in the submitted documentation, despite direct requests for such information. It is therefore recommended that the application is refused due to inconsistencies between the submitted drawings and the actual development, as being built-out on site, the building being at a scale, when considered in its entirety, which is not commensurate with the size of the landholding at the site and existing or consented facilities, detrimental impacts on amenity and visual impacts, and a lack of information with which to fully evaluate impacts on the entire development.

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

**Contact Officer: Mr Alex Lawrey**

43/18/0065

SUMMERFIELD DEVELOPMENTS SW LTD

**Erection of 23 No. dwellings including 5 affordable units with vehicular access, public open space, landscaping and associated works on land off Taunton Road, Wellington as amended by revised Flood Risk Assessment and revised plans.**

Location: TAUNTON ROAD WELLINGTON, TA21 9AE

Grid Reference: 314944.121248

Full Planning Permission

## Recommendation

**Recommended decision: Awaiting S106 Completion DO NOT ISSUE**

### 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:

(A2) DrNo CSL-01 Rev A Site Layout  
 (A3) DrNo HT.S3A.pe1 Rev A House Type S3/A Plans and Elevations Brick  
 (A3) DrNo HT.S2C.pe Rev A House Type S2/C Plans and Elevations  
 (A3) DrNo GAR3.pe Rev A Carport Plans and Elevations  
 (A3) DrNo GAR2.pe Rev A Double Garage Plans and Elevations  
 (A3) DrNo GAR1.pe Rev A Single Garage Plans and Elevations  
 (A0) DrNo 909-01D Landscape Proposals  
 (A3) DrNo SK-101 Rev B Extent of Highway to be Adopted  
 (A3) DrNo PHL-101 Rev B Proposed Access Arrangements  
 (A1) DrNo PHL-201 Rev C Preliminary Highway Layout  
 (A2) DrNo PHL-301 Rev B Preliminary Highway Profiles  
 (A1) DrNo ATR-101 Rev B Swept Path Analysis  
 (A3) DrNo HT.S3A.pe2 Rev B House Type S3/A Plans and Elevations Render  
 (A3) DrNo HT.S3D.pe Rev A House Type S3/D Plans and Elevations  
 (A3) DrNo HT.S3D-A.pe Rev A House Type S3D - Variation A Plans and Elevations (A3) DrNo HT.S4B.e1 Rev B House Type S4/B Elevations Brick  
 (A3) DrNo HT.S4B.e2 Rev A House Type S4/B Elevations Render

(A3) DrNo HT.S4B.p Rev C House Type S4/B Plans  
(A3) DrNo HT.S4F.e Rev B House Type S4/F Elevations  
(A3) DrNo HT.S4F.p Rev B House Type S4/F Plans  
(A3) DrNo HT.SCHA.pe Rev A House Type SCHA Plans and Elevations  
(A2) DrNo ML-01 Rev B Materials Layout  
(A2) DrNo RSL-01 Rev B Refuse Strategy Layout  
(A2) DrNo SL-01 Rev B Site Layout  
(A3) DrNo SLP-01 Rev B Site Location Plan  
(A2) DrNo SS-01 Rev B Street Scenes

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

3. Prior to the commencement of the development hereby permitted, a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy shall demonstrate that the surface water run-off and volumes generated up to and including the 1 in 100 year critical storm will not exceed the run-off and volumes from the undeveloped site following the corresponding rainfall event. The scheme shall include details of phasing and maintenance. The development shall subsequently be implemented in accordance with the details approved.

Reason: To ensure that flood risk is not increased off site.

Reason for Pre-commencement: To ensure that a drainage strategy is agreed prior to commencement on site.

4. The development hereby permitted shall not be commenced until details of a strategy to protect wildlife has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of Green Ecology's preliminary ecological appraisal submitted report, dated July 2018 and the Bat Addendum report and include:
  1. Details of protective measures to include method statements to avoid impacts on protected species during all stages of development;
  2. Details of the timing of works to avoid periods of work when the species could be harmed by disturbance;
  3. Measures for the retention and replacement and enhancement of places of rest for the species;
  4. A Construction and Environmental Management plan (CEMP);
  5. A landscape and ecological management plan(LEMP);
  6. Details of external lighting.

Once approved the works shall be implemented in accordance with the

approved details and timing of the works unless otherwise approved in writing by the Local Planning Authority and thereafter the resting places and agreed accesses for wildlife shall be permanently maintained. The development shall not be occupied until the scheme for the maintenance and provision of the new bird and bat boxes and related accesses have been fully implemented.

Reason: To protect wildlife and their habitats from damage bearing in mind these species are protected by law.

Reason for Pre-commencement: To ensure that measures for safeguarding protected species are in place prior to commencement on site.

5. The applicant shall ensure that all vehicles leaving the site are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. In particular (but without prejudice to the foregoing), efficient means shall be installed, maintained and employed for cleaning the wheels of all lorries leaving the site, details of which shall have been agreed in advance in writing by the Local Planning Authority and fully implemented prior to the commencement of development and thereafter maintained until the use of the site discontinues.

Reason: In the interests of highway safety.

6. The proposed estate roads, footways, footpaths, tactile paving, cycleways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority. The proposed roads, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway. The final surface dressing for the roads and footpaths shall be applied within 3 months of the occupation of the final dwelling.

Reason: To ensure that adequate facilities exist for the traffic likely to be attracted to the site.

7. (i) Prior to the commencement of the development hereby permitted, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall also show the existing hedges to be protected and retained during the course of the development and the method of protection.

(ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority.

(iii) For a period of five years after the completion of each landscaping scheme, the trees, shrubs and hedgerows, including the retained trees and hedgerows, 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, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not harm the character and appearance of the area in accordance with Policy DM1 of the Taunton Deane Core Strategy.

Reason for Pre-commencement: To ensure that satisfactory landscape details are agreed prior to commencement.

8. Prior to their positioning on site, details of the siting of any temporary building(s) construction and materials storage compound, including details of where soil is to be stored on site will be agreed in writing with the Local Planning Authority. The development shall be carried out in accordance with such details.

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

9. Prior to the occupation of the dwellings hereby permitted, a highway signage strategy for Taunton Road shall be submitted to and approved in writing by the Local Planning Authority. Such highway signage shall be fully provided in accordance with the approved plans to an agreed specification before the development is first occupied.

Reason: In the interests of highway safety.

10. Prior to the occupation of the 9th dwelling, the proposed pedestrian link to the west between plots 14 and 15 shall be constructed and surfaced in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority unless otherwise agreed in writing by the Local Planning Authority.

Reason: To encourage walking and cycling in order to reduce the reliance on the private car.

11. Prior to the occupation of the 9th dwelling, the public open space shall be laid out in accordance with the details agreed pursuant to condition 9 and shall thereafter remain available for use by the general public and be maintained in accordance with those agreed details.

Reason: The development is partly considered acceptable due to the provision of enhanced public open space and to ensure delivery of the facilities required for the future occupiers of the site.

11.
  - 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 that the trees are protected before any site clearance commences on site.

12. No service trenches shall be dug within the canopy of any existing tree within the land shown edged red on the approved drawing without the prior written approval of the Local Planning Authority.

Reason: To avoid potential harm to the root system of any tree leading to possible consequential damage to its health.

13. Prior to the construction of the dwellings, 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.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking and re-enacting the 2015 Order with or without modification), no extensions, outbuildings, gates, walls, fences or other means of enclosure, shall be erected on the site other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.

Reason: To prevent over development and to safeguard the appearance of the area.

15. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) revision C by AWP and dated 24 January 2019 and the mitigation measures detailed within the FRA. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the LPA.

Reason: To prevent the increased risk of flooding.

#### Notes to Applicant

1. **Informative Note**

It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the developer should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation.

## Summary

Members will recall that this application was deferred at the Planning Committee on 20th June 2019 for the following reasons:

1. Further information required around the 18 unit's permission and what was secured under that permission and to confirm that it is an extant permission;
2. Officers to go away and speak to the applicant to negotiate the issues raised by the Committee for the size of the units, the number of parking spaces, the cycleway and the viability issues around numbers of affordable housing.

Members will have been circulated a copy of Collier Planning's letter dated 15th July 2019, which comprehensively addresses the issues raised by Members.

## Proposal

This application, as amended, seeks full planning permission for the erection of 23 dwellings on land to the south of Taunton Road, Wellington. The site will be accessed from Taunton Road from an existing access that serves a Veterinary Hospital on land to the north of the site. This access is left hand turn only when approached from the south. There is no right turn entry when approaching from the north. An existing large, protected tree will be retained towards the eastern extent of the area proposed for development. The new development will be on the western part of the site whilst the eastern extent will be left open as Public Open Space.

The dwellings will be a mix of detached, semi-detached and terraced



dwellings, arranged around a curved cul-de-sac. The dwellings will be two-storey, finished in render and red brick under reconstituted slate and Double Roman roof tiles. Five affordable houses will be provided.

## Site Description

The site comprises a parcel of agricultural land on the eastern side of Wellington, south of Taunton Road. The site immediately adjoins the Cades Farm development to the west and the south. To the north between the main part of the site and Taunton Road, lies a new veterinary hospital. A tributary of the River Tone runs along the southern boundary of the site.

## Relevant Planning History

43/13/0128 - Planning permission for the erection of 18 dwellings was granted in 2013 subject to a S106 agreement to secure the following:

- 5 units of affordable housing, with 3 no. social rented and 2 no. shared ownership;
- Children's play - £2,904 per dwelling;
- Active recreation - £1,571 per dwelling;
- Allotments - £209 per dwelling;
- Community halls - £1,208 per dwelling;
- Public art - either by commissioning and integrating public art into the design of the buildings and the public realm or by a commuted sum to the value of 1% of the development costs.

The Council has accepted that the works that had been undertaken to the access were sufficient to implement the permission and that the permission remains extant.

## Consultation Responses

### *WELLINGTON TOWN COUNCIL -*

Recommended that planning permission be granted, although the Council would expect the Section 106 agreement to be enhanced to include more affordable housing, additional play areas and sympathetic landscaping. It was also hoped that the arrangement at the existing junction onto the Taunton Road would remain and be enforced.

(FURTHER COMMENTS) - Recommended that permission be granted with the present access arrangements remaining in place.

### *SCC - TRANSPORT DEVELOPMENT GROUP (Original Comments) -*

I refer to the above-mentioned planning application received on 17 July 2018 and after carrying out a site visit on 27th July 2018 have the following observations on the highway and transportation aspects of this proposal. I apologise for the delay in our response.

The proposal is for the erection of 23 dwellings, and vehicular access at the above address. The proposal site has planning consent for the erection of 18 dwellings (ref:43/13/0128).

It is important for the applicant to note that the red line plan doesn't appear to

encompass all of the proposed access to/from the veterinary surgery and the access from the B3187 that would require works. In order for any suitable works to be carried out at this location the applicant will need to ensure that the red line plan covers the whole desired area that would require such works. The following comments are on the basis that the applicants red line plan has the capacity to cover all of the area in question.

The Highway Authority did not consider previous application 43/13/0128 would be likely to hold capacity issues on the local highway network. Whilst the current proposal would generate small additional vehicle movements compared to the consented planning application (43/13/0128), the Highway Authority do not view this a reason to recommend refusal in this instance.

However, previous Highway Authority comments did highlight the additional distance and direction of travel vehicles would travel given the nature of the now existing access design onto Taunton road and the increased likelihood that drivers would look to use one of the accesses closer to the site to turn around.

It is important to note that should a future application be submitted that would result in a cumulative impact to the access/site the Highway Authority may need revisit the existing access arrangement and reserve the right to request mitigation measures (e.g. a right turn lane) into the site for the betterment of all associated users.

### **Access**

The Highway Authority stated in our previous response for application 43/13/0128 dated 18 December 2013 that the primary route into the site should be to serve the residential development not the veterinary practice and appropriate signage/give way markings should be located.

A small length of footway has been provided linking the estate road with the footway/cycle way to the west. However, no consideration has been given to how cyclists are expected to access this route safely from the development. Furthermore it would appear that this length of footway stops at the back of a parking area and that pedestrians are expected to walk in the carriageway.

Given the current access arrangement onto the B3187 there does not appear to be any clear means by which cyclists can enter and leave the shared cycle route that runs alongside the B3187 Taunton Road. This will increase the potential for vehicles to collide with cyclists. The applicant may wish to consider how this arrangement will work.

The proposed footway to the eastern side of the estate road terminates next to some car parking spaces and there is no provision for pedestrians or cyclists on the western side increasing the potential for collisions between pedestrians, cyclists and vehicles.

It is recommended that the footway/cycleway is extended round in to the development and that signs, drop kerbs and tactile paving are provided/alterd to facilitate this. The footway/cycleway should also be extended round across the entrance of the veterinary practice access.

There are concerns that vehicles leaving the B3187 Taunton Road and turning left

in to the development may not be able to see far enough around the curve to a stationary vehicle waiting to turn right in to the veterinary hospital increasing the potential for shunt type collisions at this location.

Suitable and sufficient forward visibility around the curve demonstrated on a suitably scaled drawing should be submitted by the applicant for consideration with the next submission.

No details of the proposed carriageway have been provided to demonstrate that suitable gradients, surface water, drains/gullies, lighting, road markings/signs etc can be achieved. Additional drawings would be required for this purpose, especially if there is a desire for this to become adopted public highway.

### **Estate Road**

The following comments are in relation to the proposed internal layout and submitted drawing numbers sk-101/A and CSL-01/A.

The applicant should be aware that it is likely that the internal layout of the site will result in the laying out of a private street and as such under Sections 219 to 225 of the Highways Act 1980, will be subject to the Advance Payments Code.

Following the publication of The Department for Transport's (DfT) Inclusive Mobility Strategy Local Highway Authorities have been told to 'pause the development of shared space schemes, which incorporate a level surface while we review and update guidance'. No further guidance has at yet been released by the DfT, and in the meantime the Highway Authority is currently unlikely to consider new roads that incorporate a shared surface as suitable for adoption as highway maintainable at the public expense. The Highway Authority does not object to the principle of shared surfaces, but it will remain the developer's responsibility to ensure they are appropriate and the applicant should bear in mind that such roads are likely to remain private.

Allowance shall be made to resurface the full width of the carriageway where disturbed by the extended construction and to overlap each construction layer of the carriageway by a minimum of 300mm. Cores may need to be taken within the existing carriageway to ascertain the depths of the bituminous macadam layers. The section of the access road extending south between the new junction and the ramp should be a type 4 bituminous macadam carriageway with a longitudinal gradient of no slacker than 1:90 to assist with surface water drainage disposal. The proposed block paved shared surface carriageway that will serve the site, should be constructed with a longitudinal gradient of no slacker than 1:80 to aid surface water drainage.

Drawing number CSL01/A shows a proposed footpath link extending north-east/south-west connecting the type 4 access road with the housing estate. However drawing number SK-101/A does not show this link. If the proposed development site is offered up for adoption, the limits of the adoption may need revisiting as indicated within drawing umber SK-101/A. A link design that would accommodate a mixed use of pedestrians and cyclists may be beneficial.

An adoptable 17.0m forward visibility splay will be required across the carriageway bend opposite plot 1. There shall be no obstruction to visibility within the splay that

exceeds a height greater than 600mm above the adjoining carriageway level. The full extent of the splay should be clearly indicated within all future revisions of the layout drawing(s). The insides of carriageway bends within the shared surface road, should be widened by 500mm.

Surface water from all private areas, including drives and parking bays, must not discharge onto the prospective publicly maintained highway. Private interceptor drains shall be put in place to prevent this from happening.

There appears to be a proposed footpath link within the site that terminates at the western site boundary immediately to the north of plot 11. The applicant will need to clarify whether this link will be offered to SCC for adoption and potentially continue beyond the western site boundary as part of any future development.

Private drives serving garage doors should be constructed to a minimum length of 6.0m as measured from the back edge of the prospective public highway boundary. Parking bays should be 5.0m in length except where they immediately but up against any form of structure (plants, walls or footpaths), when a minimum length of 5.5m should be provided. Tandem parking bays should be 10.5m in length. All measured from the back edge of the prospective public highway boundary. Where an outfall, drain or pipe will discharge into an existing drain, pipe or watercourse not maintainable by the Local Highway Authority, written evidence of the consent of the authority or owner responsible for the existing drain will be required with a copy submitted to SCC.

No doors, gates or low-level windows, utility boxes, down pipes or porches are to obstruct footways/shared surface carriageways. The Highway limits shall be limited to that area of the footway/carriageway clear of all private service boxes, inspection chambers, rainwater pipes, vent pipes, meter boxes (including wall mounted), steps etc.

The applicant should note any proposed retaining/sustaining structures to be built as part of this scheme that will either be offered to SCC for adoption or will remain within private ownership but will be located 3.67m of the highway boundary and/or which has a retained height of 1.37m above or below the highway boundary will require detailed drawings/calculations will need to be submitted to SCC for checking/approval purposes.

### **Parking**

The applicant has proposed 63 parking spaces, including visitor parking. The Somerset Parking Strategy (SPS) optimum standard in this instance would be 64 before visitor parking. The proposed parking arrangements are nominally below the optimum that would be expected for this location. The Highway Authority would prefer all proposed dwellings provide suitable parking spaces in line with the SPS. It may be considered necessary to request that a designated motorcycle parking space be provided (in line with the current the County Council's parking strategy) for the dwellings that do not meet their optimum parking strategy standard. Suitable electric vehicle charging facilities should be conditioned on any planning consent. Safe, secure and accessible cycle parking should be provided at a rate of 1 space per bedroom.

### **Drainage**

The application was accompanied by a Flood Risk Assessment this has been submitted for a drainage audit. This has now been completed and whilst there is no objection to the contents a

the conclusion the Highway Authority's comments are set out below.

It is important the developer is aware that only the section of the hospital access junction falling within the public highway limits has been designed and constructed to adoption standards.

As such, if it remains the intention to seek adoption of the development access road then this approximately 16 metre length of access road will need to be reconstructed to a profile and specification approved by the Highway Authority. Further, the surface water run-off from the entire 'adoptable' highway will need to be collected into a positive system, ideally the surface water system proposed in the drainage strategy, which will omit the need to secure discharge rights and easements for

the current

drainage arrangements at the hospital junction. It should also be noted that surface water from the unadoptable 'private' entrance into the hospital from the access road will need to be prevented from discharging onto the prospective public highway and interceptor drainage will therefore be necessary.

Arrangements should be incorporated within the design to enable access from the access road to maintain the attenuation pond.

### **Conclusion**

With the above in mind the proposed residential development is unlikely to have a detrimental impact on traffic movements on the local highway network, considered severe in this instance. The Highway Authority would recommend the following conditions in the event of planning permission being approved.

1. The applicant shall ensure that all vehicles leaving the site are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. In particular (but without prejudice to the foregoing), efficient means shall be installed, maintained and employed for cleaning the wheels of all lorries leaving the site, details of which shall have been agreed in advance in writing by the Local Planning Authority and fully implemented prior to commencement, and thereafter maintained until the use of the site discontinues.
2. The gradient of the proposed access shall not be steeper than 1 in 10. Once constructed the access shall thereafter be maintained in that condition at all times.
3. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such provision shall be installed before commencement and thereafter maintained at all times.
4. The proposed estate roads, footways, footpaths, tactile paving, cycleways, bus

stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, electric vehicle charging facilities and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

5. The proposed roads, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

6. The development hereby permitted shall not be brought into use until that part of the service road that provides access to it has been constructed in accordance with the approved plans.

7. The gradients of the proposed drives to the dwellings hereby permitted shall not be steeper than 1 in 10 and shall be permanently retained at that gradient thereafter at all times.

8. In the interests of sustainable development none of the dwellings hereby permitted shall be occupied until a network of cycleway and footpath connections has been constructed within the development site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

9. There shall be an area of hard standing at least 6m in length (as measured from the nearside edge of the highway to the face of the garage doors), where the doors are of an up-and-over type.

10. A condition survey of the existing public highway network will need to be carried out and agreed jointly between the developer and the Highway Authority prior to works commencing on site. Any damage caused to the existing highway as a result of this development, is to be remedied by the developer to the satisfaction of the Highway Authority prior to occupation of the development. It is recommended that contact be made with the Highway Service Manager (Taunton Deane Area – 0845 345 9155 to arrange for such a survey to be undertaken.

11. No development shall commence unless a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved plan. The plan shall include:

- Construction vehicle movements;
- Construction operation hours;
- Construction vehicular routes to and from site;
- Construction delivery hours;
- Expected number of construction vehicles per day;
- Car parking for contractors;

- Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;
- A scheme to encourage the use of Public Transport amongst contractors; and
- Measures to avoid traffic congestion impacting upon the Strategic Road Network.

12. No work shall commence on the development hereby permitted until the proposed signage strategy has been submitted to and approved in writing by the Local Planning Authority.

*Note*

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

**SCC TRANSPORT DEVELOPMENT GROUP (FURTHER COMMENTS FOLLOWING A HIGHWAYS AUDIT) -**

The additional information provided in further support of the application has been assessed and audited by the Highway Authority, where it still appears that a number of points raised in our previous comments dated 3 September 2018 remain relevant and outstanding.

**Access**

It is noted that the revised entry radius in to the hospital access from the estate road is to be 5m. Whilst this is tighter than the minimum 6m radius for an urban environment, it is likely to be acceptable to the highway authority subject to any comments made by the supervision engineer at the Detailed Design stage.

It is noted from the revised drawings that the carriageway width will be 6m which is likely to be acceptable to the Highway Authority.

It would appear from the estate road layout that pedestrians and cyclists will share the same space as motorised vehicles. The link between the development and the existing highway infrastructure does not appear to be adequate enough to protect pedestrians and cyclists from passing vehicles.

It is recommended that the footway/cycleway is extended round in to the development and that signs, drop kerbs and tactile paving are provided/alterd to facilitate this. The footway/cycleway should also be extended round across the entrance of the hospital access.

Carriageway cross section drawings for each chainage across the frontage of the site would need to be submitted to show appropriate features such as channel line levels, tops of kerbs, centre line of the carriageway etc.

Longitudinal or contour drawings haven't been submitted. Suitable approach gradients for the access road to ensure surface water drains back into the site whilst ensuring level sections of the carriageway to enable vehicles to pull out safely.

It is noted from the long section provided that the new access road will fall back in

to the site at a gradient of 3.3%. It is not clear how this will tie in with the existing carriageway. It is recommended that the long section is extended beyond the tie in point along the centre line of the existing access road and provided for consideration with the Detailed Design Stage.

Additional drawings would be required for surfacing, surface water drainage, highway lighting, kerb details and road markings to comply with design standards. Where necessary, the designer must submit a comprehensive set of traffic management drawings and sign schedules for approval by the SCC area traffic engineer.

The Highway Authority retains concerns that vehicles leaving the B3187 Taunton Road and turning left in to the development may not be able to see far enough around the curve to a stationary vehicle waiting to turn right in to the veterinary hospital increasing the potential for shunt type collisions at this location. It is recommended that the applicant Re-landscape this area within the visibility splay to minimise future maintenance and the potential for the forward visibility splay to be obscured.

B3187 there does not appear to be any clear means by which cyclists can enter and leave the shared cycle route that runs alongside the B3187 Taunton Road. This will increase the potential for vehicles to collide with cyclists. The applicant may wish to consider how this arrangement will work.

To reiterate from our previous comments the proposed footway to the eastern side of the estate road terminates next to some car parking spaces and there is no provision for pedestrians or cyclists on the western side increasing the potential for collisions between pedestrians, cyclists and vehicles.

It is recommended that the footway/cycleway is extended round in to the development and that signs, drop kerbs and tactile paving are provided/alterd to facilitate this. The footway/cycleway should also be extended round across the entrance of the veterinary practice access.

### **Estate Roads**

The following highway related comments in terms of the Estate Road have been made as a result of looking at submitted drawing numbers **0748/ATR-101/B**, **0748/SK-101/B**, **0748/PHL-101/B** and **0748/PHL-201/C** together with our previous planning comments contained within our response dated 3 September 2018.

The applicant will need to provide confirmation if any proposed retaining/sustaining structures to be built as part of this scheme that will either be offered to SCC for adoption or will remain within private ownership but will be located 3.67m of the highway boundary and/or which has a retained height of 1.37m above or below the highway boundary. This will require detailed drawings/calculations will need to be submitted to SCC for checking/approval purposes.

It appears that parking bays that immediately butt up against footpaths, have not been indicated as being 5.5m in length as measured from the back edge of the prospective public highway boundary and that tandem parking bays have not been constructed to a length of 10.5m (between plots 3 and 4 for example). The design engineer will need to re-visit these items.

The required adoptable forward visibility splays as indicated within drawing number **0748-PHL-101/B** as being outside plot 18 and across a corner of the Public Open



Space to the east of plot 19, need to be clearly shown within drawing number **0748-SK-101/B**.

The remaining comments within our previous Estate Roads comments (dated 3 September 2018) remain relevant.

*TREE OFFICER -*

I think that it would be useful to have sight of the tree survey. There must have been one, and it's standard practice for it to be submitted as part of the application.

My current thinking on this one is that, as is often the way, they've squeezed plots 20, 21, 4 and 5 as close to the theoretical RPAs of the oak and ash as possible, but realistically this may be the cause of concern to future residents of these plots who may be affected by:

- a) excessive shade;
- b) shedding of leaves, seeds, minor branches, sap, bird droppings etc;
- c) perceived threat of the trees or branches falling in severe weather.

These are often not considered by potential residents until they have moved in. Whereas at present they only overhang a field, after development they will overhang 'targets' – people and property. This could result in pressures to prune or fell them. They are, as the Design and Access Statement says, distinctive key features of the site.

I would therefore like to see more space given to these trees, either by omitting these plots, or by re-designing the layout (possibly by continuing the plots alongside plot 1?).

*WESSEX WATER -* No comment.

*DRAINAGE ENGINEER -* We would like to raise the following points which have not been addressed in the submitted FRA and drainage strategy. Additional information in that respect will need to be submitted prior to planning permission being granted.

- We concur with the EA's view that the WYG 2013 model of the unnamed watercourse should be reviewed in light of the revised climate change allowances. This should be 40%, not 30%. As any change in the flood extent may result in a need to amend the site layout, and consequently the drainage proposals and location, sizing etc. of the attenuation pond. Therefore, any drainage calculations would need to be reviewed and updated.
- The assumed private surface water system that serves the adjacent Mount Vets site is identified on the plans and in the FRA as passing through the gardens of several properties. The risk of an exceedance event within this system is mentioned in the FRA, but not addressed. It is not appropriate for the gardens of these properties to flood when the site layout could be amended to deal with this risk, but also, the issue of access and maintenance of that surface water system becomes problematic when

located within the grounds of private dwellings. A full understanding of overland and exceedance flow routes from offsite, through the proposed development to the watercourse, should be provided.

- The drainage principles put forward in the FRA seem sound and reasonable, but as highlighted in my email to AWP prior to submission of this application, the LLFA are looking for SUDS to have both a flood risk and environmental enhancement element (i.e. water quality, amenity, biodiversity). Opportunities to utilise SUDS throughout the development have not been considered and the drainage strategy relies on a large single attenuation feature. There are a broad range of SUDS that can be utilised, particularly given that there are several areas within the site boundary not shown to be earmarked for development. We would be looking at this stage for a commitment to using SUDS and indication of where features could be utilised, with a more detailed strategy coming forward in later design phases post-permission.

We would wish to be consulted again should the LPA decide to grant the permission prior to the information above being submitted, so that we can look to provide suitably worded conditions.

**DRAINAGE ENGINEER (REVISED COMMENTS)** - My understanding has always been that the guidance seeks to avoid development over or near a sewer to allow for appropriate maintenance. However, the developer states that this has been undertaken on a site elsewhere and this appears to have been acceptable. I understand the developer wants to maximise his space for viability, but it does then put the potential risk on the property owners for the future. My email to yourself was to advise the LPA of the potential issues, and see if it could be addressed through better design, but this is not a matter we will pursue.

**ENVIRONMENT AGENCY - OBJECTS** to the proposed development, as submitted, on the following grounds:

We object to this application as the Flood Risk Assessment (FRA) is relying on the 1 in 100 year flood level from the 2013 WYG river model, which was not validated by us.

The WYG model also used a 30% figure for Climate Change, while the current practice is to use 40%.

We therefore do not know if the current flood level prediction in the FRA is correct. Before we can agree the finished floor level for the site, and agree the location of the houses and attenuation pond, the applicant must review the predicted 1 in 100 year flood level from the WYG model, and assess the impact of the new climate change factor on the site. We would ask that the residential development and the attenuation pond are located outside the 1 in 100 year level plus climate change, and that the finished floor levels are set a minimum of 300 mm above the 1 in 100 year plus climate change flood level.

We would also request the applicant to submit a copy of the revised model of the stream for our review, and a plan drawing of the development showing the revised Flood zones, with and without climate change in relation to the dwelling and attenuation pond.

*ENVIRONMENT AGENCY (FURTHER COMMENTS)* - We object due to the close proximity of the houses to Flood Zone 3, and because climate change has not been taken into account. Therefore in time, there is a high risk that the houses that are nearest to Flood Zone 3 will be located within an area at a higher risk of flooding. We also have doubts as to the accuracy of our model at that location. The previous application for this site was subject to a model to improve the understanding of flood risk at the site. Unfortunately, this application is not using the outcome of the model to inform development layout and finished floor level.

We are also concerned that the back gardens of the houses are within Flood Zone 3 and that the developer is going to erect sheds and fences across the flood plain reducing the flood conveyance, removing connectivity between the river and the floodplain. The developer needs to make sure that there is no development taking place within the floodplain and that includes fences and land raising within Flood Zone 3.

*ENVIRONMENT AGENCY (FINAL COMMENTS)* -

The Environment Agency would WITHDRAW its earlier objection to the proposed development, subject to the inclusion of the following condition within the Decision Notice:

CONDITION:

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) revision C by AWP and dated 24 January 2019 and the mitigation measures detailed within the FRA: The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the LPA.

REASON:

To prevent the increased risk of flooding.

The above proposal falls on the edge of Flood Zone 3 which is an area with a high probability of flooding, where the indicative annual probability of flooding is 1 in 100 years or less from river sources (i.e. it has a 1% or greater chance of flooding in any given year.

We therefore request that permitted development rights are removed for any property which has the garden located within Flood Zone 3. This is to ensure that future extensions are not permitted at risk of flooding.

*CRIME PREVENTION*- No Objection

Sections 58 and 69 of the National Planning Policy Framework March 2012 both require crime and disorder and fear of crime to be considered in the design stage of a development and ask for:-

*"Safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion."*

Guidance is given considering 'Crime Prevention through Environmental Design', 'Secured by Design' principles and 'Safer Places.

Design & Access Statement – the DAS, under the heading ‘*Crime Prevention*’ includes a number of bullet points relating to designing out crime and disorder, which indicates to me that the applicant has taken into account crime prevention measures in the design of this development. In particular, the section refers to Secured by Design, which is the UK Police flagship initiative founded on the principles of designing out crime. I agree with the comments made in this section and would expand on them further below:-

Layout of Roads & Footpaths - vehicular and pedestrian routes appear to be visually open and direct and are likely to be well used enabling good resident surveillance of the street. The use of physical or psychological features such as road surface changes by colour or texture, rumble strips or similar at the entrance to and within the development would help reinforce the defensible space of the development giving the impression that the area is private and deterring unauthorised access. The short cul-de-sac nature of the development with a single vehicular entrance/exit and limited pedestrian links also has advantages from a crime prevention viewpoint in that it can help frustrate the search and escape patterns of the potential offender.

Orientation of Dwellings - all appear to overlook the street and public spaces which allows neighbours to easily view their surroundings and also makes the potential criminal feel more vulnerable to detection.

Communal Areas - have the potential to generate crime, the fear of crime and ASB and should be designed to allow supervision from nearby dwellings with safe routes for users to come and go. The POS at the front of this development appears to be well overlooked by the dwellings.

Dwelling Boundaries – it is important that all boundaries between public and private space are clearly defined and it is desirable that dwelling frontages are kept open to view to assist resident surveillance of the street and public areas, so walls, fences, hedges at the front should be kept low, maximum height 1 metre to assist this, which appears to be proposed. More vulnerable areas such as exposed side and rear gardens need more robust defensive measures such as walls, fences or hedges to a minimum height of 1.8 metres. Gates providing access to rear gardens should be the same height as adjacent fencing and lockable. This is particularly relevant, as the dwellings around the perimeter back onto open fields or the veterinary hospital. Plot 1 immediately abuts the POS, so the gable end of this plot should incorporate an element of defensible space to deter crime and ASB affecting this particular dwelling.

Similarly, Plots 21 & 22 abut a public footpath and an element of defensible space should be incorporated into the gable ends of these plots, even if only in the form of a narrow strip of planting or similar.

Car Parking – the majority of parking appears to be on-plot garages and parking spaces, which is the recommended option. The communal on-street parking spaces for Plots 8-11 are close to and well overlooked by these dwellings, which is also recommended.

Landscaping/Planting – should not impede opportunities for natural surveillance

and must avoid the creation of potential hiding places. As a general rule, where good visibility is needed, i.e. dwelling frontages shrubs should be selected which have a mature growth height of no more than 1 metre and trees should be devoid of foliage below 2 metres, so allowing a 1 metre clear field of vision. This is particularly relevant in respect of the dwellings overlooking the public open space.

Street Lighting – all street lighting for both adopted highways and footpaths, private estate roads and footpaths and car parking areas should comply with BS 5489:2013.

Physical Security of Dwellings – in order to comply with *Approved Document Q: Security – Dwellings* of building regulations, all external doorsets and ground floor or easily accessible windows and rooflights must be tested to PAS 24:2016 security standard or equivalent.

*HOUSING ENABLING (ORIGINAL COMMENTS)* - Following the submission of a viability appraisal detailing the abnormal works required across the site including :

- Delivery of a large public open space to an appropriate standard.
- Upgrading the existing access.
- Delivering an abnormally long spine to adoptable standards for only 23 houses.
- Flood mitigation works.

It has been agreed the affordable housing requirement will be 5 Discounted Open Market (My Home) houses to be sold at no greater than 80% of the open market value in perpetuity. The mix of these homes are intended to be 4 x 2 bedroom semi-detached houses and 1 x 2 bedroom coach house.

The S106 Agreement will contain the Taunton Deane Standard Clauses to detail the conditions for the sale and any subsequent resale of Discounted Open Market properties, such clauses to be agreed with the Housing Enabling Lead or such post that supersedes this role.

*HOUSING ENABLING (FURTHER COMMENTS)* - Following the submission of a viability appraisal detailing the abnormal works required across the site including :

- Delivery of a large public open space to an appropriate standard.
- Upgrading the existing access.
- Delivering an abnormally long spine to adoptable standards for only 23 houses.
- Flood mitigation works.

It has been agreed the affordable housing requirement will be 5 Discounted Open Market (My Home) houses to be sold at no greater than 80% of the open market value in perpetuity. The mix of these homes are intended to be 4 x 2 bedroom semi-detached houses and 1 x 2 bedroom coach house.

The S106 Agreement will contain the Taunton Deane Standard Clauses to detail the conditions for the sale and any subsequent resale of Discounted Open Market properties, such clauses to be agreed with the Housing Enabling Lead or such post that supersedes this role.

### *HOUSING ENABLING (FINAL COMMENTS)*

From a scheme of 23 units the policy position of 25% does trigger 5.75 affordable housing contribution, however a viability assessment was put forward by the applicant which demonstrated the scheme was unable to provide any affordable housing. As included with the consultee comments the main triggers for viability issued include :-

- Delivery of a large public open space to an appropriate standard.
- Upgrading the existing access.
- Delivering an abnormally long spine to adoptable standards for only 23 houses.
- Flood mitigation works.

Following detailed discussions around the viability information over many months, including seeking independent advice and a further reappraisal by the developer it was agreed the scheme could deliver 5 discounted open market properties at 80% of open market value.

*SOUTH WEST HERITAGE TRUST* - 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.

*LEISURE DEVELOPMENT* - Provision for childrens play should be made. 20 sq.m of both equipped and non-equipped child's play space per each 2 bed + dwelling is required.

1 x LEAP at 400 sq.m should be provided. The LEAP shall contain at least 5 items of play equipment covering the play disciplines of swinging, sliding, climbing, spinning, rocking and balancing along with a seat, bin and sign. If fenced, 1 x access gate and 2 x pedestrian outward opening gates should be provided.

All play equipment must have a manufacturers guarantee of at least 15 years. Wooden equipment should be in metal feet.

A detailed plan of the LEAP should be submitted for approval prior to implementation.

### **BIODIVERSITY - Landscape**

The site already has outline permission for the development of 18 dwellings. I consider that the new houses should be located further away from the southern stream, which should be buffered.

There is also scope for much more landscaping, adjacent to the stream but also in the open space to the west of the development.

Species chosen are typical of new housing areas but I would like to see the planting of native trees in the open space.

The design of the pond should provide biodiversity gain. For what amount of time will it hold water? Is there scope for some marginal vegetation?

### **Biodiversity**

Given that several years have passed since the previous ecological surveys were

carried out, Green Ecology carried out a preliminary ecological appraisal of the site dated July 2018.

Findings were as follows:

### **Habitats**

The habitats within the site have mainly remained unchanged since 2013.

### **Protected sites**

There are several statutory sites located within 5km of the site as well as several non-statutory sites located within 2km of the site.

### **Badgers**

The surveyor noted no signs of badgers on site although there were several mammal crossings on the stream banks and there is potential foraging in the grassland.

### **Bats**

At least 8 species of bat use the site, including lesser horseshoe. During surveys carried out in April and June 2018 common pipistrelle, soprano pipistrelle and noctule bats were seen foraging on site. Surveys are ongoing.

### **Birds**

Hedgerows and potentially grassland offer nesting and foraging potential for birds on site.

No vegetation should be removed outside of the bird nesting season and the grass within the field should be regularly mown to deter ground nesting birds.

### **Dormice**

A dormouse nest was recorded in August 2013 so dormouse are still assumed to be present on site. Hedgerows will remain unaffected. I would like to see all vegetation retained and a sensitive lighting strategy designed to minimise effects on dormice. Additional planting on this site would also be of benefit to dormice. If any vegetation is removed an EPS licence would be required.

### **Great crested newts**

Two ponds that link to the site via hedgerows are located within 0.5km of the site. A low population of GCN was recorded in the area in 2005. eDNA surveys returned a negative result for GCN so no impact is envisaged. I think it unlikely that GCN would be present in the stream.

### **Reptiles**

The hedgerow bases may offer suitable habitat for reptiles.

### **White clawed crayfish**

Given the stream's silty bed and lack of large boulders and submerged rocks the stream is considered sub optimal for WCC.

### **Otter**

No field signs of otter were noted on site.

## **Water vole**

The banks of the stream are shaded. No signs of water vole were noted. I support the proposal to carry out native, shrub and tree planting, create a pond and install bird and bat boxes. However I would like to see the area of planting increased and a buffer planted adjacent to the stream.

### **Suggested Condition for protected species:**

The development hereby permitted shall not be commenced until details of a strategy to protect wildlife has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of Green Ecology's preliminary ecological appraisal submitted report, dated July 2018 and the Bat Addendum report and include:

1. Details of protective measures to include method statements to avoid impacts on protected species during all stages of development;
2. Details of the timing of works to avoid periods of work when the species could be harmed by disturbance;
3. Measures for the retention and replacement and enhancement of places of rest for the species;
4. A Construction and Environmental Management plan (CEMP);
5. A landscape and ecological management plan(LEMP);
6. Details of external lighting.

Once approved the works shall be implemented in accordance with the approved details and timing of the works unless otherwise approved in writing by the Local Planning Authority and thereafter the resting places and agreed accesses for wildlife shall be permanently maintained. The development shall not be occupied until the scheme for the maintenance and provision of the new bird and bat boxes and related accesses have been fully implemented.

Reason: To protect wildlife and their habitats from damage bearing in mind these species are protected by law.

### **Informative Note**

It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the developer should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation.

*SCC - RIGHTS OF WAY* - No comment.

## **Representations Received**

Four letters of objection are summarised below:

- there is no need for more housing in Wellington;
- it will result in an increase in traffic and use of a dangerous access;
- loss of wildlife;



- the discharge of storm water into an adjacent stream will cause flooding down stream.

## **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,  
 CP4 - Housing,  
 CP8 - Environment,  
 DM1 - General requirements,  
 DM2 - Development in the countryside,  
 DM4 - Design,  
 A5 - Accessibility of development,  
 C2 - Provision of recreational open space,  
 D10 - Dwelling Sizes,  
 D2 - Approach routes to Taunton and Wellington,  
 D7 - Design quality,  
 ENV1 - Protection of trees, woodland, orchards and hedgerows,  
 SB1 - Settlement Boundaries,

This takes into account the recent adoption of the SADMP.

## **Local finance considerations**

### **Community Infrastructure Levy**

Creation of dwellings is CIL liable.  
 Proposed development measures approx. 2312sqm.

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 £289,000.00. With index linking this increases to approximately £384,500.00.

### **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	£24,819
Somerset County Council	£6,205

### *6 Year Payment*

Taunton Deane Borough	£148,911
Somerset County Council	£37,228

## **Determining issues and considerations**

### **Principle of Development**

This application lies outside, but adjoining, the settlement limit for Wellington. Residential development of this land is therefore contrary to Policy DM2 and CP8 of the Core Strategy and there is a presumption against the development. The Site Allocations and Development Management Policies Plan (SADMPP) identifies the land as recreational space protected under Policy C2. The site comprises a parcel of semi-improved grassland formerly in agricultural use. Although the site is allocated for recreational space, there is no formal public right of access to the site. The application proposes to confine built development to the western part of the site whilst making the eastern part of the site closer to the main road, available as a new public open space. The formalisation of this open space with the additional planting proposed is considered to be a positive benefit that weighs in favour of the application.

This site is on the edge of Wellington and is some distance from the facilities and services offered by the Town Centre. The site is around 800m from the closest Primary School (St. Johns) and around 1200m from the Town Centre (North Street/South Street; Fore Street/High Street cross roads) as the crow flies. The proposed footpath link into the main Cades Farm development from the eastern site boundary means that the walking routes are not much greater than these (c.900m and 1400m respectively). The site is also well served by frequent buses between Wellington and Taunton, which would stop close to the site entrance on Taunton Road and provide an easy and regular link into town. It is also close to employment opportunities at the Chelston and Westpark Business Parks. The site is therefore within a reasonably sustainable location on the edge of Wellington.

Notwithstanding the fact that the total amount of housing for Wellington is already allocated in the plan, the proposal will result in the delivery of additional housing and the economic benefits that stem from that. The NPPF is clear that housing, generally, is considered to be a benefit and that permission should generally be granted for 'sustainable development'. It is also of relevance that the planning permission for 18 dwellings on this site (including 5 affordable units) granted in 2014 remains extant. It is therefore a material consideration. In addition, there has been no material change to local plan policy since that date. It is considered that sufficient weight can be attributed to these considerations to outweigh the conflict with the development plan in terms of the principle of the development.

### **Affordable Housing**

The previous permission was for 18 dwellings including 5 affordable units. This scheme was unviable and none of the dwellings complied with the National Space Standards as now set out under Policy D10. The proposal now seeks to provide a total of 23 dwellings with 5 affordable units. There has been a lengthy dialogue with

the applicant over the viability of the site taking into account the site constraints. The applicant has submitted a Viability Assessment which has been independently verified by an external consultant on behalf of the Council. It has now been agreed with the Council's Housing Lead that 5 no. Discounted Open Market dwellings will be provided. Members should note that Discounted Open Market dwellings fall within the definition of affordable housing as set out in the revised NPPF. In addition, the house types have been amended to increase the number of dwellings that will comply with the National Space Standards. In total, 9 no. will be fully compliant; 10 no. will be partially compliant and 4 no. will have minimal compliance. This increase to 9 fully compliant dwellings is considered to be a significant improvement on the previous scheme. This is particularly pertinent with regard to the "fall back" position where none of the dwellings would comply.

### **Impact on the Green Wedge**

The site is bisected north to south by a green wedge, as identified in the SADMPP. The proposed development would be to the west of the green wedge and will abut existing residential development at Cades Farm and the veterinary hospital to the north. The land to the east will remain undeveloped and will be formalised as public open space. Roughly in the centre of the site, towards the eastern extent of the proposed development, there is a large Oak tree, protected by a Tree Preservation Order. This is broadly in line with the access to the veterinary hospital. This large tree is an important visual feature in the area and helps to define the open space between Wellington and Chelston. This tree provides an obvious marker for the eastern edge of the development. This tree will remain the dominant landscape feature of the site and be clearly visible through the access from Taunton Road. It will also help screen the development behind and assimilate it into the open countryside. Although the housing will still be outside the settlement limit, it will be located outside the green wedge. It is therefore considered appropriate for development. It will not harm to the visual amenities of the area or harm the visual and recreational function of the green wedge.

### **Wildlife**

Wildlife surveys submitted with the application indicate the presence of dormice in the boundary hedgerows, which birds may also use for nesting and bats may use for foraging. There was no evidence that otters, water vole, reptiles and crayfish are present in the watercourse as a constraint to development of the site.

The proposed footpath link to the residential development to the west requires the formation of a new gap in the hedgerow. This will result in the deliberate disturbance of Dormouse habitat, which will require a license from Natural England. The hedgerow removal is only required to provide a footpath link to the adjoining residential development. The footpath would significantly reduce walking distances to the nearby children's play area, primary school and town centre services. The removal would be very limited and there are substantial benefits to be gained from providing the footpath link. It is proposed to mitigate the loss of vegetation from the hedgerow. Given that only a narrow gap is required for the footpath, the new planting should establish effectively and quickly.

In addition to the mitigation required for dormice, the bats require a sensitive lighting strategy to be designed and no works to the hedgerows or trees should be carried out within the bird nesting season. This can be dealt with by condition. Other wildlife is not considered to be harmed by the development of the site.

In considering the principle of the development, the benefits of this development would outweigh the conflict with the development plan. In this context, it is considered that the delivery of housing, including affordable housing on the site and provision of accessible informal recreation opportunities within the green wedge are considered to justify the wildlife disturbance.

### **Design and Layout**

The dwellings are proposed to be arranged in a fairly informal layout around a shared surface access road. Given the edge of town location, it is considered that the layout is appropriate and the informal structure will assimilate well into the adjoining undeveloped area. The provision of further public open space between the large tree and Taunton Road will provide a 'soft edge' to the development, fitting of its edge of town location.

The dwellings are considered to be acceptably designed and would be constructed in a mixture of render and red brick. This will fit in with the vernacular of the new development on the adjoining sites.

A footpath link is proposed from the western site boundary into the wider Cades Farm development. This would be via the access track to an adjoining balancing pond and, as such, would not be a direct link to the public highway. However, it is still considered to provide an acceptable walking route through towards the town.

### **Highway Impact**

The application proposes to use the left in – left out junction already approved for use at the veterinary hospital. The Highway Authority has expressed some concern that residents of the site are likely to find the access to the site inconvenient due to the need to use the roundabouts, particularly Chelston Roundabout when travelling from Wellington. They suggest that this may result in the use of other access points – particularly the entrance to Chelston House Farm – for informal turning, which may be detrimental to highway safety. However, given that the access was considered safe and appropriate for the vets, which would also attract some staff who would visit the site every day, it is considered that this is a somewhat unreasonable position to hold. For these reasons, the Highway Authority have not objected to the application, although they do consider that some further signage is required. This can be provided on highway land and, therefore, can be secured by condition.

The Highway Authority estate roads team have raised a number of comments about the detailed layout of the highway, but it is considered that these can be dealt with through their standard condition requiring final submission and approval of the estate roads. There will be no adverse impact on highway safety.

With regard to car parking, the development will provide a total of 63 parking spaces. This exceeds the 54 parking spaces required under the Council's adopted parking standards within the SADM. It should be noted that the Somerset Parking Strategy (which requires 64 spaces) has been superseded by the SADM parking policy.

The Highway Authority has recommended a number of conditions. Included in their recommendations are requests for a construction traffic management plan and condition survey of the public highway. Given that the site is directly accessed from

the main road network, which carries a large amount of traffic already, these conditions are not considered reasonable. Conditions requiring the access to be no steeper than 1 in 10 are not necessary as the site is relatively flat. Whilst drainage of the site is considered, it is not considered that obtaining the necessary connection rights to existing drainage infrastructure should be a pre-condition of development.

### **Flood Risk**

The southern edge of the site is within flood zone 3 and is liable to flood. However, the development has been designed to avoid this area and should be safe from flooding in a 1 in 100 year probability event, accounting for climate change. There are some shortcomings in the FRA, identified by the EA and the Council's Drainage Engineer, although both are satisfied that these can be overcome through the imposition of conditions requiring additional drainage information. The EA has also withdrawn its initial objection. It is, therefore, considered that the development will not be at risk of flooding, nor will it cause any increase in the likelihood of flooding downstream.

### **Trees**

The Council's Tree Officer initially raised concerns about the proximity of some of the dwellings in relation to established trees along the southern boundary. The plans have since been revised and Plots 4, 5, 20 and 21 have been re-sited further away from this boundary. The tree root protection areas will not be encroached upon by any of the dwellings, as shown on the revised landscape plan.

### **Conclusions**

The development is contrary to the development plan as it lies outside the settlement limit and partly affects the green wedge. However, the new development will be contained behind the mature tree in the centre of the site. In addition, due to the strong tree line to the southeast, it is considered that the eastern extent of the development is a logical one that respects existing landscape features. The proposed landscaping within the public open space to the east would essentially screen the development from Taunton Road. This will help retain and reinforce the open break between Wellington and Chelston. The provision of a formal public open space will help the green wedge to fulfil one of its stated objectives which would otherwise be unachievable. This combined with the delivery of housing in a sustainable location is considered to outweigh the conflict with the plan.

With regard to the foregoing, and with suitable conditions in place, it is considered that the proposed development is acceptable. It is, therefore, recommended that planning permission is granted subject to a Section 106 agreement. The legal agreement will secure the affordable housing and the provision of public open space, as set out within the consultation responses from the Council's Housing Lead and Leisure Development.

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

**Contact Officer: Ms A Penn**



Ms Anna Penn  
Somerset West and Taunton Council  
The Deane House  
Belvedere Road  
Taunton

Date: 15/07/2019

Letter ref: CP/00074

Dear Anna,

**LPA Ref: 43/18/0065: Erection of 23 dwellings on land at Taunton Road, Wellington**

I am writing on behalf of my client, Summerfield Homes in connection with the above-mentioned planning application which was reported to the Planning Committee at its meeting on 20 June.

I note that the officer report to the committee recommended approval of the proposals but I understand that the committee resolved to defer a decision on the application. The committee minutes identify the reasons for this deferral as follows:

- 1. Further information required around the 18 unit's permission and what was secured under that permission and to confirm that it is an extant permission;*
- 2. Officers to go away and speak to the applicant to negotiate the issues raised by the Committee for the size of the units, the number of parking spaces the cycleway and the viability issues around numbers of affordable housing;*

Having been the planning agent in respect of the original planning permission for the site and in order to try to assist, I set out below a summary of what I consider to be the main planning considerations in respect of the current proposals.

Extant permission and fall back position

Planning permission (43/13/0128) was granted on 25 March 2014 for the erection of 18 dwellings on the site. On 15 March 2017, Matthew Bale (then Area Planning Manager) wrote to

Summerfield confirming that the works that had been undertaken to the access were sufficient to implement the permission and to confirm that condition 1 of the planning permission had been complied with. A copy of the email is attached. This confirms that permission 43/13/0128 is an extant permission and this is a highly material consideration in respect of the current planning application. It means that it represents a fall back position against which the current proposals should be considered.

The courts have ruled that the prospect of the fall back position does not have to be probable or even have a high chance of occurring. It has to be only more than a merely theoretical prospect. Where the possibility of the fall back position happening is very slight indeed or merely an outside chance, that is sufficient to make the position a material consideration.

Consequently, the revised proposals have to be assessed in terms of the acceptability in planning terms of the differences when compared with the approved scheme given that the approved scheme can already be implemented. Any change in policy or other change in circumstances in respect of any relevant planning matter can also be taken into account.

#### Change in policy and other circumstances

The committee report in respect of the extant permission 43/13/0128 concluded as follows:

- the development was contrary to the Development Plan, being outside the settlement limit and within the green wedge and the Council considered it could demonstrate a five-year housing supply;
- nevertheless, the western half of the site would become surrounded by the development on three sides once the approved veterinary hospital building is constructed and the eastern extent of the development is a logical one that respects existing landscape features;
- the provision of formal, dedicated public open space will help the green wedge to fulfil on of its stated objectives which would otherwise be unachievable. This combined with the delivery of housing in a sustainable location was considered to outweigh the conflict with the plan.



This was the basis of the Planning Committee's decision to grant planning permission for 18 dwellings on the site in 2014, a permission which, as has already been established, has now been implemented and so remains extant.

Since the original planning permission was granted the following changes in circumstances have occurred:

- the green wedge boundaries have been formally amended via the adoption of the SADMP such that the part of the site on which the housing is proposed is no longer a part of the green wedge;
- in the appeal decision at Bagley Road, Rockwell Green (PINS ref: APP/D3315/W/17/3179264) dated 25 September 2018 it was established, and the Council accepted, that housing development outside but adjacent to a settlement boundary does not conflict with Core Strategy Policy DM2;
- the NPPF has been revised and now includes discounted market sales housing within the definition of affordable housing;
- the veterinary hospital has now been constructed meaning that the proposed housing is surrounded on three sides by existing development;
- the Somerset Parking Strategy has now been superseded by the Council's adopted parking standards set out in Appendix E of the SADMP; and,
- nationally described space standards have been introduced and are now reflected in Policy D10 of the SADMP.

#### Difference between the approved and proposed schemes

The proposed changes to the development which already has planning permission can be summarised as follows:

- a total of 23 dwellings is now proposed compared with 18. However, this has been achieved within what is essentially the same development footprint because the mix of housing proposed has been amended to comprise of less 4 bed houses and more 2 and 3 bed houses. The proposed mix is 5 x two bed, 10 x three bed and 8 x four bed houses

whereas the approved mix was for 2 x one bed, 1 x two bed, 6 x three bed, 9 x four bed houses;

- the affordable mix has changed from 2 x one bed, 1 x two bed and 1 x three bed to 5 x 2 bed; and,
- the affordable housing tenure mix has changed from 3 social rented and 2 intermediate to 5 discount open market dwellings.

### Principle of development

Given the extant permission and the fall back position that it provides, the consideration of the planning application should be confined to the acceptability of the changes between the approved and proposed schemes having regard to the Development Plan and all other material considerations including any changes in policy and other circumstances since the original approval.

As has been identified, the proposed housing is not now within the green wedge and although the site is outside (albeit adjoined on three sides by) the settlement boundary, the afore-mentioned Bagley Road appeal decision has, since the original approval, established that this alone does not mean that a proposal for housing is in conflict with the Development Plan.

The veterinary hospital has now been constructed and the developable area of the site has not been extended.

The previously identified benefit of making a significant area of green wedge publically available for informal recreation remains.

### Affordable housing

A 25% level of affordable housing for the proposed scheme would be 5.75 dwellings so would not result in any additional units being provided on the site than the proposed 5 units. While the tenure mix is now proposed as discount open market dwellings this is now a recognised tenure for affordable housing within the definition set out within the revised NPPF (which post-dates the Core Strategy), which is a material change in circumstances since the original approval.

Importantly, the affordable housing proposal has been agreed with the Council's Housing Enabling Officer. This has followed the submission of viability evidence, as is allowed for by Local Plan policy CP4. As such a process has been followed, there is no conflict with that policy.

It is also the case that the site adjoins the Cades Farm housing development where a large number of affordable dwellings of traditional tenures have been provided in recent years. The introduction of new affordable tenures within revised NPPF's definition of affordable housing is a recognition that a mix of types of affordable housing is necessary to address the housing needs of people with different levels of affordability and to achieve mixed and balanced communities. The proposals are entirely consistent with this central aim of government policy.

#### Highways and parking

The highways authority has concluded that the limited increase in traffic generated by the proposed scheme in comparison with what has been approved will not result in any significant change.

The highways authority has assessed the parking proposals against the Somerset Parking Strategy which has of course now been superseded by the Council's adopted parking standards set out in Appendix E of the SADMP. For housing developments in Wellington, the latter would require 49 parking spaces from the proposed development, plus 5 visitor spaces. The adopted parking standards includes garages. The proposals easily satisfies this policy requirement.

#### Policy D10

The extant approval pre-dated the adoption of the SADMP and Policy D10 did not therefore apply at that time. The committee report identifies that none of the dwellings within the approved scheme comply with the requirements of Policy D10 but, again, the fall-back position is relevant to this matter. The fact that 9 of the proposed dwellings would now be fully compliant and 10 more would be partially compliant is material to the consideration of the application, as the report acknowledges.

## Re-consideration by the Planning Committee

My client would be grateful please if all of the important factors set out above are fully explained within the committee report that is prepared when the matter is presented back to committee in August, especially as they relate either directly or indirectly to the matters raised by Members. While we appreciate that the officer recommendation was previously one of approval, we hope that a better understanding of these considerations will help Members to appreciate that the proposals are consistent with planning policy when all relevant material considerations are taken into account and that this will allow them to feel more comfortable with supporting the officer recommendation.

I should also be grateful if you could please confirm what the requirements of any Section 106 Agreement are as it is not clear from the report.

If you would find it helpful to meet to discuss any matters identified above, or have any queries, please do not hesitate to give me a call.

Yours sincerely

**SIMON COLLIER**

Director

cc Rebecca Miller, Principal Planning Specialist, SWT Council,

# APPEAL DECISIONS – 12 SEPTEMBER 2019

**Site:** Land to the North-West of the Plough Inn, Back Lane, Holford

**Proposal:** Erection of 1 no dwelling

**Application number:** APP/H/3320/W/19/3222170

**Reason for refusal:** Appeal Allowed



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## Appeal Decision

Site visit made on 9 July 2019

**by S Hanson BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 August 2019**

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### Appeal Ref:

**APP/H3320/W/19/3222170 Back  
Lane, Holford, Somerset TA5 1RY**

- 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 & Mrs T J Ayre against the decision of West Somerset Council.
  - The application Ref 3/16/18/005, dated 4 April 2018, was refused by notice dated 8 August 2018.
  - The development proposed is the erection of a dwellinghouse.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwellinghouse on land at Back Lane, Holford, Somerset TA5 1RY in accordance with the terms of the application Ref 3/16/18/005, dated 4 April 2018, subject to the conditions in the attached schedule.

### Procedural Matters

2. The decision to refuse planning permission was made by West Somerset Council, which ceased to exist on 1 April 2019, following a merger with Taunton Deane Borough Council to form the new Somerset West and Taunton Unitary Authority. Provisions within the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 allow for any “plan, scheme, statement, or strategy” prepared by one of the merging authorities to be treated as if “it had been prepared and, if so required, published by the single tier council for the whole or such part of its area as corresponds to the area to which the particular

plan, scheme, statement or strategy relates". The status of the West Somerset Local Plan to 2032 (2016) (LP) has not therefore changed as a result of the merger.

3. The appellant submitted model 3D drawings depicting street scenes, Chartered Landscape Architect appraisal and a topographical survey that were not before the Council at the time of its decision. As the Council and interested parties have, though, had the opportunity to comment on these documents during the appeal process, I have considered them in my decision. Accordingly, no party has been prejudiced.
4. The proposal has also been considered by the Secretary of State in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (SI 571/2017). A screening direction has been issued which states that the proposal is not Environmental Impact Assessment development.

## **Main Issues**

5. The main issues are the effect of the development on the character and appearance of the area and the impact upon the living conditions of the occupiers of neighbouring properties by way of privacy.

## **Reasons**

### *Character and appearance*

6. Holford is a small village within the Quantock Hills Area of Outstanding Natural Beauty (AONB). The appeal site is located on Back Lane within the main built form of the village, opposite the Plough Inn and set back from the A39 which runs north-south through Holford. The site is a triangular plot of land which is accessed via the public house car park. A low mix species hedge runs along the boundary to the south dividing the site from the narrow lane which provides access to further residential properties within the village. To the north east, a stone/rendered wall defines the boundary with the car park and to the northwest, the site abuts Glenstone Farm which is separated from the plot by a low wall, high fence and mature hedge. The site is level and slightly elevated from the lane by around 0.5 metres as indicated by the topographical survey.
7. The area is characterised on the east side of the A39 by larger dwellings set back from the road in spacious plots. To the west side, where the site is found, properties are mostly positioned side-on to the road with many bordering the highway. The entrance to Back Lane is dominated by the public house with its principal elevation snug against the road and the converted stables opposite set at an angle. This leads through to a more enclosed setting where the narrow lane is bounded by dwellings, barns, stone walls and hedgerows tight up against the road. There are a variety of building types and forms closer together within plots of varying sizes.
8. Policy SC1 of the LP identifies Holford as a secondary village where small scale development will be permitted subject to criteria. The policy specifies that development within or in close proximity to the contiguous built-up area must demonstrate that it, among other matters, is well related and with safe and easy pedestrian access to existing essential services and social facilities; respects the historic environment; complements the character of the existing settlement; does not generate significant additional traffic movements; and does not harm the

amenity of the area.

9. The site presently makes a very limited contribution to the street scene. It is slightly elevated, physically separated, visually barren and provides no function within the settlement. The proposal is for the erection of a modest sized one and a half storey two-bedroom rendered dwelling under a tiled roof. It would be positioned gable end on to the lane with its frontage facing the entrance to Back Lane. Access via the public house car park would be through the existing gateway in the stone boundary wall, with parking and turning provided within the site.
10. The siting and design of the proposed dwelling would not be at odds with that of the surrounding development. It would have a low ridge height and be constructed and finished with materials to match surrounding buildings. The small footprint of the proposal would be similar to other properties within the immediate surroundings and the plot size is also comparable. The gable end would be visible from the road and would be observed from some properties immediately to the south. However, the proposed dwelling would have a narrow span with a limited height and the proposed natural boundary treatment, which can be the subject of controls through a planning condition, would visually soften the expanse of this side elevation. Consequently, the gable end would not appear overly dominant or be visually harmful.
11. In coming to my conclusion, I have considered the location of the site in the AONB and find that the proposal would conserve and enhance its natural beauty and would not have an unacceptable effect on the character and appearance of the area. As such, the proposal would, in this regard, comply with Policies SC1, SV1 and NH13 of the LP which, among other matters, seek to ensure new development is sustainably sited, complements and positively contributes to the character of the existing settlement.

### *Living conditions*

12. The degree of overlooking from the proposed dwelling to the nearest neighbouring properties would be limited due to separation distances, height of the proposed dwelling and dormer windows, which due to their design, naturally restrict the ease to look out. This coupled with the established vegetation within the gardens and boundaries that provide a good level of natural screening, leads me to conclude that the neighbouring properties would not be overlooked to the degree that the occupiers' privacy would be appreciably compromised.
13. Accordingly, I conclude that the proposal would not significantly harm the living conditions of the neighbouring occupiers with regard to privacy. As such, the development complies in this regard with Policies SC1, SV1 and NH13 of the LP which, among other matters, seek to protect the amenity of neighbours.

### **Other Matters**

14. Comments from interested parties have questioned the appellants' right to access the land from the public highway through the Plough Inn's car park and the boundary with Glenstone Farm. These are not matters, though, that I can consider in my decision.
15. Forge Cottage is positioned on the opposite side of the lane fronting the road parallel to the south. It is acknowledged that the proposed dwelling would be positioned directly to the rear of the cottage, however the distance between the rear elevation of the cottage and the proposed gable end is around 22 metres and

there is an existing garage which is situated in between that would partially screen the view.

## **Conditions**

16. It is necessary to impose the standard three-year time limit commencement of development condition and necessary to impose a condition to require the development to be carried out in accordance with the approved plans in the interests of certainty.
17. A condition to ensure an appropriate landscaping scheme is implemented and maintained is required to safeguard the character and appearance of the area.
18. There is exceptional justification for the removal of specified permitted development rights in the interests of the living conditions of the occupiers of the neighbouring properties, based on my deliberations set out above. Due to the nature of the area, I consider that it would be reasonable and necessary to impose a planning condition relating to construction working hours.
19. Where I have altered the wording of the remaining conditions put forward by the Council I have done so in the interest of precision.

## **Conclusion**

20. For the reasons above, and taking into account all other matters raised, I conclude that the appeal should be allowed subject to the conditions set out in the schedule.

*S Hanson*

INSPECTOR



## **Schedule of conditions:**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:  
DRAWING NO 200-01 REV B Proposed Site Location and Block Plan  
  
DRAWING NO 200-02 Proposed Plans and Elevations  
  
DRAWING NO 200-03 Parking and Turning Area
  - 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. 200-02 Proposed Plans and Elevations.
  - 4) Prior to any ground works commencing there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include details of existing walls, fences, trees, and hedgerows which are to be retained; details of all new walls, fences and other boundary treatments; finished ground levels; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; details of the hard surfacing; and a programme of implementation.
  - 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 buildings 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) 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), no extension, enlargement or other alteration of the dwelling house shall be erected other than those expressly authorised by this permission.
  - 7) Construction works shall take place only between 0700 and 1800 on Monday to Friday and between 0800 and 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
-

**Site:** Land off Lime Street, Stogursey, Bridgwater, TA5 1QL

**Proposal:** Application for approval of reserved matters following Outline Application 3/32/17/008 for the erection of an agricultural workers dwelling

**Application number:** APP/H/3320/W/18/3215240

**Reason for refusal:** Appeal Dismissed



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## Appeal Decision

Hearing held and site visit made on 24 July 2019

**by Thomas Bristow BA MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 August 2019**

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### Appeal Ref: APP/H3320/W/18/3215240

#### Land off Lime Street, Stogursey, Bridgwater TA5 1QL

- The appeal is made under section 78(1)(b) of the Town and Country Planning Act 1990 as amended against a refusal to grant approval to details required by a condition of an outline planning permission.
  - The appeal is made by Mr M Plowright against the decision of West Somerset Council.
  - The application Ref 3/32/18/001, dated 12 January 2018, sought approval of details pursuant to condition 1 of planning permission Ref 3/32/17/008, granted on 7 November 2017.
  - The application was refused by notice dated 4 May 2018.
  - The development proposed is the erection of an agricultural workers dwelling (in compliance with the details shown on plans 2175/01, 2067/01, 2067/02, 2067/03 2067/04, 2067/05).
  - The details for which approval is sought are layout, scale, appearance, access and landscaping (the 'reserved matters').
- 

## Decision

1. The appeal is dismissed.

### Preliminary matters

2. On 1 April 2019 West Somerset District Council merged with Taunton Deane Borough Council, forming Somerset West and Taunton Council. Nevertheless, until superseded, the existing development plan documents of the former Councils remain extant. Each proposal must be determined on its particular merits in accordance with the development plan unless material considerations indicate otherwise.
3. In this instance the development plan includes policies of the West Somerset District Plan (adopted 23 November 2016, the 'LP'). I understand work underway by Stogursey Parish Council preparing a neighbourhood plan is yet to advance to

a stage such that it may be accorded significant weight. I have also had regard to various other material considerations including the National Planning Policy Framework (updated 19 February 2019, 'NPPF') and the Planning Practice Guidance ('PPG', including as updated on 22 July 2019), and to a previous appeal here in 2013.<sup>1</sup> In so far as necessary and relevant to this case there has been appropriate opportunity for comment on that context.

4. Following permissions for a temporary dwelling dating back to 2010 the Council granted outline permission for a permanent agricultural workers' dwelling via decision notice dated 7 November 2017 (Ref 3/32/17/008, the 'original

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<sup>1</sup> PPG Reference ID: 67-010-20190722 in particular, and appeal Ref APP/H3320/A/13/2197662.

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permission'). At that stage details of access, appearance, landscaping, layout and scale were reserved for future consideration (the 'reserved matters'). The substantive dispute between the main parties relates to the scale of the dwelling now proposed, in so far as whether or not that would be consistent with the terms of the original permission and otherwise acceptable. Secondly, and somewhat connected, is a dispute regarding whether or not the dwelling proposed could be constructed and financed without undermining the ongoing viability of the agricultural enterprise or holding (known, curiously, as 'Lime Street Buildings').

## **Main issues**

5. Based on all I have read, heard and seen, the main issues are whether or not (i) the scale of the dwelling proposed is commensurate with the agricultural needs that justified the original permission, (ii) the ongoing viability of the agricultural enterprise would be unacceptably compromised by consequence of undertaking the development as is now proposed.

## **Policy context**

6. Pursuant to LP policy SD1, which sets out how the Council will apply the presumption in favour of sustainable development, policy SC1 guides development towards a settlement hierarchy broadly in line with the scale and function of settlements. Whilst there is some flexibility in respect of development around settlement boundaries, LP policy SC1 sets out that development in the open countryside will be considered under policy OC1. Policy OC1 explains that development in the open countryside is not generally appropriate, barring several exceptions. One such exception, reflective of NPPF paragraph 79(a), is where it is essential for a rural worker to live in such a location.
7. The purpose of that policy is stated to be principally in order to 'protect the open countryside from damaging development...'. Likewise NPPF paragraph 170 sets out how planning should recognise the intrinsic character and beauty of the countryside, and to the same end certain permitted development rights for agricultural buildings require their removal if they become redundant in time.<sup>2</sup> Policies of the development plan, and equally of the NPPF, pull in different directions. There is also support via LP policy OC1 for development 'beneficial for the local community and local economy'. Similarly NPPF paragraph 83 supports the sustainable growth and expansion of all types of businesses in rural areas.
8. Explanatory text to LP policy OC1 clarifies that the justification for an essential

need should include both ‘a functional need for a dwelling in that location and economic evidence to demonstrate the potential viability of the scheme’. That phrasing is similar to that of superseded Planning Policy Statement 7 and Annex A to it. Although no longer current policy, approaching the issue of whether or not an essential needs exists in those terms has to some extent become established practice. It is moreover, in my view, logical to consider the nature of the work that the occupant(s) of the proposed dwelling would be engaged in, its intensity, and the likely viability of the enterprise in assessing

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<sup>2</sup> Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

whether or not an ‘essential need’ has been demonstrated. Similar terminology appears in the PPG.<sup>3</sup>

9. I acknowledge that there is no floorspace threshold, whether definitive or indicative, in the LP or otherwise regarding the scale that may be appropriate for a rural worker’s dwelling here. That is unlike the situation elsewhere. Paragraph 10.58 of the Somerset Local Plan supporting policy HG9 (adopted March 2015) has been brought to my attention by the appellant in this respect by way of example. That sets out as a guideline that a floorspace of 175 square metres is likely to be suitable in respect of most holdings. However the characteristics of agriculture, its prevailing scale, and the nature of associated farmhouses may very well differ in other locations to that which is typical in this area. At best, that floorspace is a rough proxy. Moreover I understand from discussion during the hearing that different indicative thresholds are given in different areas.
10. Contrary to the position of the appellant, in my view whether or not an ‘essential need’ exists must relate not only to the need for a dwelling but to the particular nature of that dwelling. That is little more than a statement of logic regarding the relationship of justification on the one hand with scale on the other. In the absurd a twelve bedroom property would not cater solely for the needs of a single farm worker (and likely have an undue effect on the character of the countryside). Whilst arrived at independently, that logic is essentially reflected in paragraph 17 of the previous inspector’s decision. It is also articulated in the supporting justification for LP policy OC1: ‘the proposed accommodation should be commensurate with the established functional need for accommodation in that location’. Whilst the correlation need not be exact, in my view there should be a reasonable linkage between the nature and intensity of work and associated accommodation requirements.

## Reasons

11. Whilst policy and financial circumstances have moved on, the location, surrounding context, and nature of the enterprise and holding to which the proposal relates is largely the same as that described by the inspector who determined the 2013 appeal. There is no challenge to the veracity of any points made in that decision. I note in particular paragraph 7 of her decision in addition to paragraph 17 cited above. Those elements set out, in summary, the general position that it is the objectively established needs of a rural worker to reside in a particular location that is the basis for determining whether such development is acceptable rather than personal preferences. Individuals may work in varying ways depending on their

character, abilities, or other factors.<sup>4</sup>

12. The appeal site is a parcel of land of approximately 0.1 ha cut out of the wider Lime Street Buildings holding. That holding now amounts to some 125 ha of land owned by the appellant and 281 ha of rented land. Those figures align with the extent of the holding described in the 2013 appeal, save for an additional 8 ha which I understand was purchased in 2018. The land held comprises a number of scattered parcels of land. The appeal site is, however, close to the location of a mobile home which traces its origins back to 2010 and also to substantial barns. Notwithstanding the dispersed arrangement of the

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<sup>3</sup> Reference ID: 67-010-20190722.

<sup>4</sup> That is notwithstanding inevitable variety in practice, as referenced in the Nix Farm Management Pocketbook.

holding I am told that the adjacent barns are the only cluster of buildings available for storage and bringing livestock under cover.

13. The appeal site is broadly level and laid to grass. It is accessed via and falls near Shurton Lane, a narrow lane which tracks northwards from the limits of the established built form of the village of Stogursey some 250 metres away around Northfield Close. The topography declines gently from Shurton Lane through the appeal site towards a footpath enclosed by established hedgerows which tracks beside the Stogursey Brook and passes a water recycling centre. The surroundings to the appeal site are strongly rural in character. They are characterised by a patchwork of generally good-sized fields cut by established hedgerows, with only occasional buildings and farmsteads dotted about. There are on occasion expansive views of the landscape. From the footpath which runs perpendicular to Shurton Lane north of the appeal site there are some views towards Hinkley Point and reciprocally towards Stogursey; the spire of the Church of St Andrew being visible in the distance above trees.
14. Stogursey is defined as a primary village via LP policy SC1, where 'limited development' is accorded in-principle support. I am told that the appeal site falls around 460 metres, or less, from the centre of the settlement and various services and facilities there. The appellant has brought to my attention case law relating to the application of NPPF paragraph 79 and, specifically, the implications of the word 'isolated' in that context.<sup>5</sup> However it was clarified at appeal that such references were made solely by way of illustrating the context of the appeal site; it was not put to me that the proposal should be considered other than with reference to LP policy OC1 and NPPF paragraph 79. Indeed to approach this decision otherwise would go beyond the remit of this appeal and revisit matters settled in the determination of the original permission.

The scale of the dwelling

15. I understand that the enterprise here has built up since around 1967. It is now such that, at any one time, there may be around 375 cows of varying ages present alongside about 1400 breeding ewes. The livestock headcount has not increased significantly compared to 2013.<sup>6</sup> The enterprise is therefore intrinsically reliant on the successful breeding, calving and nurturing of a significant number of livestock. Whilst I will return to the quantity of work generated by the herd size, those activities will inherently generate the need to closely monitor the wellbeing of animals, assist during birth, and to treat various pathogens. Undoubtedly the

nature, intensity, unpredictability and toil involved in such work generates a need for on-site accommodation.

16. The original permission was supported by an Agricultural Appraisal of 2017 ('AA'), which gave the same livestock figures as cited above.<sup>7</sup> It is a broadly accepted benchmark that a rural worker may reasonably undertake 275 days' work a year. Many, of course, work significantly longer in reality. That metric is commonly abbreviated as standard man days or 'SMD', which I have adopted for brevity. The AA calculates that an enterprise of this scale and intensity would generate 1,279 SMD annually. That equates to 4.6 'labour units', i.e.

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<sup>5</sup> Braintree District Council v SSCLG & Ors [2017] EWHC 2743 Admin and the subsequent Court of Appeal judgement handed down on 28 March 2018.

<sup>6</sup> Paragraph 7 of the previous appeal gives an approximate figure of 1700.

<sup>7</sup> Undertaken by Sheamus Machin FRICS FAAV.

individuals required to run the holding on a continuous basis. I note that excludes a 15% margin typically included for general upkeep.

17. That evidence is not challenged by the Council. However in practice it is principally the appellant along with his son and grandson who operate the holding. I understand that they undertake the majority of the work themselves, aside from occasionally contracting specialists or labour for intensive tasks as needs be. I will return to that. Therefore in practice the objectively calculated labour requirements of 4.6 or more individuals is being undertaken by only three people. If a 15% upkeep margin were to be included, each member of the family referenced above would need to work around 490 SMD a year (not far off double the standard metric of 275 SMD).
18. It was established as common ground between the main parties during the hearing that the dwelling proposed would have a gross internal area of around 222 square metres (irrespective of the function that certain areas are intended to fulfil).<sup>8</sup> The Council contends that is beyond what is reasonably required. That figure also appears to exceed the indicative figure given in the Design and Access Statement supporting the original permission ('DAS'), namely that the 'residential accommodation' would amount to no more than 180 square metres floorspace. The appellant's distinction between a 'primary' agricultural workers' dwelling and any other form of agricultural dwelling is not an established phrase in policy or guidance.
19. If the combined floorspace of the single storey elements of the proposal (including a utility room, office, shower room and garage) are deducted from 222 sqm, a residual figure of around 174 sqm results. The appellant contends that only that residual should be seen as 'residential accommodation', and therefore by extension that the present scheme would be compliant with the terms of the DAS. I disagree. That suggests some sort of arbitrary separation whereby a 'principal' rural worker occupying the property would never enter the property via the utility room, or that he would be engaged solely in management and administration rather than getting his hands dirty. That argument also suggests that none of those elements of the property would have a hybrid use, being part residential space and part used by farm workers.

20. Nevertheless in respect of the outline permission scale was a reserved matter. I understand there is no explicit reference to the figure of 180 sqm in the Council's assessment of the former scheme, albeit that it may have been taken into account in that context. The subsequent application for approval of details, the subject of this appeal, is the avenue through which that matter should properly be assessed. Moreover in practice some of the floorspace within the dwelling proposed would be used by rural workers engaged in tending to livestock and undertaking other activities who are not occupants of the dwelling proposed. I heard, and accept, that such activities are presently undertaken with some inconvenience given the confines of the mobile home.
21. It is commonplace also for farms to have separate office buildings and for dwellings to have detached garages. In this instance those elements are an integral part of the house whereas they could have readily been designed as

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<sup>8</sup> The reference to 250 square metres floorspace in the associated officer report being an approximation rather than precise calculation.

free-standing elements, in which case the functional separation would have been clearer (although, potentially, visual effects greater). Furthermore I have set out above that the holding is substantial. The intensity of work generated is sufficient to provide full-time employment for between 3 and 5 individuals. In that context a dwelling with a floorspace of around 222 sqm comprising four bedrooms, with some discount for elements that would be used from time-to-time for farm management or by non-resident workers, would not be excessive in this specific instance.

22. Moreover the fundamental purpose of policy OC1 is to ensure that the character of the countryside is protected. I have noted the concerns of Stogursey Parish Council regarding the visual effects of the scheme, and accept that the dwelling proposed would be visible from Shurton Lane and nearby rights of way on occasion. It would also introduce built development exceeding the scale of the mobile home currently on site, and be apparent from several surrounding public footpaths around the area which I walked during my site visit (albeit partially and fleetingly in many instances).
23. However, as set out above, the appeal site is relatively flat. The intended location of the dwelling is also reasonably set back from Shurton Lane which in this location is flanked by established hedgerows. That would reduce its visual prominence. The form of the dwelling proposed would also be partially obscured from certain vantage points by the presence of nearby agricultural barns. By virtue of the topography, established hedgerows and trees in the landscape, and the separation distance from Stogursey, in my view the effect of the development would be highly localised. In that context the dwelling proposed would not appear excessive. I furthermore note that the appeal site is not within an area designated on account of its natural character, and that landscaping would assist in enabling the scheme to blend in with its surrounding over time (which could be secured via appropriately worded conditions specifying necessary details were the development otherwise acceptable).
24. I therefore concur with the Council that no substantive visual or landscape harm

would result. That is the underlying aim which OC1 seeks to achieve (and, incidentally, reinforces the rationale for essential need being related to the nature of associated accommodation). Whilst I accept the scale is generous in relative terms compared to the prevailing size of new homes and that which would be needed in respect of many agricultural enterprises, with regard to the particular circumstances here and the surrounding context, I conclude that the scale of the dwelling proposed is broadly commensurate with the agricultural needs that justified granting the original permission and otherwise acceptable. I therefore find no conflict in this respect with the relevant provisions of OC1 or NPPF paragraphs 79 or 170.

#### Financial viability

25. Since 2013 the profitability of the enterprise has improved, as reflected in the AA. In the last three financial years ending March 2019, the net income returned has increased from around £30,561 to £33,936 to £39,706. Proportionately those figures represent around a 11% increase in profitability 2017-18 and 17% 2018-19, a solid trajectory. That is notwithstanding greater variance in preceding years, and some figures with limited explanation (for example a 93% increase in contracting costs between 2017 and 2018). I am told profitability has improved principally as a result of paying down existing debts, receiving greater funding from the Basic Payment Scheme, and fewer unforeseen circumstances and one-off expenses occurring.
26. However that increase in turnover must plateau at some point. As reasoned above, the extent of the holding and number of livestock has remained effectively constant since 2013. It has not been argued that the appellant has future plans to expand the enterprise. The enterprise is still indebted, with loan interest that appears to now stand at around £17,311 annually. It is also prudent to make some contingency for unforeseen circumstances, whilst I accept that there is nothing in the foreseeable future to indicate that it would not be possible to achieve the current net return from the enterprise in future years.
27. Setting aside those qualifiers, at present an annual return of £39,706 shared equitably between three individuals would amount to £13,235 each. Many agricultural workers accept lower levels of income than standard minima, however that is well below the National Minimum Wage ('NMW', and also below the lower figures last set in that regard by the Agricultural Wages Board in 2013). Moreover in practice that sits awkwardly with the justification that the enterprise generates an empirical need for between 4.6 and 5 labour units. £39,706 cut five ways is around £7,941. That is approximately half the NMW. Whilst I accept margins are tight in agriculture, significant investment has been undertaken by the appellant, and debt is beneficial in some circumstances, based on the evidence before me the operating margins in this instance are exceptionally tight or untenable if standard methodologies and assumptions are applied.
28. At the time of the hearing I had a letter before me from NatWest dated 25 October 2018. That indicated they were prepared to finance some £160,000 of the anticipated cost of constructing the dwelling as represented on the plans listed in the banner heading. The anticipated cost of the dwelling, with some exclusions, is given in appendix three to the appellant's statement of case prepared by a chartered surveyor as £264,900.70.<sup>9</sup> I understand that some works have been undertaken amounting to around £9,000, and the appellant may have more



savings than initially predicted. However that first letter did not specify the terms on which the loan was offered. The absence of that information posed a fundamentally unanswered question as to the potential effect of repayments on future financial projections.

29. At my request the appellant submitted further correspondence from NatWest dated 25 July 2019. That second letter indicates the loan would be on a variable rate basis currently standing at 4.62%.<sup>10</sup> Indicatively that results in an annual repayment total of around £10,773.24. Were that discounted from income for 2019, the enterprise would have a net profit of £28,933, returning around £9,644 to three individuals or £5,787 to five workers. That repayment schedule is intended over 25 years. Even with significant existing capital, on that basis I cannot conclude that the dwelling could be constructed as proposed and the enterprise continue to be viable in the foreseeable future. Even with

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<sup>9</sup> A figure the Council accept is broadly in the right territory.

<sup>10</sup> 3.87% plus Bank of England Base Rate of 0.75% presently.

increased profitability and no unforeseen circumstances there is a very real likelihood that such costs could not be sustained.

30. Following a previous letter on behalf of Thomas Westcott Chartered Accountants of 30 October 2018 attesting to ability of the enterprise to finance a loan sufficient to enable the construction of the dwelling proposed, a further letter from that company on behalf of the appellant was submitted on 31 July 2019 after the hearing had closed. The Council is of the view that I should disregard the second Westcott letter on the grounds of procedural fairness. Bluntly, whilst I accept the intention of that letter was for clarification, there is neither clear justification as to why that information has only become available latterly nor detailed evidence in support of the figures therein quoted. Nevertheless the substance of that letter does not alter my conclusions.
31. The second Westcott letter explains that the farm business has three main workers Mr M Plowright, Mr J Plowright and Mr M McGuinness (father, son and grandson). For the year ending 31 March 2019 contracting expenses are given as £31,516 in the accounts. Of that figure I am told Mr McGuinness received £15,992. Therefore an element recorded under the heading of 'purchases' for Lime Street Buildings actually went to an individual engaged in the running of the enterprise. That, in effect, buoys up the financial position (exceeding the reduction that would arise were the NatWest building loan taken out). However from the accounts, 2019 is an atypical year in terms of contracting costs. The figure for 2018 appears to be £22,242 and for 2017 £12,472. It is therefore not clear whether reliance can be placed on that income for Mr McGuinness, and there is no robust evidence before me as to the factors that affect that level of income in practice (for example whether contracting expenses are cyclical or likely to remain constant in the future).
32. I acknowledge that the enterprise has existed for many years based on the energy and grit of the appellant and his family. I accept that profitability is improving, and that a loan offer for building the proposed house has been made. However even as they stand operating margins are very tight and would be reduced still further by the loan proposed, significantly below reasonable minima. Consequently I am not satisfied that the proposal is justified in financial terms in accordance with the

relevant provisions of LP policy OC1, NPPF paragraph 79 and with regard to the approach in the PPG. Allowing the scheme as it stands would undermine the premise upon which outline permission was originally justified.

## **Other matters and conclusion**

33. The reasoning in respect of the main issues leads me to the question that, if no harm to character and appearance would result, is it legitimate for planning to concern itself with the future viability of an agricultural enterprise? My view is yes. Where an essential need exists is one exception to the general position that new isolated homes in the countryside should be avoided. That approach exists, amongst other things, in order to protect the intrinsic character of the countryside. Therefore the context in which development here is justified is fundamentally premised on their being a demonstrable need. The existence of that need sets the benchmark for determining the acceptability of any resultant visual effects.
34. As reasoned above I am not satisfied that the scheme could be undertaken in a manner so as to avoid undermining the viability of the enterprise, the basis on which outline permission was granted, and thereby changing the context in which effects to character and appearance are assessed. The proposal would undoubtedly entail benefits to the appellant, his living conditions and the facilities available to farm workers. However those benefits do not amount to an essential need, the enterprise has evidently persisted for some considerable time, and profitability improved, in the absence of a permanent dwelling. There is no robust evidence as to any alternative approaches that have been considered and discounted for whatever reason, for example less costly schemes. I mention those latter points only in so far as, had there been compelling evidence, that may have carried weight in favour of allowing the appeal.
35. Nevertheless, for the above reasons, having taken account of the development plan as a whole, the approach in the NPPF, and any other relevant material considerations, I conclude that the appeal should be dismissed.

*Thomas Bristow*

INSPECTOR

## **APPEARANCES**

FOR THE APPELLANTS:

M Plowright  
C Plowright

Edward Persse MRTPI  
Sheamus Machin FRICS  
FAAV Kelly Davies

Appellant  
Appellant

EJFP Planning Ltd.  
Agricultural Consultant  
Thomas Westcott Chartered  
Accountants

FOR THE LOCAL PLANNING AUTHORITY:

Anthony Bird

Somerset West and Taunton Council

INTERESTED PERSONS:

J Ody

On behalf of Stogursey Parish Council

## HEARING DOCUMENTS

- 1) Unaudited business accounts for 31 March 2019.

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**Site:** Pemswell Lodge, Pemswell Road, Minehead, TA24 5RS

**Proposal:** Variation of Condition No 02 (approved plans) of application 3/21/15/026

**Application number:** APP/H/3320/W/19/3225200

**Reason for refusal:** Appeal Allowed



The Planning Inspectorate

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## Appeal Decision

Site visit made on 9 July 2019

**by Matthew Jones BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 August 2019**

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### Appeal Ref: APP/H3320/W/19/3225200

#### Pemswell Lodge, Pemswell Road, Minehead TA24 5RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr J Freeman against the decision of West Somerset Council.
- The application Ref 3/21/18/078, dated 17 October 2018, was refused by notice dated 12 February 2019.
- The application sought planning permission for a two-bedroom dwelling in the garden of Pemswell Lodge without complying with a condition attached to planning permission Ref 3/21/15/026, dated 24 April 2015.
- The condition in dispute is No 2 which states that: '*The development hereby permitted shall be carried out in accordance with the approved drawings: Drawing Numbers: (A4) Location Plan (A4) Block Plan (A3) DrNo 140101/2A Proposed Ground Floor Plan (A3) DrNo 140101/3A Proposed First Floor Plan and Section (A3) DrNo 140101/4B Proposed Elevations (A3) DrNo 140101/5A Proposed Street/Garden Scenes and Roof Plan (A4) DrNo 140101/Samples.*'

- The reason given for the condition is: *'For the avoidance of doubt and in the interests of proper planning.'*
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## Decision

1. The appeal is allowed and planning permission is granted for a two-bedroom dwelling in the garden of Pemswell Lodge at Pemswell Lodge, Pemswell Road, Minehead TA24 5RS in accordance with the terms of the application Ref 3/21/18/078 dated 17 October 2018, without compliance with condition No 2 previously imposed on planning permission Ref 3/21/15/026 dated 24 April 2015, but subject to the following conditions:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1826/200, 1826/201, 1826/202.
  - 2) Within three months of the date of this decision, details of hard and soft landscape works shall be submitted to the local planning authority. These details shall include: boundary treatments; vehicle turning/parking layouts and finishes; details of bicycle storage; hard and soft surfacing materials. The landscaping works shall be carried out in accordance with the approved details and timed in accordance with an agreed implementation programme. The completed scheme shall be retained in accordance with the approved details.
  - 3) No vehicular access shall be formed between the curtilage of the dwelling hereby approved and Pemswell Lane in perpetuity.

## Procedural Matters

2. The application subject to this appeal is made under Section 73A of the Planning Act for minor material amendments. It seeks revised but not substantially different designs to a dwelling approved in April 2015. This is possible as a condition was imposed on the original permission specifying the approved plans. The appeal seeks removal of the condition and replacement with a condition specifying the plans that reflect an amended design.
3. At my visit I observed that the development has commenced, with the dwelling at an advanced stage of construction, with a dormer added to its rear roof slope and its lower ridge higher than as approved.

## Background and Main Issues

4. The sought amendments include enlarging the lower roof through raising the ridge by 1m and the installation of a dormer to the south elevation. The main issues are therefore the effect that varying the condition would have on:
  - The character and appearance of the area, with particular regard to the Higher Town Conservation Area; and,
  - The living conditions of the occupants of Orchard Cottages, with reference to privacy and light.

## Reasons

### *Character and appearance*

5. The appeal property is sited within land in the highly regarded area of Higher Hill, outside of but largely surrounded by the Higher Town Conservation Area (CA). I

therefore have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The significance of this part of the surrounding CA is derived from its rich historic built environment of mainly residential buildings which are steeped within a valley context, connected by narrow lanes and public ways, with views limited by severe topography and the density of the buildings.

6. The house is seen from the south in limited views between other properties and against a wooded backdrop. When visible the property is seen to follow the clearly stepped pattern of property heights along Pemswell Lane and, given such, its modest increase in height does not significantly increase the prominence of the building nor harm any sense of retained openness in this particular part of Higher Hill. The dormer sits comfortably within the rear elevation, leading the building to maintain a proportionality and design which allows it to harmonise with the simple character and appearance of the area and the setting of the CA.
7. I therefore conclude on this issue that the proposed development does not have a harmful effect on the character and appearance of the area, with particular regard to the Higher Town Conservation Area. It accords with the heritage and design aims of Policies NH1, NH2 and NH13 of the West Somerset Local Plan to 2032 (adopted 2016) (WSLP), Policy BD/3 of the West Somerset District Local Plan (adopted 2006) and the National Planning Policy Framework (the Framework).

#### *Living conditions*

8. Due to the topography between the sites, it is possible to look towards the rear elevation of Orchard Cottages from the rear garden and ground and first floor of the appeal property, with elevated positions within the dwelling also allowing overlooking towards the private garden areas serving these neighbouring houses. The large, full height opening within the first floor of the rear gable offers a particularly significant opportunity for overlooking.
9. Given the circumstances, the effective substitution of approved roof lights with a dormer window has caused negligible additional overlooking towards Orchard Cottages. Further, given the location of the dwelling to the north of these properties, the small increase in height has had a very limited effect with regard to light.
10. I therefore conclude on this issue that the proposal does not have a significant additional harmful effect on the living conditions of the occupants of Orchard Cottages, with reference to privacy and light. It is compliant with the requirements of Policy NH13 of the WSLP and the Framework insofar as they require development to provide an acceptable standard of residential amenity.

## **Conditions**

11. The Council has only suggested a time condition and an accord with plans condition in the event that I was minded to allow the appeal. However, as development has begun, a time condition is unnecessary. In addition, given the evidence relating to previous decisions at the site it is necessary to impose a landscaping condition in order to ascertain boundary treatments, amenity space, parking and turning areas for cars and bicycle storage. As highway matters in relation to the previous scheme remain relevant, it is necessary in the interests of highway safety to ensure that no vehicular access is created on to Pemswell Lane.

## Conclusion

12. For the reasons given above, and taking all matters into account, the appeal should succeed.

*Matthew Jones*

INSPECTOR

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**Site:** Combe Hayes, Taunton Road, Bicknoller, Taunton, TA4 4EH

**Proposal:** Outline application with all matters reserved, except for means of access, for the erection of 2 no dwellings

**Application number:** APP/H/3320/W/19/3228014

**Reason for refusal:** Appeal Dismissed



The Planning Inspectorate

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## Appeal Decision

Site visit made on 22 July 2019

**by M Harris BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 August 2019**

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**Appeal Ref: APP/H3320/W/19/3228014**

**Combe Hayes, Taunton Road, Bicknoller TA4 4HE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs A King against the decision of West Somerset Council.
  - The application Ref 3/01/18/007, dated 15 May 2018, was refused by notice dated 12 February 2019.
  - The development proposed is described as "this application seeks outline consent (access only) for the erection of two dwellings".
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The application was in outline with all matters other than access reserved for future consideration. A proposed site plan was provided indicating how two 3- bedroom detached dwellings with garages, parking and a turning area could be accommodated on the site. I have had regard to this in reaching my decision.

## Main Issues

3. The main issues are:
  - i. whether or not the site is an appropriate location for residential development having regard to local and national policy for the delivery of housing; and
  - ii. the effect of the proposal on the character and appearance of the rural area.

## Reasons

### *Location of development*

4. The appeal site is located approximately 200 metres beyond the built-up area of Bicknoller. It is identified within the settlement hierarchy set out in Policy SC1 of the West Somerset Local Plan to 2032, adopted November 2016 (Local Plan) as a primary village and offers a range of services and facilities, including a shop, pub and church.
5. The Council's wider strategy is to focus development within the main centres in recognition that these are the more sustainable locations with the necessary services and facilities to support residents. The approach also serves to protect the areas of open countryside.
6. In settlements such as Bicknoller the strategy seeks to ensure that development is sited within or in close proximity (defined as 50 metres) to the contiguous built-up area. The basis of this strategy is to ensure that development can appropriately support those services and facilities within the settlements, in part through ensuring that there is safe and easy pedestrian access to them. The Council's approach reflects the National Planning Policy Framework (the Framework) insofar as it expects development to be centred on appropriate locations and in doing so to limit the need for travel by private car by promoting the use of sustainable modes of transport.
7. As a result of the location beyond the 50-metre buffer, for the purposes of planning policy the site is within the open countryside, as defined by Policy OC1 of the Local Plan where development will only be permitted in exceptional circumstances, including, but not limited to provision for rural workers and meeting identified local housing needs.
8. Whilst the proposed dwellings would infill the gap between existing properties, irrespective of this there is nothing before me to indicate that the proposal falls within the exceptional circumstances set out in Policy OC1. As a result, it is my assessment that the site is located within open countryside where development is not permitted except for in those circumstances.
9. Turning to the facilities and services in Bicknoller, these are some distance from the appeal site. The evidence indicates that the community shop on Honey Row Lane is over 900 metres from the site along narrow, hedge lined rural roads (including Dashwoods Lane and Church Lane) which lack footway provision and street lighting. Prior to reaching these roads, it would be necessary to cross the A358 which has no pedestrian refuge to facilitate safe crossing. Whilst there is an ability to use the footway along the A358 to reach a bus stop, the evidence indicates that the frequency of services is limited.
10. Whilst I note that there was no objection to the proposal on highway safety grounds, the nature of the local circumstances is such that in my planning judgement I do not

consider it likely that future occupiers of the proposed dwellings would walk or cycle to the village, particularly if they were less mobile or during periods of inclement weather. It is my conclusion that the aim to reduce the reliance on the private car is not supported by this proposal.

11. For these reasons, the site is not an appropriate location for residential development. It would fail to comply with Policy OC1 of the Local Plan which seeks to resist development in the countryside in the absence of exceptional circumstances. It would also conflict with Policies SC1: 4A and 4B insofar as they require development to be well related to existing services and facilities and for there to be safe and easy pedestrian access to them.

### *Character and appearance*

12. The proposed dwellings would be sited between the host property and a terrace of residential dwellings, accessed via a short stretch of elevated highway running parallel to the A358. There is existing vegetation on the site boundary and between the A358 and layby.
13. The existing properties fall outside of the contiguous built-up area of Bicknoller and are visually distinct from the village by virtue of the tree and hedge lined edges to the highways. In policy terms, as noted above, the location falls within open countryside.
14. Beyond the site along the A358, development is limited to individual dwellings or farmsteads and ribbons of a small number of dwellings separated by agricultural fields, all of which contribute to the open, undeveloped setting of the landscape.
15. Whilst limited to two proposed dwellings, the introduction of buildings in this location would erode the low density, rural pattern of development and by virtue of developing within the existing gap between the properties would result in an intensification of development.
16. For these reasons, the proposals would have a harmful effect on the character and appearance of the rural area and fail to complement the environment and character of the existing settlement. This would be contrary to Local Plan Policies OC1 regarding protecting the countryside from development unless it is serving a specific purpose relating to rural/tourism businesses or meeting affordable housing needs and SC1 4C in respect of ensuring that development compliments the character of existing settlements.

## **Conclusion**

17. For the reasons set out above, the appeal is dismissed.

*M Harris*

INSPECTOR



**Site:** 5 Mountway Road, Bishops Hull, Taunton, TA1 5LR

**Proposal:** Erection of a triple car port/garage to the front of 5 Mountway Road, Bishops Hull

**Application number:** APP/D3315/D/19/3228324

**Reason for refusal:** Appeal Dismissed



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## Appeal Decision

Site visit made on 30 July 2019

**by S Shapland BSc (Hons) MSc MILT**

an Inspector appointed by the Secretary of State

**Decision date: 16 August 2019**

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**Appeal Ref: APP/D3315/D/19/3228324**

**5 Mountway Road, Bishops Hull, Taunton, Somerset TA1 5LR**

- 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 Kieran Roe against the decision of Taunton Deane Borough Council.
  - The application Ref 38/19/0082, dated 14 March 2019, was refused by notice dated 03 May 2019.
  - The development proposed was originally described as "Triple Car-port/Garage".
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The Council has altered the description of the development on the decision notice to read "Erection of a triple car port/garage to the front of 5 Mountway Road, Bishops Hull". The appeal form submitted by the appellant has also altered the description to read "Erection of triple garage". I have taken the description of the development from the Council's decision notice as this is a more precise description of the development, and I have considered the appeal on this basis.

### Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the appeal site and the surrounding area.

### Reasons

4. The appeal site is a detached dwelling located in an established residential area. Properties on this side of Mountway Road are a mixture of semi and detached properties, which are all set back from the edge of the public highway. The set back distance for these properties is relatively uniform, which gives the

appearance of a continuous unbroken building line along the road. There are a variety of boundary treatments for these properties, including bricked walls, fencing and hedgerows. However, with the set back distances of properties along the road the street scene feels spacious and open.

5. The appeal property currently has a large open gravelled parking area to the front of the dwelling. The appeal scheme proposes the construction of a large garage in this space in front of the property, which would be orientated away from the host property. As such the building would protrude a considerable distance from the established building line and introduces built form into a currently open space at the front of the property. This is out of keeping with the existing form and pattern of development and causes harm to the character and appearance of the area. Furthermore, introducing built form in this location would remove the spacious nature of the front of the property, to the detriment of the overall street scene.
6. The appeal property benefits from a high hedgerow along the front boundary which would go some way to screen the proposed garage. However, the proposal is higher than this hedgerow, and given the open nature of the front spaces along Mountway Road the proposal would still be visible from several points on the public highway.
7. Accordingly, I find that the proposal would harm the character and appearance of the area. As such it conflicts with policy DM1 of the Adopted Taunton Deane Core Strategy 2011-2028. This policy seeks, amongst other things, to ensure that the character and appearance of the street scene is not harmed by development.
8. I recognise that there have been no objections from neighbours in respect of the proposal. The appellant requires the proposed garage to provide cover for his vehicles to aid with security, as well as providing storage for additional garage items. There is no other space on the property to provide similar storage space. However, such personal needs and circumstances do not outweigh the harm I have identified from the proposals.
9. I note that the appellant would be willing to consider a smaller garage and has requested clarification over the scale of development that would be acceptable. I can only consider the appeal on the basis of the plans before me, and it is not within the remit of this appeal to determine if a smaller scheme would be acceptable.
10. The appellant has drawn my attention to No 1 Mountway Road, which has been extended from a 3 to 5-bedroom bungalow. I have not been provided with any substantive details of that proposal, however it was evident from my site visit that the street scene on that side of the road differs from that of the appeal site. I do not consider that a residential extension and a new garage are directly comparable, and I can therefore give little weight to this and do not consider this matter outweighs the harm I have otherwise identified.

## **Conclusion**

11. For the reasons given above the appeal is dismissed.

**Site:** Higher House Farm, Huntham, North Curry, TA3 6EF

**Proposal:** Permanent Residential Use at Higher House Farm, Huntham, North Curry

**Application number:** E/0178/36/13

**Reason for refusal:** Enforcement Appeal is Quashed



The Planning Inspectorate

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## Appeal Decisions

Site visit made on 30 July 2019

**by Jessica Graham BA(Hons) PgDipL**

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

**Decision date: 22 August 2019**

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**Appeal A: Ref APP/D3315/C/18/3214852**

**Appeal B: Ref APP/D3315/C/18/3214853**

**Land at Higher House Farm, Huntham, North Curry, Taunton TA3 6EF**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - APPEAL A is made by Mr Peter Kemp (now deceased), and APPEAL B by Mrs Anne Kemp, against an enforcement notice issued by Taunton Deane Borough Council (now Somerset West and Taunton Council).
  - The enforcement notice was issued on 1 October 2018.
  - The breach of planning control as alleged in the notice is "The use of the barn as a permanent dwelling in breach of condition 03 of planning permission 36/2007/016. Condition 03 is as follows: The occupation of the holiday accommodation shall be restricted to bona fide holidaymakers for individual periods not exceeding 4 weeks in total in any period of 12 weeks. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times. Reason: The accommodation provided is unsuitable for use as a permanent dwelling because of its limited size, isolated location and inadequate facilities on site and the Local Planning Authority wish to ensure the accommodation is available for tourism in accordance with Taunton Deane Local Plan Policy EC23."
  - The requirements of the notice are
    1. Cease use of the holiday let building as a permanent residential dwelling
    2. Cease use of the land edged red as domestic curtilage and remove all domestic items and paraphernalia (currently within the area edged blue on the plan) from the land.
  - The period for compliance with the requirements is nine months.
  - The appeals are proceeding on the grounds set out in section 174(2)(c),(d) and (f) of the Town and Country Planning Act 1990 as amended.
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## Decision

1. The enforcement notice is quashed.

## Reasons

2. The enforcement notice concerns an alleged breach of a condition attached to a previously granted planning permission. In such cases, the purpose of the notice should be to make the development comply with the conditional planning permission. Where the condition relates to an occupancy restriction, the appropriate requirement is simply to comply with the condition, leaving the Appellants with a choice as to how to comply.
3. The condition here at issue has three constituent parts. Firstly, it restricts occupancy to "bona fide holidaymakers"; secondly, it restricts periods of occupancy to no more than a total of four weeks in any twelve week period; and thirdly, it requires a register of holidaymakers to be kept. However, the breach of planning control alleged in the notice does not reflect these specific terms of the condition, but rather alleges "The use of the barn *as a permanent dwelling* in breach of condition 03..." [my emphasis].
4. This departure from the precise terms of the condition is problematic, in that it confuses the purpose of the notice. I should say that this observation does not impute any strong criticism of the Council; I appreciate that as a logical necessity, "use as a permanent dwelling" would constitute a breach of Condition 03. The problem that concerns me relates to the implications that the Council's choice of wording had for a potential appeal against the enforcement notice on ground (a). This ground of appeal is that planning permission should be granted for what is alleged in the notice.
5. The Appellants have consistently maintained that they have not used, and have no wish to use, the appeal site as a permanent dwelling. Rather, their intention was to seek the replacement of the existing holiday occupancy condition with a more modern alternative which, while still preventing use as a permanent dwelling, would not place time limits on individual periods of occupation but simply require that the building be used for holiday purposes only.
6. That being the case, the Appellants could not reasonably have perceived a need to lodge an appeal on ground (a) against a notice alleging "The use of the barn as a permanent dwelling", since they did not wish to seek planning permission for that use. Whereas had the breach alleged by the notice been correctly worded – that is, reflective of the precise restrictions on occupancy imposed by Condition 03 – the Appellants may well have realised the necessity of submitting a ground (a) appeal in order to pursue their desired variation of its terms. In the current absence of an appeal on ground (a), it is not open to me to consider the planning merits of varying Condition 03.
7. I do have wide powers, under s.176 of the 1990 Act, to correct or vary the terms of the enforcement notice, provided I can be satisfied that doing so would not cause injustice to the Appellants or the local planning authority. I have given careful consideration to whether I could exercise those powers in this case. However, as discussed above, I consider that had the allegation been correctly worded in the first place the Appellants may well have pursued their option to appeal against the notice on ground (a). The deadline for paying the fee for the deemed planning application made on an appeal on ground (a) is now long past, so if I were to amend the wording of the alleged breach at this late stage, the Appellants would effectively

have been deprived of their only opportunity to lodge an appeal on ground (a). That would clearly be unjust.

## **Conclusion**

8. For the reasons given above I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control. It is not open to me to correct the error in accordance with my powers under s.176(1)(a) of the 1990 Act since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed. In these circumstances the various grounds of appeal as set out in s.174(2) of the 1990 Act do not fall to be considered.

*Jessica Graham*

INSPECTOR

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