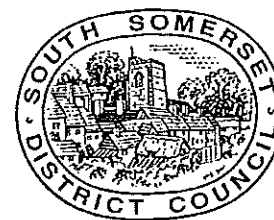


South Somerset District Council
Notice of Meeting



Area North Committee

Making a difference where it counts

Wednesday 23 May 2012

2.00pm

**The Village Hall
 Chilthorne Domer
 BA22 8RD**

(location plan overleaf - disabled access is available at this meeting venue)



The public and press are welcome to attend.

Please note: Planning applications will be considered no earlier than 3.45pm.

If you would like any further information on the items to be discussed, please ring the Agenda Co-ordinator, Becky Sanders on Yeovil (01935) 462462.
 email: becky.sanders@southsomerset.gov.uk
 website: www.southsomerset.gov.uk/agendas

This Agenda was issued on Tuesday 15 May 2012.

Ian Clarke, Assistant Director (Legal & Corporate Services)



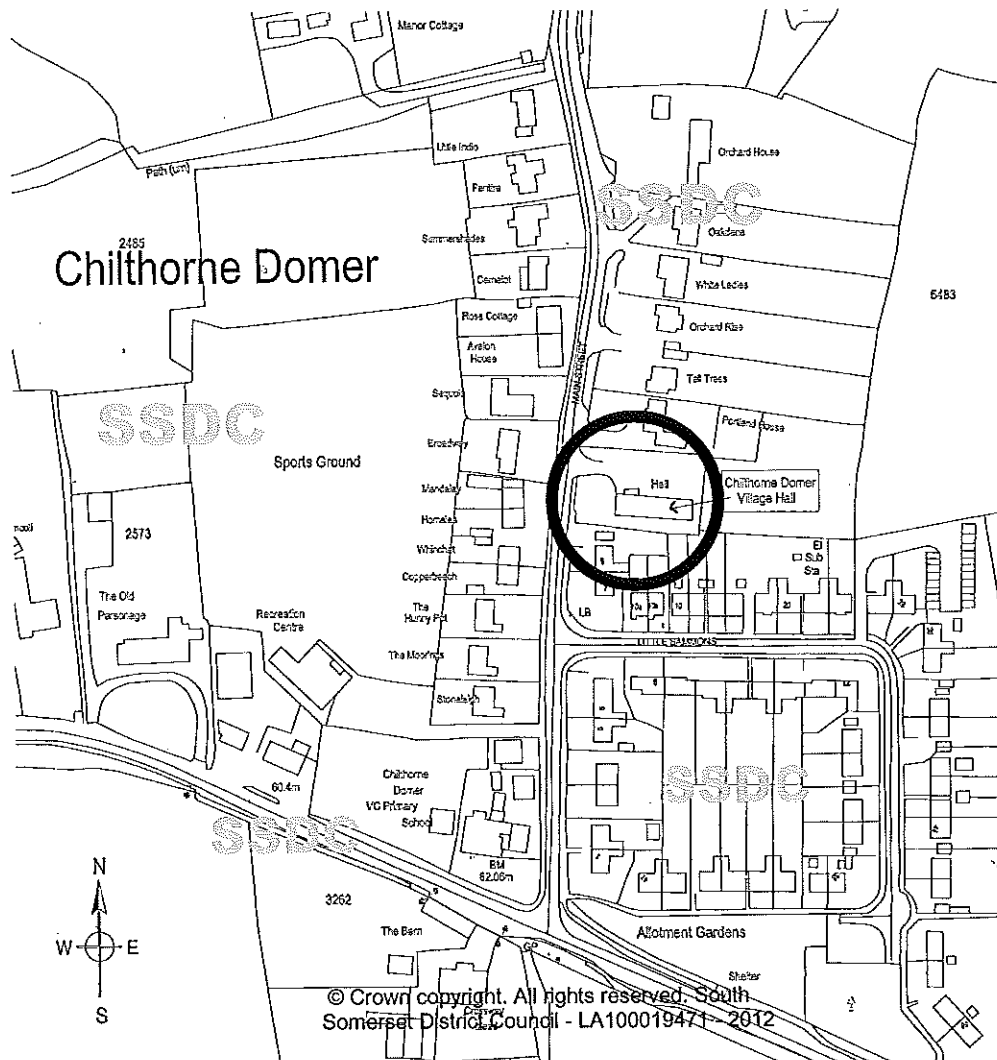
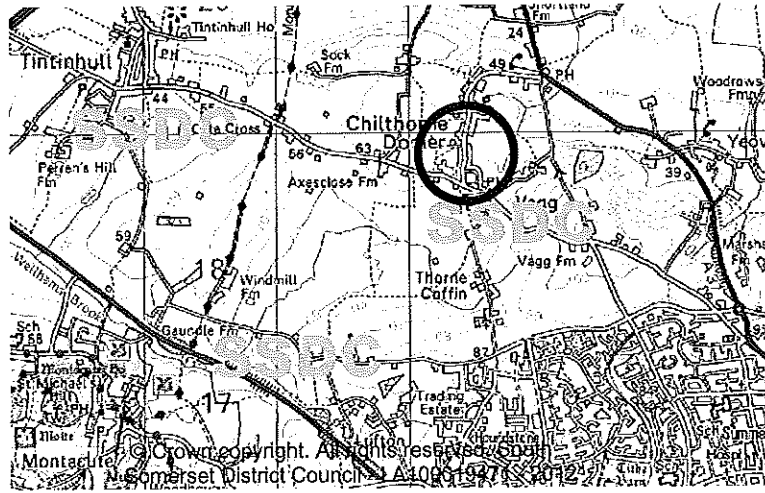
2007-2008
 Neighbourhood and
 Community Champions:
 The Role of Elected Members
 2008-2007
 Improving Rural Services
 Empowering Communities
 2005-2006
 Getting Closer to Communities

**This information is also available on our website
www.southsomerset.gov.uk**



INVESTOR IN PEOPLE

Location of meeting venue



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Area North Membership

Pauline Clarke
Terry Mounter
Graham Middleton
Roy Mills
David Norris

Patrick Palmer
Shane Pledger
Jo Roundell Greene
Sylvia Seal

Sue Steele
Paul Thompson
Barry Walker
Derek Yeomans

Somerset County Council Representatives

Somerset County Councillors (who are not also elected district councillors for the area) are invited to attend area committee meetings and participate in the debate on any item on the agenda. **However, it must be noted that they are not members of the committee and cannot vote in relation to any item on the agenda.** The following County Councillors are invited to attend the meeting: John Bailey and Sam Crabb.

South Somerset District Council – Council Plan

Our focuses are: (all equal)

- Jobs – We want a strong economy which has low unemployment and thriving businesses.
- Environment – We want an attractive environment to live in with increased recycling and lower energy use.
- Homes – We want decent housing for our residents that matches their income.
- Health & Communities – We want communities that are healthy, self-reliant, and have individuals who are willing to help each other.

Scrutiny procedure rules

Please note that decisions taken by Area Committees may be "called in" for scrutiny by the council's Scrutiny Committee prior to implementation. This does not apply to decisions taken on planning applications.

Consideration of planning applications

Consideration of planning applications usually commences no earlier than 4.00pm (**but this month no earlier than 3.45pm**), following a break for refreshments, in the order shown on the planning applications schedule. The public and representatives of parish/town councils will be invited to speak on the individual planning applications at the time they are considered. Anyone wishing to raise matters in relation to other items on the agenda may do so at the time the item is considered.

Highways

A representative from the Area Highways Office will attend Area North Committee quarterly in February, May, August and November – they will be available from 1.30pm at the meeting venue to answer questions and take comments from members of the Committee. Alternatively, they can be contacted through Somerset Highways direct control centre on 0845 345 9155.

Members questions on reports prior to the meeting

Members of the committee are requested to contact report authors on points of clarification prior to the committee meeting.

Information for the public

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

Decisions made by area committees, which include financial or policy implications are generally classed as executive decisions. Where these financial or policy decisions have a significant impact on council budgets or the local community, agendas will record these decisions as "key decisions". Members of the public can view the council's Executive Forward Plan, either online or at any SSDC council office, to see what executive/key decisions are scheduled to be taken in the coming months. Non-executive decisions taken by area committees include planning, and other quasi-judicial decisions.

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

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

Meetings of the Area North Committee are held monthly, usually at 2.00pm (unless specified otherwise), on the fourth Wednesday of the month in village halls throughout Area North.

Agendas and minutes of area committees are published on the council's website [www.southsomerset.gov.uk /agendas](http://www.southsomerset.gov.uk/agendas)

The council's Constitution is also on the web site and available for inspection in council offices.

Further information about this committee can be obtained by contacting the agenda co-ordinator named on the front page.

Public participation at committees

This is a summary of the protocol adopted by the council and set out in Part 5 of the council's Constitution.

Public question time

The period allowed for participation in this session shall not exceed 15 minutes except with the consent of the Chairman of the Committee. Each individual speaker shall be restricted to a total of three minutes.

Planning applications

Comments about planning applications will be dealt with at the time those applications are considered, rather than during the public question time session.

Comments should be confined to additional information or issues, which have not been fully covered in the officer's report. Members of the public are asked to submit any additional documents to the planning officer at least 72 hours in advance and not to present them to the Committee on the day of the meeting. This will give the planning officer the opportunity to respond appropriately. Information from the public should not be tabled at the meeting. It should also be noted that, in the interests of fairness, the use of presentational aids (e.g. PowerPoint) by the applicant/agent or those making representations will not be permitted. However, the applicant/agent or those making representations are able to ask the planning officer to include photographs/images within the officer's presentation subject to them being received by the officer at least 72 hours prior to the meeting. No more than 5 photographs/images either supporting or against the application to be submitted. The planning officer will also need to be satisfied that the photographs are appropriate in terms of planning grounds.

At the committee chairman's discretion, members of the public are permitted to speak for up to three minutes each and where there are a number of persons wishing to speak they should be encouraged to choose one spokesperson to speak either for the applicant or on behalf of any supporters or objectors to the application. The total period allowed for such participation on each application shall not normally exceed 15 minutes.

The order of speaking on planning items will be:

- Town or Parish Council Spokesperson
- Objectors
- Supporters
- Applicant/Agent
- District Council Ward Member

If a member of the public wishes to speak they must inform the committee administrator before the meeting begins of their name and whether they have supporting comments or objections and who they are representing. This must be done by completing one of the public participation slips available at the meeting.

In exceptional circumstances, the Chairman of the Committee shall have discretion to vary the procedure set out to ensure fairness to all sides.

The same rules in terms of public participation will apply in respect of other agenda items where people wish to speak on that particular item.

If a councillor has declared a personal and prejudicial interest

Under the new Code of Conduct, a councillor will be afforded the same right as a member of the public, except that once the councillor has addressed the committee the councillor will leave the room and not return until after the decision has been made.

Area North Committee

Wednesday 23 May 2012

Agenda

Preliminary Items

1. To approve as a correct record the minutes of the meeting held on 25 April 2012.
2. Apologies for absence
3. Declarations of interest

In accordance with the Council's Code of Conduct, which includes all the provisions of the statutory Model Code of Conduct, members are asked to declare any personal interests (and whether or not such an interest is "prejudicial") in any matter on the agenda for this meeting. A personal interest is defined in paragraph 8 of the Code and a prejudicial interest is defined in paragraph 10. In the interests of complete transparency, members of the County Council, who are not also members of this committee, are encouraged to declare any interests they may have in any matters being discussed even though they may not be under any obligation to do so under the code of conduct.

Planning applications referred to the Regulation Committee

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

Councillors Patrick Palmer, Shane Pledger and Sylvia Seal.

Where planning applications are referred by this committee to the Regulation Committee for determination, in accordance with the council's Code of Practice on Planning, Members of the Regulation Committee can participate and vote on these items at the Area Committee and at Regulation Committee. In these cases the council's decision-making process is not complete until the application is determined by the Regulation Committee. Members of the Regulation Committee retain an open mind and will not finalise their position until the Regulation Committee. They will also consider the matter at Regulation Committee as members of that committee and not as representatives of the Area Committee.

4. **Date of next meeting**

Councillors are requested to note that the next Area North Committee meeting will be held at 2.00pm on **Wednesday 27 June 2012 at the Village Hall, Long Sutton.**

5. **Public question time**

- 6. Chairman's announcements
- 7. Reports from members

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**Please note that the decisions taken by Area Committees may be called in for scrutiny by the council's Scrutiny Committee prior to implementation.
This does not apply to decisions taken on planning applications.**

Area North Committee – 23 May 2012

8. County Highway Authority Report – Area North

Lead Officer: Mike Fear, Assistant Highway Service Manager, SCC
Contact Details: countyroads-southsom@somerset.gov.uk or 0845 345 9155

Purpose of the report

This report is to inform members of the work carried out by the County Highway Authority and the proposed works programme for 2012/13.

Attendance at Committees

The Area Chairmen have been informed that we will change our monthly attendance half an hour prior to meetings to quarterly. An officer will attend meetings in May, August, November and February. Highway reports will be presented at the May and November meetings. Members will still be able to contact Somerset Highways using our call centre number 0845 3459155 or by e-mail to countyroads-southsom@somerset.gov.uk.

Recommendation

That members note and comment on the report.

Report

This winter has probably been one of the mildest winters for some time with only about two weeks of cold weather. The number of salt runs is very much down on last year which means significant savings on our winter maintenance budget. A depot open evening was held in November so that members of town and parish councils could see in detail how we deliver the winter maintenance service and operate the gritters.

During the winter we have been completing our surfacing, drainage and footpath reconstruction programmes, whilst our normal cyclical work of gully clearing, jetting and ditching is ongoing.

In the first quarter of each year we carry out a surface dressing programme. This is the practice of applying a bitumen tack coat to the existing road surface and then rolling in stone chippings. Whilst this practice is not the most PR friendly, it is highly effective in preserving the integrity of the road surface. This year we are surface dressing around 80 sites in South Somerset. Most of these are C and D class roads although sections of the A358 and A3066 are also included.

Grass cutting, as ever, is a difficult task to carry out to the satisfaction of all. As you can appreciate, our works are largely governed by resource. With a highway network exceeding 3500km in length, the size of the task is significant. The County Council therefore has a policy and procedures are in place to ensure the work is carried out in the most safe, effective and economic way. In a world of ever increasing risk assessment and claim/liability scenarios, the policy must take into account the range of road classifications across the network and prioritises them accordingly.

Verge cutting of main A and B roads normally commences in mid May followed by the C and D roads. The actual start date depends on the weather conditions in early spring.

Looking forward to the new financial year, 2012/13, I have listed below the structural maintenance schemes to be carried out. Budgets appear to be at a similar level to last year so a similar number of schemes should be constructed.

Proposed schemes for 2012/13 – Area North

<u>Parish</u>	<u>Location</u>	<u>Type of Work</u>
Tintinhull	Head Street	Surfacing
Martock	Ashfield Park Estate	Surfacing
Somerton	West Street	Surfacing
Tintinhull	A303 Overbridge	Surfacing
Martock	Stapleton Cross	Surfacing
Huish Episcopi	Langport Road	Surfacing
Curry Rivel	St Andrews Close	Footway
Norton sub Hamdon	Skinners Lane	Drainage
Barrington	Ruskway Lane	Drainage
Stoke sub Hamdon	Stonehill	Footway
Kingsbury Episcopi	Silver Street	Drainage
Somerton	Cary Way	Footway
South Petherton	Silver Street & Hospital Lane	Surfacing

As ever, demand is high for this budget and schemes are scored so that they can be prioritised. Members are advised that the 2012/13 budget is fully committed and that newly identified schemes are now being considered for 2013/14.

Area North Committee – 23 May 2012

9. Performance of the Streetscene Service

Strategic Director: Vega Sturgess, Operations & Customer Focus
Assistant Director: Laurence Willis, Environment
Service Manager: Chris Cooper, Streetscene Manager
Lead Officer: As above
Contact Details: chris.cooper@southsomerset.gov.uk or 01935 462840

Purpose of the Report

To update and inform the Area North Committee on the performance of the Streetscene Service in the Area for the period October 2011 – April 2012.

Public Interest

The report is to inform interested parties what the Streetscene team has been doing in Area North over the past few months, and to indicate what the service will be focussing on over the coming months.

Recommendation

Members are invited to comment on the report

Report

The main priorities of the service so far for this period that affect Area North, are listed below.

- Litter clearance on main roads
- Spring bulb and tree planting
- Preparation for the royal visit and Olympic torch relay
- Lean review of street cleansing and enforcement
- Restructure of the service following budget savings
- Replacement equipment

Operational Works

Throughout the year our operational teams continued to deliver the routine grounds, cleansing and enforcement works that present themselves on a day to day basis, we are pleased to inform members that we have successfully managed to deliver these work schedules which form the core of the service.

Recently our horticultural teams have completed the maintenance of Critical Ordinary Watercourses for the Environment Agency, and carried out the winter maintenance of the SSDC controlled watercourses. This work involves cutting back overgrowth and some areas of aquatic weed, removal of obstructions and if necessary digging out heavy accumulations of silt or other base substances. These works are prioritised for the beginning of the winter and targeted for completion before Christmas, as we believe that

this approach offers the best flood prevention measures. In addition to this work, our teams have routinely inspected and maintained the trash screens that are vital in preventing flash flooding.

SSDC ditches currently under the winter maintenance program	
Montacute	Townsend, rear of Yeovil Road, Montacute Park, Mill Copse
Huish Episcopi	Wagg Drove (flailed) rear of Millbrook
Ash	Yeovil Road to Foldhill Lane
Bower Hinton	Rear of Rose & Crown to Dimmocks Lane, Hoop Lane & Broad Lane
Compton Dundon	Compton Street, Combe Hollow
Curry Rivel	Parsonage Place – Dyers Road, Drayton Lane
Curry Rivel	Portfield Lane – concrete channel
Drayton	East Street, roadside collector channel alongside 'Langdons'
Ilton	Podgers Lane
Pitney	Marsh lane, etc
Shepton Beauchamp	Buttle Close. Sheepway, rear of North Street; Silver Street & Lambrook Road
Stocklinch	Stoney Lane; Owl Street
Westport	B3168 (part by flail)
Isle Brewers	Monks Dairy to Northmead Lane
Seavington	Water Street (ditch downstream of Winchester Cottages) & Beeches

We have received instructions that the Environment Agency will be taking their maintenance works back 'in-house', and plan to make this change by the summer, however it should be noted that this will affect some of the major watercourses in the Area. In Area North, this will result in both Wagg Drove (Huish Episcopi) and Hele Lane (South Petherton) being managed by the Environment Agency directly.

A core aspect of our horticultural maintenance is mowing, and a revised grassland maintenance program has been delivered in response to budget reductions for highway verges. We are pleased with the results and we have completed the winter mowing program and have started mowing for the spring.

A number of our mowing machines came to the end of their lease periods during the summer, and replacements were acquired. This year we have changed our mowing fleet to reflect the changes in specification of grassland (reduced cutting regimes on highway verges) and to take advantage of developments in mowing technology. This has resulted in a more diverse range of equipment available to us, which in turn will allow us more flexibility and a better outcome.

In addition to these mowers, reviewing our mowing fleet has enabled us to replace our arboricultural teams' wood chipper, which is an essential piece of equipment for the tree gang and a replacement yard machine which we have needed for some time, the current one is thirty two years old!

A number of vans have also been replaced this year, with more street cleansing and horticultural vehicles due for replacement over the coming months and we have rearranged our operational teams in order to make the best use of the resources available to us.

We have also been fortunate enough to receive capital funding to replace two of our sweeping vehicles that have come to the end of their useful lives, one of these sweepers will replace the town centre sweeper, which works in Yeovil and the other is a 'traditional' sized road sweeper.

Our horticultural teams are currently working on the winter maintenance of shrub beds across the area, and these works will be completed by April. One member of this team is Cat Perham who we were delighted to appoint following her apprenticeship with us; she is a great addition to the team.

During the winter period we continued to deliver our program of bulb planting with parishes and we supplied bulbs to Ash, Long Load & North Vale; while we helped volunteers at Compton Dundon, Montacute, Stoke sub Hamdon, Martock, Ilton, South Petherton, the Seavingtons, Drayton, Huish & Langport, Somerton, Fivehead and Curry Rivel & Mallet; planting 2,000 bulbs in each location. We would like to thank those volunteers who came out to work with the team.

During the winter period, our teams also carried out risk assessments of all the open spaces that we manage, rectifying any issues that were identified. The amenity area at Barrymore Close in Huish Episcopi has been re-fenced using metal bow topped fencing.

Our street cleaning teams continue to clean the Area on a daily basis, and we currently have a crew litter picking along rural roads. The team have so far cleaned the accessible areas on the following roads:

- A303
- A372
- A378
- B3153
- B3151

The inaccessible areas of most of these roads will be revisited with an additional team who will control the traffic while the areas are cleansed. There are considerable health and safety implications of working on the highway where there are no pavements or verges that a team can safely work from and as a result this is a slow and difficult process. We look forwards to completing this work and it will make a considerable improvement to the district when it's completed.

We have also started to make arrangements with Martock parish councils' cleansing team to share resources thus providing a higher level of service.

We have also met with Scott Davis of County Highways to discuss how we can coordinate the Counties 'Ploughing' operations (this is where a machine is used to 'redefine' the edge of the highway, where it has been covered by soil that has encroached onto the road) with our sweeping operations, to remove areas of heavy detritus build up. The aim of this program of works is to improve the look of areas and keep them well drained.

Following the reduction in Household Waste Recycling Centre hours, the street cleaning response team has focussed more on clearing fly tipping and compensation for this increased workload has been received from the County Council.

The table below shows the locations and numbers of fly tips that our team cleared from Area North:

	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-12	Feb	Mar	Total
AREA NORTH:														
Aller	1										1	1		3
Ash			2											2
Barrington												1		1
Beercrocombe														
Bower Hinton	1		1						1	1				4
Chilthorne Domer							1			1		1		3
Compton Dundon	1							1				2	2	6
Curry Mallet		2			1						1	1	3	8
Curry Rivel	2		1	1				1			2	3		10
Drayton					1					1		1		3
Fivehead		1					1	2	3	2	2	3	6	20
H/bridge & W/port	3						2	3	3	4			4	19
High Ham	1		6		1		1		4	1	3		1	18
Huish Episcopi	1		3				1		2	1	1		1	10
Ilton	3		2		2	2		2	2	2	5	1	2	23
Isle Abbotts							2				1	3		6
Isle Brewers														
Kingsbury Episcopi	2	3	1	4	1	5	4	1	2	1	6	1	2	33
Langport	1		1	1		2	1				1			7
Long Load		1		2	1				1	1		1	2	9
Long Sutton		1	2			1		1	1		2		2	10
Lopen				1							2	4		7
Martock	1	1	1		2	3	4	2	1		4	3	5	27
Montacute		1	1	2		3		2	3			3	2	17
Muchelney							1					2	1	4
Norton														
Pitney											1			1
Puckington														
Seavington	2					3					2	3	2	12
Shepton B/champ			1									1	1	3
Somerton	2	11	3	4	3	1	2	3	1	3	5	1	5	44
South Petherton	2		3	4	3	1	2	4	3	5	3	9	6	45
Stocklinch														
Stoke			1			5	2	2		5	1	5	1	22
Tintinhull	5	1				1	2	2			3	4	3	21
TOTAL	28	22	29	19	15	27	26	26	27	28	46	54	51	398

In March this year the contract for the maintenance of the Cartgate Picnic Area was withdrawn by Balfour Beatty Mott MacDonald and this work has transferred, with a member of staff, to the OCS Group. This was a disappointing development for the team as the withdrawal of the work was unannounced and unexplained.

Following this change in contracts delivered, and as part of our work to meet our financial targets, we have restructured the service. As a result we have split the supervision of our horticultural & cleansing teams. Instead, officers who are part office based and part operational supervise the horticultural team; while the street cleansing teams have been merged with our enforcement team, and one supervisor also supervises the car-parking inspectors.

For street cleansing works and enforcement issues, members should contact either Phil Jones or Michael Gottlieb. For horticultural works Ian Lock and Jon Brown supervise the operational teams. Our abandoned vehicle officer, Dave Goreham has also recently retired after long and faithful service and members should contact either Derek Cordery or Lynette Osment on vehicle related issues.

Strategies

In the last report to committee, we highlighted that work was being done to develop an Open Space Strategy; this was completed and approved by Full Council. Prior to this Dog Control Orders had been developed, and these orders are now fully in place.

Lean Thinking

As part of the Councils Lean Thinking program, the 'Lean Team' has been working with the Streetscene team looking at the processes used to deliver our services. These processes have been 'mapped' and we are now undertaking a time study to accompany this.

Performance Indicators

Following budget cuts, members agreed that we would no longer deliver a formal inspection process. We have suspended the local area quality inspections, that we carried out with local members, however should members or councillors wish to discuss their local concerns or priorities, our officers will be available to discuss how to find solutions to local matters.

We are once again, pleased to report low levels of complaints that we have received regarding the service; the majority of calls once again are for information or requests for work.

What's coming next?

- Works surrounding the Olympic torch procession
- Summer Maintenance programs
- Further Litter control on roadside verges
- Highway weed control operations
- Development plans for open spaces in Area North for 2012 – 13
- Completion of the Streetscene 'Lean' process

The team is very much looking forward to preparing for the Olympic torch procession and a designated crew are currently removing weeds, cutting back of overgrowth, hand sweeping, litter picking and carrying out any other specifically identified cleansing tasks. Prior to the torch arriving we will be making sure that all of the bins at the key areas are emptied, roads swept and everything is in good order. This work has been arranged after

coordination with key representatives of the town councils involved. Other staff have been deployed to ensure that there is no fly tipping or obvious littering along the route and the district is presented in the best possible manner. The route enters the district from Taunton, moving to Ilminster, onto Yeovil along the A303, through here to Ilchester, around Somerton town centre and from here out of the district passing through Compton Dundon. The scale of the route does present us with a considerable workload, however we are confident that the works will be delivered on time as required.

Financial Implications

All of the matters highlighted in the report have been achieved within service budgets and the team delivered all services within its set budget.

Council Plan Implications

- Continue to deliver schemes with local communities that enhance the appearance of their local areas.
- Continue to support communities to minimise floodwater risks.
- Maintain street cleaning high performance across the district.

Background Papers: *Progress reports to Area Committees on the Performance of the Streetscene Service.*

Area North Committee – 23 May 2012

10. Area North Working Groups and Outside Bodies – Appointment of Members 2012/13 (Executive Decision)

Strategic Director: Mark Williams, Chief Executive
Assistant Director: Ian Clarke, Legal and Corporate Services
Service Manager: Angela Cox, Democratic Services Manager
Lead Officer: Becky Sanders, Committee Administrator
Contact Details: becky.sanders@southsomerset.gov.uk or 01935 462055

Purpose of the Report

As the Council has entered a new municipal year, the Committee is asked to review its appointments to outside bodies and working groups within Area North.

Recommendation

The Committee is asked to:

- (1) Agree the representatives to serve on the Huish Episcopi Sport and Leisure Facility working group.
- (2) Review and appoint members to the outside bodies for 2012/13 as set out in Appendix A.

Area North Working Groups

The following table indicates the internal working group, and its members, appointed by Area North Committee for the last municipal year 2011/12. The Committee is asked to agree the representatives to the working group for the municipal year 2012/13.

Working Group & Purpose	2011/12 Representatives	Lead Officer
Huish Episcopi Sports & Leisure Facility Working Group – to oversee the update of the 1991 use agreement and the feasibility study to assess the viability of a new artificial grass pitch and community use of the playing pitches.	Two representatives required - Derek Yeomans Shane Pledger	Assistant Director (Health & Well-Being)

Outside Bodies

The organisations and groups to which representatives are required to be appointed by the Area North Committee for 2012/13 are indicated in Appendix A.

Financial Implications

None from this report.

Corporate Priority Implications

None from this report.

Carbon Emissions and Adapting to Climate Change Implications

None

Equality and Diversity Implications

None

Background Papers: *Minute 77, Area North Committee, 23 Nov 2011*

Appendix A - Area North Outside Bodies Information – Appointments to be made for 2012-13

Organisation / Group	Number of Council Reps.	Aims & Objectives	Frequency of Meetings	Representatives last year
Somerset Levels and Moors Executive Group	1 (+ 1 officer)	To enable the delivery of a regeneration programme for the Somerset Levels and Moors. £1.8m was awarded by DEFRA for a five year programme up until 2013.	About 6 – 8 per year	Paul Thompson
Langport Abattoir Liaison Group	2	To provide a forum for liaison between the operating companies, the communities of Huish Episcopi and Langport and the local Authorities and other agencies responsible for the regulation of the site.	Twice a year	Roy Mills Derek Yeomans
Community Safety Area Action Panel	1	The function and membership of the Area North Community Safety Action Panel has been reviewed, but its role retained to promote partnership and communications between local services and communities to promote community safety.	Twice a year	Sue Steele
Martock M3 Community Partnership	1	To own the Martock Vision and to maintain a strong partnership committed to work cooperatively and efficiently to ensure its realisation. Its object is to coordinate and monitor delivery of the Martock Local Community Plan.	Quarterly	Graham Middleton
Somerset Waterways Advisory Committee	1	An advisory committee of the County Council, but its membership also includes co-opted members of the four Somerset District Councils in whose Districts there are existing or disused canals. The Committee's terms of reference include the restoration, enhancement and future use of the historic canal corridors and waterways in Somerset, and it has from time to time explored other possibilities for developing or restoring waterways in the County.	Quarterly	Patrick Palmer

Organisation / Group	Number of Council Reps.	Aims & Objectives	Frequency of Meetings	Representatives last year
South Somerset Disability Forum (1 Member appointed from each area)	1	To enhance the quality of life for people with disabilities in South Somerset by improving access to services, facilities, buildings, leisure, transport and the countryside.	Bi-monthly on first Tuesday of the month	David Norris
Langport and Somerton Links Service Steering Group	1	To provide transport to the people of Somerton, Langport and the surrounding villages who are currently unable to access public transport due to isolation, unemployment, disability or age. To provide access to transport where mainstream public transport services do not exist.	Quarterly email updates with meetings as necessary	Derek Yeomans
Strode College Community Education Committee	1	Further Education College. The purpose of the committee is to review and promote the development of the College's work with adult students and its role in supporting community work.	3 per year	Pauline Clarke
Langport and District Community Youth Centre (Ridgway Hall)	1	To assist and educate all young people, primarily in the 11-21 range, through their leisure and recreational activities, and to manage the centre in ways will achieve this objective and will also provide facilities for other groups within the Langport community.	4 to 5 per year	Roy Mills
Huish Episcopi Leisure Centre Board	2	New management company for Huish Episcopi Leisure Centre.	TBC	None – new outside body

Area North Committee – 23 May 2012

11. Revised Scheme of Delegation – Development Control – Nomination of Substitutes for Chairman and Vice Chairman for 2012/13 (Executive Decision)

Assistant Director: Martin Woods, Economy
Service Manager: David Norris, Development Manager
Lead Officer: As above
Contact Details: david.norris@southsomerset.gov.uk or 01935 462382

Purpose of the Report

As the Council has entered a new municipal year, the Committee is asked to review the appointment of two members to act as substitutes for the Chairman and Vice Chairman in the exercising of the Scheme of Delegation for planning and related applications. The previous member substitutes were Councillors Roy Mills (first substitute) and Terry Mounter (second substitute).

Recommendation

That, in line with the Development Control Revised Scheme of Delegation, two members be nominated to act as substitutes for the Chairman and Vice Chairman to make decisions in the Chairman's and Vice Chairman's absence on whether an application should be considered by the Area Committee as requested by the Ward Member(s).

Background

The Council's scheme of delegation for Development Control delegates the determination of all applications for planning permission, the approval of reserved matters, the display of advertisements, works to trees with Tree Preservation Orders, listed building and conservation area consents, to the Development Manager except in certain cases, one of which being the following:-

"A ward member makes a specific request for the application to be considered by the Area Committee and the request is agreed by the Area Chairman or, in their absence, the Vice Chairman in consultation with the Development Manager. (This request must be in writing and deal with the planning issues to ensure that the audit trail for making that decision is clear and unambiguous). In the absence of the Chairman and Vice Chairman there should be nominated substitutes to ensure that two other members would be available to make decisions. All assessments and decisions to be in writing."

Financial Implications

None from this report

Council Plan Implications

None from this report.

Carbon Emissions and Adapting to Climate Change Implications

None from this report.

Equality and Diversity Implications

None from this report.

Background Papers: Minute 36, Council meeting of 21 July 2005

Area North Committee – 23 May 2012

12. Area North Affordable Housing Programme – Update Report

Strategic Director: Rina Singh, Place and Performance
Assistant Director: Kim Close / Helen Rutter, Communities
Service Manager: Charlotte Jones, Area Development Manager (North)
Lead Officer: (this report) Charlotte Jones Area Development Manager (North)
Contact Details: charlotte.jones@southsomerset.gov.uk or (01935) 462251
 Jo Calvert, Strategic Housing Officer (01935) 462040
 David Norris, Development Manager (01935) 462382

Purpose of the Report

- To provide an update on the progress of the different housing development schemes within Area North, which include affordable housing.
- To provide an opportunity for discussion of the future development of affordable housing within Area North.

Public Interest

'Affordable housing' refers to housing made available to people who could not otherwise afford housing (owned or rented) available on the open market.

The new SSDC Council Plan identifies helping people to find, afford and keep a decent home as a top priority.

Enabling additional affordable housing in Area North, and finding ways to increase the overall sustainability of the many towns and parishes is a top priority for the Area North Committee. This ambition is reflected in numerous parish plans and local consultation results.

Recommendations

- (1) note the progress of current schemes within the Area north Affordable Housing Programme as shown in Appendix A
- (2) Discuss issues, including 'next steps' raised within the report and presentation.

Background

The Area North Committee has previously sought increased focus by SSDC on the progress of small scale affordable housing schemes, which led to a greater level of monitoring and support provided by the Area Development, Development Management and Strategic Housing teams.

The recent approval of the new South Somerset Local Plan includes housing allocations up to 2028, and a series of settlement policies to guide future decision making.

Of particular current interest is draft policy SS2, which provides for the removal of development boundaries in the rural settlements and the potential for further (modest)

development which would increase local sustainability – in terms of housing, employment and community facilities.

Summary

This report includes a very brief outline of the current issues surrounding the provision of affordable housing in Area North. It provides an opportunity for discussion in the light of current and likely future changes to planning and housing policies including the provision of public subsidy.

Appendix A shows the range of current schemes in Area North by parish.

Appendix B gives some background information on different forms of ownership and models for affordable housing.

Appendix C gives information about Community Land Trusts.

The role of SSDC

In very simple terms the role of SSDC as a Local Authority for the provision of affordable housing falls into three main functions:

- Duties and powers to promote economic, social and environmental well-being of the area
- Housing Authority
- Local Planning Authority

How affordable housing is provided

'Affordable' housing is generally provided in the same way as any housing – by a landowner / developer obtaining planning permission, and securing the finance to build a house which is then let or sold. The use of planning policy to provide affordable housing (e.g. a minimum of 35% of a development) is a key mechanism established in the English planning system.

Planning permissions and access to public finance aimed at increasing the delivery of affordable housing will often be subject to occupation and cost criteria 'in perpetuity' – secured by legal agreements. Providing these conditions are met, homes could be provided, owned and / or managed by a variety of means for example Housing Associations, individual households, trusts, or private landlords.

In recent years local ownership of affordable housing through a 'Community Land Trust' has gained interest, under this model, the houses are likely to be leased to and managed by a Housing Association, with the freehold and overarching management vested in a charitable trust / social enterprise.

There is evidence from local consultation in parishes (including in Area North) that some housing needs are for a size or tenure of housing not available within the immediate community, rather than the existing supply being 'unaffordable'. For example older people seeking to move to a smaller home, or families looking for a 'starter home'.

Current position of the delivery of affordable housing in Area North

Appendix A shows the position of current developments which include affordable housing in Area North by parish. Please note that only schemes which are under active development are included, there are further parishes where preliminary feasibility work has begun, or is due to start.

Some key points to note

- The supply of land (price, suitability and availability) is the overriding factor for successful delivery.
- Community 'support' is important alongside community 'need'. Both need to be evidenced.
- Development uses resources, which are limited (and increasingly so). Smaller scale schemes may carry a higher risk of failure and a reduced economy of scale.

Current / future activity

- 1) Maintain partnerships across SSDC service teams, and between SSDC, landowners, developers, housing associations and local communities to progress schemes within the current programme.
- 2) Use of Development Management approach to progress new dwellings, including the provision of additional units of affordable housing in Somerton, Martock, Langport, Huish Episcopi, South Petherton and Stoke sub Hamdon under the saved and new draft South Somerset Local Plan.
- 3) Develop understanding and potential to secure sustainable development in rural settlements including the provision of affordable housing, employment and community facilities including ways to establish good quality evidence of local need and community support for additional development.

Financial Implications

None from this report.

Council Plan Implications

Focus Three: Homes – “we want decent housing for our residents that matches their income.”

Focus Four: Health and Communities – “We want communities that are healthy, self-reliant, and have individuals who are willing to help each other.”

Carbon Emissions & Adapting to Climate Change Implications (NI188)

None from this report.

Equality and Diversity Implications

Consultation and research will seek to involve all sections of the community. The design and layout of new homes are subject to design and access statements, and will comply with building regulations for disabled access. Housing allocations policies consider the needs of all sections of the community including disabled people, older people, families, and people on a low income. Planning consent for housing will specifically consider the needs of local people for different types of tenure and size, together with the needs for accessible facilities and employment.

Background Papers: *National Planning Policy Framework, South Somerset saved and draft Local Plan, Localism Act.*

APPENDIX A – Current progress of all affordable housing schemes in Area North (April 2012)

Notes

HA= Housing Association (formally known as Registered Social Landlords)

YHG = Yarlington Housing Group (Formally South Somerset Homes)

HCA = Homes and Communities Agency (the substantive provider of public investment into affordable housing)

'with consent' – means scheme has full planning permission from SSSDC.

'with HCA funding' – means approval for subsidy from the Homes and Communities Agency confirmed. Some other schemes have funding applied for.

CLT = Community Land Trust HNS = Housing Needs Survey

Name of parish	Ward	Date of Housing Needs Survey	Scheme description and current actions	Additional Affordable Homes	What's next / other information
Somerton	Wessex		Land at Northfield Farm – affordable housing through s106 agreement	46 (133 dwellings@35%)	Application approved June 11
Langport / Huish Episcopi	Langport & Huish		Land at Newtown. Affordable housing through s106 agreement	18 subject to planning consent (51 dwellings @ 35%).	Application submitted 22-9-10 (10/03541)
South Petherton	South Petherton		Land at Hayes End. Affordable housing through S106 agreement.	10 with consent	Not commenced.
Rural Settlements					
Curry Rivel	Curry Rivel	Aug 06. 8-12	YHG redevelopment at Westfield	11 (plus refurbishment of existing)	Build complete

Name of parish	Ward	Date of Housing Needs Survey Number of units identified	Scheme description and current actions	Additional Affordable Homes	What's next / other information
Norton Sub Hamdon	Hamdon	October 05. 10	Local exception scheme at detailed design stage at Minchington Close.	A scheme of up to 10 is being considered.	Land secure. Pre-application work largely complete. CLT agreed to be established. Funding applied for.
Ash	Martock	July 09 6	Early stages of local exception scheme. Site appraisal completed. 2 preferred sites identified.	A potential scheme of around 6-8 to be considered.	Hastoe liaising with Parish Council and seeking contact with landowner of preferred site
Long Load	Martock	Sept 07. 10 April 12 TBC	Scheme identified, and site negotiations for local exception scheme begun during 2007-08.	4-6 subject to final negotiations / needs survey and planning consent.	Negotiations between HA and landowner / agent are ongoing. HNS revised.
Long Sutton	Turn Hill	April 04 & April 11.	Following review of progress with parish council, preferred site (Parsons Close) identified – provider is Yarlington. Rural Exception Scheme, Martock Road. S106 for social enterprise to own housing for local people.	3 units subject to planning consent. 3 units with consent	SSDC land agreed transfer subject to planning. Planning application submitted. Application approved. (NB S106 for social enterprise)
Compton Dundon	Wessex	Dec 09 19	Developer led scheme at former Transport Depot, Main Road, with s106 for sale of local housing at 65% of market value in perpetuity. Sites appraisal completed to identify additional suitable & available land.	6 units with consent - Houses part built.	Monitor scheme's progress.

Appendix B

Background information on different forms of ownership / models for affordable housing.

Affordable Housing - Scheme Types

Affordable housing is housing that will be available for people, whose income denies them the opportunity to purchase or rent houses which are generally available on the open market. This is as a result of the relationship between their income and housing costs. Affordable housing includes subsidised housing (reduced cost market housing and social rented housing).

The different types of affordable housing are as follows:

Affordable Social Rented Housing

This scheme is developed, with subsidy, by Registered Social Landlords/Housing Associations. It provides rented housing to households otherwise unable to afford market rents.

Reduced Cost Market Housing

This scheme is owner-occupied housing. It is provided at the cheaper end of the housing market (with associated financial subsidy, to make it affordable to assist households unable to resolve their housing needs in the housing market). Various models exist, and the projects are considered on a scheme by scheme basis (depending on housing need and affordability in the area). Models such as shared ownership or discounted market housing are included with this definition.

Shared Ownership

This scheme helps people with a regular income who want to buy their own home, but cannot afford to purchase outright. With shared ownership, just enough money is borrowed, to cover the share that is being purchased. This share is usually 50% but can be 25% - 75%. Depending on the model used, rent may be payable on the remaining share - which is normally owned by a Registered Social Landlord. On certain properties, further shares may be purchased. It may be possible to eventually progress to outright ownership. Others (usually in rural areas) restrict ownership to allow the Registered Social Landlord to ensure that future sales are to someone with a local need.

Discounted Market Housing

This is owner occupied housing, provided at the cheaper end of the market (with associated financial subsidy - by either a developer or a Registered Social Landlord). A discount is provided on the open market value. This is usually 25% (usually with the Registered Social Landlord withholding an equity stake in the property).

Low Cost Market Housing

This scheme is housing, provided without subsidy, at the cheaper end of the market (by private developers). The characteristics of this housing will ensure it remains affordable to subsequent occupiers. These properties help to create mixed and balanced communities. They may help to meet the needs of first time buyers or key workers.

Self Build

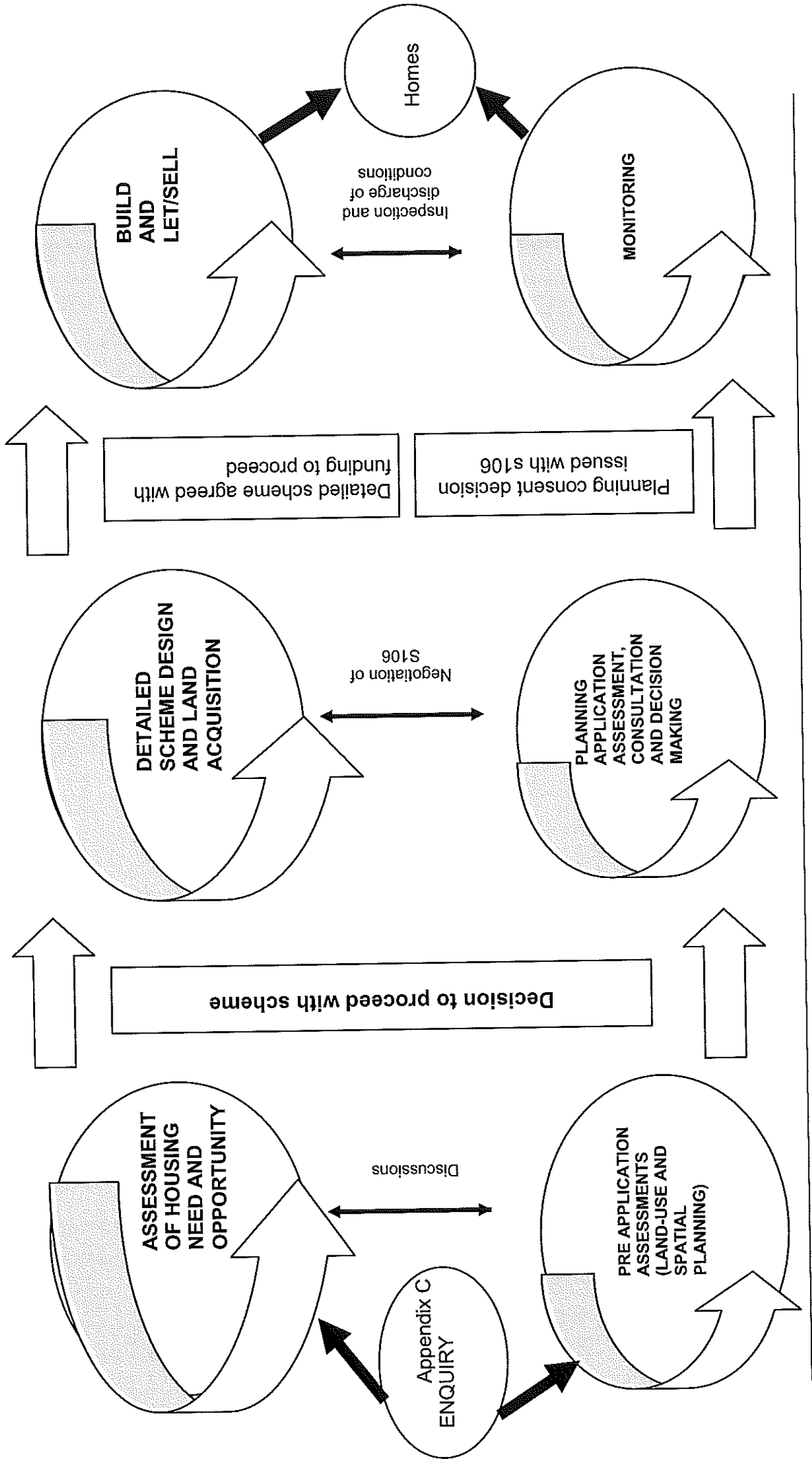
Self-Build housing is housing where the future occupants or the community, work together to build a property for themselves. This may involve the pooling of skills from various areas, or a 'train and build' scheme - where individuals learn new skills as the scheme progresses. Although the houses may be started from scratch, the group may simply work towards 'finishing' properties erected by professional contractors.

AFFORDABLE HOUSING

DELIVERY

FEASIBILITY

DETAILED PROJECT DEVELOPMENT



Appendix C Information about Community Land Trusts (CLTs)

Extract from Frequently Asked Questions about Community Land Trusts
[http://www.communitylandtrusts.org.uk/what-are-clts/Frequently asked questions](http://www.communitylandtrusts.org.uk/what-are-clts/Frequently%20asked%20questions)

What is a Community Land Trust?

A CLT is a non-profit, community-based organisation run by volunteers to develop housing, workspaces or other assets that may be required to address a need in their local area. The income stream generated from the assets is protected and used to keep assets permanently affordable, for long-term community benefit.

Why set up a CLT?

There are a number of benefits to setting up and running a CLT. Usually, the stimulus is a desire to create affordable homes that are available to local people who cannot afford open market housing. However, often local people might take on another challenge facing their community, such as setting up a community shop, or purchasing the local pub when it is about to close.

- CLTs are locally driven, controlled and democratically accountable.
- CLTs can meet local housing need even in areas with very high house prices.
- CLTs, by retaining an equity share in each property, provide housing that is permanently affordable, benefitting many generations of residents.
- CLTs give the community an asset for the future.
- CLTs genuinely empower local communities, where communities are part of the vision and solution for their local area.

What do you mean by "community"?

It is up to the members of the CLT to determine what community the trust will seek to serve. Usually it relates to people that live and work, or want to live and work within a defined geographical area, perhaps a number of local parishes or an urban neighbourhood.

How does a CLT create affordability?

To create affordability a CLT needs to receive initial subsidy in one form or another; be it free land, or financial grants from government, charities or benefactors. Once properties have been built, the land on which they are built is protected from fluctuations in land market valuations by a legal 'asset lock' that is a fundamental part of all the CLT structure.

By separating the value of the building from the land that it stands on, occupiers of CLT properties can pay rent for their use of the building at levels that are permanently affordable (usually no more than one third of their income).

Are CLTs just about building homes for rent?

No. CLTs usually have wider ambitions than to just provide affordable homes for rent. They set out to address local housing needs, whatever that need may be. It might be a family seeking to buy a share in their home, or an elderly person seeking to downsize to more appropriate accommodation, freeing up a larger family home in the process.

CLTs are also providing opportunities for self-builders, mutual homes ownership and co-housing schemes. The latter are very prevalent in continental Europe and there is growing interest in their development in the UK as an alternative to traditional mortgage

based options. Land owned by a CLT is the perfect place to try out some of these new ideas.

Where does a CLT get its land?

There are a number of possible sources of land. A CLT may:

- Receive public land at little or no cost;
- Purchase a rural exception site at about agricultural value;
- Acquire a site at open market value, through access to grant funding or community share issues;
- Already own a site that is permitted for development.

How is community ownership of the land protected for the future?

CLTs hold their assets in perpetuity. But, as Woody Allen once said, 'Perpetuity is a long time, especially when you get near to the end', so CLTs do need to have the flexibility to respond to future circumstance, perhaps by selling a home if there is no longer a need for it. The CLTs legal 'asset lock' dictates that assets can only be sold or developed in a manner which benefits the local community. So if a home is sold the cash realised is protected and can be re-invested into something else that the trust's members think will benefit the local community.

How are CLTs run?

CLTs are locally driven, controlled and democratically accountable. They have a membership that is open to all who live or work in the defined community, including occupiers of the properties that the Trust owns. The members elect a volunteer board to run the trust on their behalf on a day to day basis. Usually, the board comprises a balanced mix of supportive local residents, tenants and employers; people from the wider area with useful skills to offer; and additional stakeholders that seek to preserve the integrity of the trust (perhaps local authority representatives, or those who endow land or property to the trust).

How does a CLT get funding?

CLTs are all financed in different ways and the final balance of funding will depend on local circumstances and the objectives of the trust. There are a number of sources of **pre-development funding** including the CLT Fund for consultancy and technical assistance from business planning to planning consent. Local authorities may be able and willing to support pre-development costs. Sources of **development finance** include the CLT Investment Fund, local authorities, 'ethical lenders' (e.g.: Triados Bank), Homes and Communities Agency.

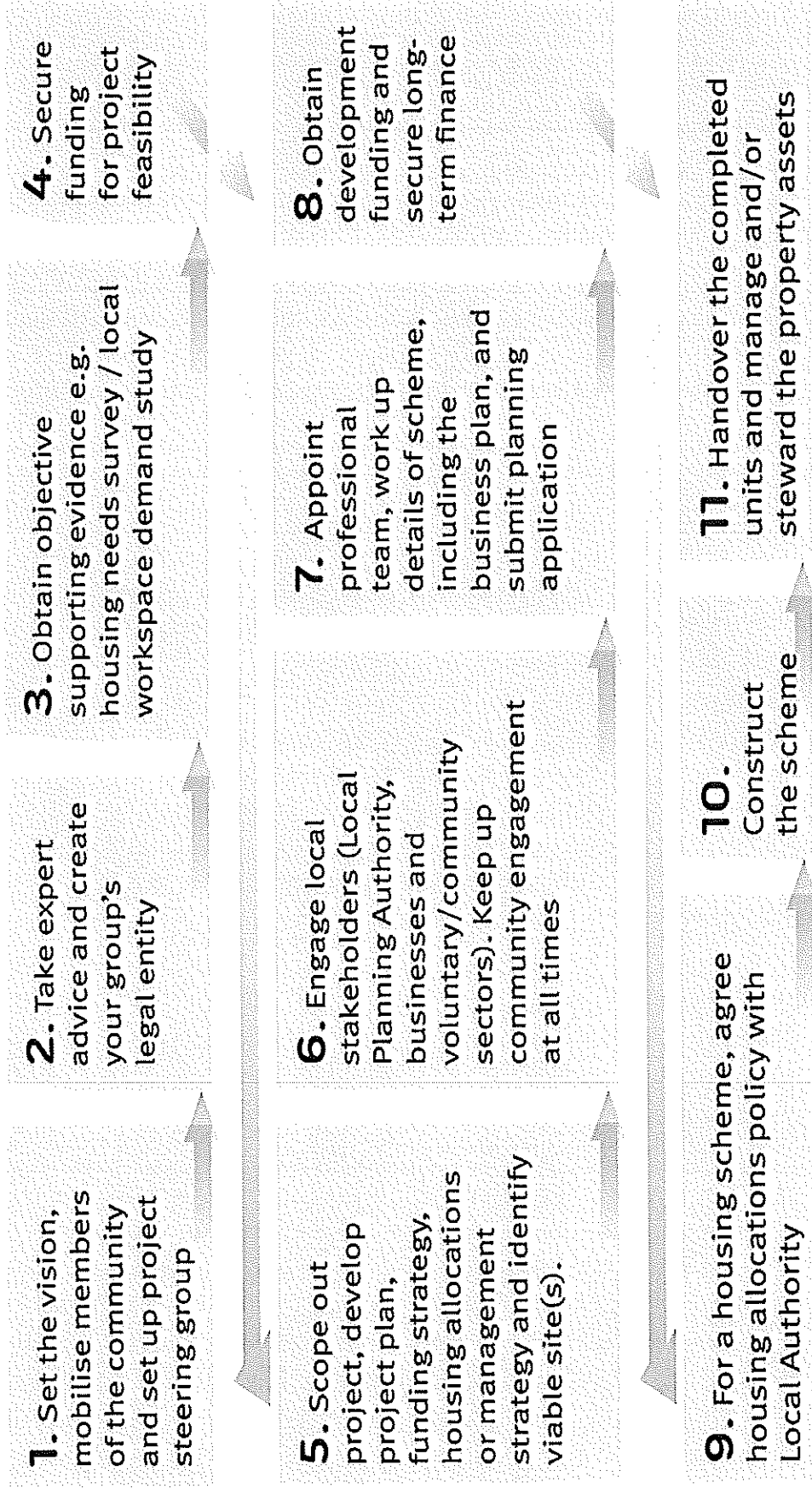
Can a CLT partner with a housing association?

Some of the most successful CLTs have benefited from partnering with a not-for-profit housing association to develop and manage their homes. There are a number of ways that a CLT can partner with a Housing Association.

How do you set up a CLT?

The flow chart on the following page illustrates the main steps to setting up a CLT, although it is not exhaustive. For more detailed information on how to set up a CLT please see the [Step by Step Guide](#) or attend one of our training events.

Main steps to setting up a CLT



Area North Committee – 23 May 2012

13. Area North Committee – Forward Plan

Strategic Director: Rina Singh, Place and Performance
Assistant Directors: Helen Rutter & Kim Close, Communities
Service Manager: Charlotte Jones, Area Development (North)
Lead Officer: Becky Sanders, Committee Administrator
Contact Details: becky.sanders@southsomerset.gov.uk or (01935) 462596

Purpose of the Report

This report informs Members of the Area North Committee Forward Plan.

Public Interest

The forward plan sets out items and issues to be discussed over the coming few months. It is reviewed and updated each month, and included within the Area North Committee agenda, where members of the committee may endorse or request amendments.

Recommendations

Members are asked to: -

- (1) Note and comment upon the proposed Area North Committee Forward Plan as attached at Appendix A and Identify priorities for further reports to be added to the Area North Committee Forward Plan.

Area North Committee Forward Plan

Members of the public, councillors, service managers, and partners may also request an item be placed within the forward plan for a future meeting, by contacting the Agenda Co-ordinator.

Items marked *in italics* are not yet confirmed, due to the attendance of additional representatives.

To make the best use of the committee, the focus for topics should be on issues where local involvement and influence may be beneficial, and where local priorities and issues raised by the community are linked to SSDC and SCC corporate aims and objectives.

Further details on these items, or to suggest / request an agenda item for the Area North Committee, please contact the Agenda Co-ordinator; Becky Sanders.

Background Papers: None

Appendix A – Area North Committee Forward Plan

Further details on these items, or to suggest / request an agenda item for the Area North Committee, please contact the Agenda Co-ordinator; Becky Sanders, becky_sanders@southsomerset.gov.uk

Items marked in italics are not yet confirmed, due to the attendance of additional representatives. Key: SCC = Somerset County Council

Meeting Date	Agenda Item	Background / Purpose	Lead Officer(s) SSDC unless stated otherwise
27 June '12	Area North budgets – 2011-12 Outturn report and Capital Programme	Report on the end of year position of Area North budgets	Nazir Mehrali, Management Accountant
27 June '12	S106 six monthly Monitoring Report	Update report on the progress of collection and expenditure of developer obligations arising from development in Area North.	Neil Waddleton, S.106 Monitoring Officer
27 June '12	<i>Huish Episcopi Leisure Centre – revised management agreement</i>	<i>To present for approval the revised management / grant agreement between Huish Episcopi Leisure Centre and SSDC</i>	<i>Steve Joel Assistant Director Health and Well-Being</i>
25 July '12	<i>Developing local tourism</i>	<i>A discussion/report on current and potential initiatives to promote local tourism.</i>	<i>Co-ordinated by Pauline Burr Community Regeneration Officer</i>
TBC	<i>Draft Asset Management Strategy</i>	<i>Draft Asset Management Strategy – the plan that sets out the council's future approach to retaining or disposing of assets.</i>	<i>Donna Parham, Assistant Director (Finance)</i>
TBC	<i>Historic Buildings at Risk</i>	<i>Update report. (This is likely to be a confidential item.)</i>	<i>Ian Clarke – Assistant Director, Legal and Corporate Services.</i>
TBC	<i>Presentations by previously supported projects.</i>	<i>To promote learning from the success of local projects supported by Area North, suggested presentations include Stoke sub Hamdon Charity Shop, and Chilthorne Domer Pavilion. (Past presentations include Stoke All Saints Church Lighthouse project and The Seavingtons Community Shop.)</i>	<i>Les Collett, Community Development Officer (North)</i>

Area North Committee – 23 May 2012

14. Planning Appeals

Strategic Director: Rina Singh, Place & Performance
Assistant Director: Martin Woods, Economy
Service Manager: David Norris, Development Manager
Lead Officer: As above
Contact Details: david.norris@southsomerset.gov.uk or (01935) 462382

Purpose of the Report

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

Public Interest

The Area Chairmen have asked that a monthly report relating to the number of appeals received, decided upon or withdrawn be submitted to the Committee.

Recommendation

That members comment upon and note the report.

Appeals Lodged

None

Appeals Dismissed

None

Appeals Allowed

11/00739/S73 – Application to vary conditions 20, 28, 29 and 36 of planning application 10/01337/FUL at Perham farm, Wick, Langport TA10 0NN.

11/02569/COL – Application for a Certificate of Lawfulness for existing use, the occupation of the Annexe at the Old Tavern as a single dwelling house at the Old tavern, Castlebrook, Compton Dundon.

The Inspector's decision letters are shown on the following pages.



Appeal Decision

Inquiry held on 14 and 15 February 2012

Site visit made on 15 February 2012

by **Nigel Harrison BA (Hons) MRTPI**

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

Decision date: 16 April 2012

Appeal Ref: APP/R3325/A/11/2163005

Perham Farm, Wick, Langport, Somerset, TA10 0NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mrs Penelope Horne against the decision of South Somerset District Council.
- The application Ref: 11/00739/S73 dated 12 February 2011, was refused by notice dated 18 April 2011.
- The application sought planning permission for: "Conversion of Barn A to residential and commercial unit, conversion of Barn B to 2 commercial units, conversion of Barn C to site supervisor residential accommodation, and conversion of Barn D into double garage to serve Barn A" at Perham Farm, Wick, Langport, Somerset, TA10 0NN without complying with conditions attached to planning permission Ref: 10/01337/FUL, dated 5 July 2010.
- The conditions in dispute are Nos 20, 28, 29 and 36 which state that:
 - (i) *Before any part of the permitted development is commenced, 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.*
 - (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 the landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition, and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the local planning authority. (No 20)*

No processes shall be carried out, or power tools, equipment, machinery or plant of any kind shall be used at any time anywhere on the site except within buildings. (No 28)

There shall be no outside burning or storage of any materials, goods, equipment, plant or machinery of any description on any part of the site without the prior written consent of the local planning authority. (No 29)

Within three months of the date of this permission, a detailed plan shall be submitted to the local planning authority for written approval indicating the position of all existing modern agricultural buildings, structures and hard standings to be demolished. Such buildings, structures and hard standings as may be agreed to be demolished shall be removed from the site and disposed of prior to the converted barns being first brought into use. (No 36)

- The reasons for the conditions are:

To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with South Somerset Local Plan Policy ST6. (No 20)

In the interests of the amenity of adjacent occupiers in accordance with Policy ST6 of the South Somerset Local Plan. (Nos 29 and 29)

In the interests of visual amenity in accordance with Policy ST6 of the South Somerset Local Plan. (No 36)

Decision

1. The appeal is allowed and planning permission is granted for: Conversion of Barn A to residential and commercial unit, conversion of Barn B to two commercial units, conversion of Barn C to site supervisor residential accommodation, and conversion of Barn D to a double garage to serve Barn A at Perham Farm, Wick, Langport, Somerset, TA10 0NN in accordance with application Ref: 11/00739/S73 made on 12 February 2012 without compliance with condition Nos 20, 28, 29 and 36 previously imposed on planning permission Ref: 10/01337/FUL dated 5 July 2010, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new conditions set out in the Schedule attached to this decision.

Application for Costs

2. At the Inquiry an application for costs was made by Mrs Penelope Horne against South Somerset District Council. This application is the subject of a separate Decision.

Preliminary Matter – Inspector’s Jurisdiction

3. Early in the Inquiry proceedings the Council asked me to make a preliminary finding on the question of whether I have the authority under Section 73 of the Town and Country Planning Act 1990 to vary Condition 36 in the manner applied for, suggesting that to remove this condition would have the effect of fundamentally altering the nature of the original application.
4. Whilst the proper construction of a planning permission is a matter of law for the courts, it is evident that I must come to a view on this matter in order to make a determination with respect to this condition. Both main parties have helpfully set out their legal submissions on this point and have provided copies of legal authorities in relation to this consideration.
5. It is established case law that a planning permission cannot substantially alter the development for which permission has been applied for. Paragraph 72.10 of the Encyclopaedia of Law and Practice states: “A condition may have the effect of modifying the development proposed by the application, provided it does not constitute a fundamental alteration of the proposal”. This passage was quoted in the *Arrowcroft*¹ case where Mr Justice Sullivan held that that the local planning authority could impose different conditions under Section 73 “only if they are conditions which the Council could lawfully have imposed on

¹ R v Coventry City Council Ex p. Arrowcroft Group Plc 2000

the original permission in the sense that they do not amount to a fundamental alteration of the proposal put forward in the application”.

6. Also in *Arrowcroft*, the court accepted that planning permission must be construed as a whole, and that in deciding what has been permitted one must have regard not only to the description of the development, but also the conditions, and sometimes to the reasons given for the imposition of these conditions. It was further held in the case of *Barnet v SoS CLG 2008* that the grant of full planning permission is incomplete without the approved plans and drawings showing details of what has been permitted.
7. In this case the operative part of the enabling permission relates to the conversion of Barns A-D for mixed residential and commercial purposes. Although Barns E-G are not shown on the approved plans, landscaping is shown on their site. However, there is no specific reference to these barns in either the operative part of the permission, the conditions themselves, or the reasons given for imposition of the conditions.
8. Condition 36 requires a plan to be submitted to the local planning authority for written approval within 3 months indicating the position of all existing modern agricultural buildings, structures and hardstandings to be demolished. The second part of the condition says such buildings, structures and hardstandings as may be agreed to be demolished shall be removed from the site and disposed of prior to the converted barns being brought into use.
9. The appellant says the condition is unclear and ambiguous in that it relies on future agreement to establish what precisely should be demolished; particularly as it fails to define the term 'modern'. Significantly, it does not indicate as a pre-requisite of the acceptability or otherwise of the scheme that the barns should be demolished, although the approved plans indicate that the areas occupied by them would be landscaped. Whilst I accept this appears to have been the Council's intention, I agree that the condition as phrased is somewhat ambiguous and imprecise, and permits much flexibility in its interpretation.
10. I accept some of landscape planting would be lost, and there are other implications relating to visual impact on the surrounding landscape, residential amenity, and highway safety which need to be considered. However, these matters will be fully addressed in my consideration of the planning merits of the proposal.
11. Although the proposed retention of agricultural buildings would alter the nature of the development to some degree, I do not consider it would amount to a fundamental alteration. Nor would the removal of the condition take away the ability of a developer to implement the planning permission granted by the enabling application, as it would simply allow the barns to continue in their previous agricultural use. Therefore, in my judgement, whether or not the barns are allowed to remain will still leave the operative part of the permission relating to the conversion of barns A-D unaffected. I shall therefore proceed to determine the appeal on this basis.

Procedural Matter

12. On 27 March 2012 the Government published the National Planning Policy Framework (NPPF). The documents listed at Annex 3 of the NPPF, which include most pre-existing Planning Policy Guidance Notes (PPG's) and Planning Policy Statements (PPS's) are now cancelled. I have therefore taken into

account the policies in the NPPF, but am satisfied that they have no materially different bearing on the case or the weight attached to the saved development plan policies to which I have been referred.

Background

13. The development approved under Ref: 10/01337/FUL (the enabling permission) has been partly implemented in that Barns B and C have been converted for the purposes described, though not yet occupied. Work has yet to start on barns A and D. Other work has been carried out including some landscaping and improvements to the vehicular access, and this appears to conform to the details shown on the approved plans.
14. The appellant seeks to vary the terms of Condition 36 in order to retain Barns E and F permanently, and Barn G until such time as Barn A is converted, stating in support that the buildings are still required for agricultural purposes. Leading on from this, were I minded to allow the appeal, it would also be necessary to vary Condition 20, given that the approved landscaping details show planting in the area occupied by the barns.
15. The appellant also wishes to vary Conditions 28 and 29 which restrict the use of power tools and mechanical equipment, and prevent burning/storage anywhere on the site except within buildings. The justification given here is that whilst entirely appropriate for the commercial uses, it would impose an unreasonable restriction on the normal domestic activities of future occupiers.
16. A Statement of Common Ground was submitted by the parties which set out their agreement as to various matters in dispute, and narrows the issues. The Council says it has no objections to the proposed variation of Conditions 28 and 29 in the terms suggested by the appellant. It also agreed that if the appeal is allowed in respect of condition 36, and the agricultural barns retained, it would have no objection to Condition 20 being varied to relate to the revised landscaping scheme.

Main Issues

17. Therefore, having regard to the above, I consider the two main issues in this appeal are whether Condition 36 is necessary having regard to:
 - The effect on the living conditions of future occupiers of the dwellings arising from the retention of the barns for agricultural use.
 - The effect on highway safety arising from the retention of the barns for agricultural use, with particular reference to the adequacy of the local road network.

Reasons

18. Guidance at paragraphs 14 and 15 of Circular 11/95: *The Use of Conditions in Planning Permissions* provides that the original condition should only be retained if there are sound and clear-cut reasons for doing so. Paragraph 17 states that if the original condition is wider in scope than it needs to be, it should not be retained in that form.

Living conditions

19. The Council says there would be a conflict between the residential use permitted in Barns A and C and the proposed agricultural use due to noise and general disturbance arising from the operation of farm machinery, vehicles, and other agricultural activities at unrestricted times. However, some of the Council's concerns appear to relate to recent use of Barn G for the manufacture and storage of timber structures, and which was the subject of an enforcement investigation. This use has now ceased. My concerns on this issue therefore relate principally to Barns E and F, as the appellant proposes to demolish Barn G prior to the residential occupation of Barn A.
20. Policy ST6 of the *South Somerset Local Plan (LP)* says that amongst other considerations, development which is otherwise acceptable in principle will be permitted where it does not unacceptably harm the residential amenity of occupiers of adjacent property. LP Policy EP2 says potentially noise generating uses will be permitted only where they would not be detrimental to the amenity of noise sensitive developments in the vicinity.
21. Barns E and F are currently used by a local Thatcher, Mr Bunce, who also farms the holding at Parham Farm by arrangement with the appellant. He takes a crop of wheat straw from the land and uses the barns for storage of his crop and machinery. A rye and clover ley is produced on a rotational basis between wheat crops. I am satisfied from what I have heard and read that this present agricultural operation is seasonal, intermittent, fairly low key, and unlikely to have any materially harmful impact on residential amenity. Most of the thatching operations take place elsewhere, and intensive levels of activity at Parham Farm are mainly confined to the harvesting periods.
22. However, the Council correctly points out that tenure of land and buildings can change over time, and I need to consider the potential impacts on residential amenity arising from other, possibly more intensive farming regimes. My view on this matter is that normal farming activities associated with wider and more general agricultural use are still unlikely to cause major disturbance, even taking into account the need to use tractors and machinery in the yard areas, and lengthy working hours. There is no intention to keep livestock or store slurry in the buildings, and a condition has been put forward to this effect. Another suggested condition would restrict vehicle access to the barns to the central access only, this being furthest from the dwelling units. These are important mitigating factors which would control the means of access and prevent unfettered use of the buildings, and have influenced my reasoning.
23. Barn F is about 15m from Barn A, and Barn E about 25m from Barns A and C. However, this is a rural area, where it is common to find farm buildings and dwellings often in close proximity to each other. Indeed, Barn F is as close to the existing farmhouse to the north (in separate ownership) as it is to any building within the site.
24. Furthermore, occupation of the permitted dwellings is not unfettered, but is limited to persons employed or otherwise associated with the business units at the site. People occupying these homes would be part of a mixed live/work project based around traditional rural crafts and enterprises. To this end their expectations would be different from occupiers of more conventional housing in a purely residential environment. The business units (restricted to Class B1) have, in any event, already been approved in close proximity to the dwelling

units (in the case of Barn A within the same building). To my mind, the introduction of a controlled agricultural use into this mixed-use scheme would not result in any significantly greater levels of disturbance over and above the normal level farming activities in a rural location.

25. Future residents will form their own judgement about whether the presence of the barns would affect their decision on whether or not to buy these homes. That is a matter for them. As discussed above, occupiers of a mixed live/work scheme might reasonably expect to find a close grouping of buildings of various uses. Whilst the barns would be clearly visible in the outlook from some windows and from the gardens of the dwellings, I do not consider this factor in itself is necessarily harmful. In any event, the separation distances, landscaping, and boundary treatment would prevent them appearing unduly oppressive or dominant.
26. I therefore conclude on this issue that the removal of Condition 36 and retention of the barns for agricultural use would not materially harm the living conditions of future occupiers of the dwellings, subject to the imposition of replacement mitigating conditions as referred to above. As such, I find no conflict with saved LP Policies ST6 and EP2.

Highway Safety

27. The Council's principal highway concern relating to this and previous proposals at the site, concerns the standard of the local road network. It is true that to reach principal routes traffic has to use one of three lanes serving the hamlet. The Council suggests that additional agricultural traffic generated from the retained barns, over and above that generated from the development as approved, would place an unacceptable strain on the road network, and cause conflict with other road users.
28. I do not dispute that the access lanes are winding, undulating, and of single track width in places. However, in this respect they are no different in character from those typically found elsewhere in similar rural locations, and may be considered an essential part of the country scene. In its consultation response to the original application the Highway Authority (HA) compared traffic movements arising from the proposed use with those likely to be generated by the then extant land use (dairy farm). Its conclusion was that the traffic increase was unlikely to be significant. It also recognised a benefit in the likely reduction of heavy vehicle movements along the lane.
29. In response to the appeal application, the HA recognised that some additional traffic would be generated if the barns were retained, comprising vehicles of different sizes, possibly towing trailers. However, it also stated that there would be a need to accommodate traffic associated with working the farm in any case. In conclusion the HA raised no overriding objections to the proposal, saying it was ultimately a matter for the local planning authority to determine.
30. At the Inquiry Mr Bunce said he made on average between three to five vehicle trips to the site per week, though this could be much greater in the late summer harvest period. Even if this estimate is a conservative one, I consider this number of additional vehicle trips to be insignificant, even in the context of the very lightly trafficked lanes. Whilst other agricultural activities in the barns could potentially generate more traffic I am not persuaded it would be to a

significantly harmful level, or would lead to unacceptable conflict with existing road users.

31. I do not agree with the Council that the proposal would propose any significant additional risk to cyclists using the National Cycle Route that follows two of the approach roads to the site. Nor do I consider the Council's contention that the proposal conflicts with SP and LP policies requiring access by alternative modes of transport to the private car to be relevant, as agricultural uses are inevitably found in less sustainable rural locations.
32. I conclude on this issue that the proposed removal of Condition 36 and retention of the barns would not materially harm highway safety having regard to the adequacy of the local road network. As such, I find no conflict with saved Policy 49 of the *Somerset and Exmoor National Park Joint Structure Plan* (SP), which requires proposals to be compatible with the existing transport infrastructure and provide safe access to roads of adequate standard.

Other Matters

33. The Council has raised concerns regarding the visual impact of the barns, saying if they were retained the overall quality and appearance of the scheme would be lessened. However, I have no evidence to indicate that the Council found the buildings so unsightly or unattractive when considering the original application that their removal was a pre-requisite of the acceptability of the development. Whilst they are undeniably utilitarian and functional in appearance, in this regard they are no different from many other purpose-built agricultural buildings found locally. As such I find no conflict with LP Policy EC3 which requires proposals to respect or enhance the characteristic pattern and features of the surrounding landscape.
34. The Council has also questioned the agricultural need for the barns, saying that crop storage and machinery could be housed in existing buildings located on other nearby parcels of land owned by the appellant. Nor does it accept that the current level of agricultural activity justifies the retention of the barns. However, the appellant said at the Inquiry that for various reasons none of these other buildings were suitable, and I have no reason to question that statement. In any event, the issue of agricultural need is not a matter I need to address in the context of this appeal.
35. With regard to the 'fallback' position, it is not disputed that permitted development rights for agricultural buildings on the adjacent farmland exist, although not in respect of the application site itself. However this is subject to an assessment being made of a building's suitability in terms of siting, design and appearance under the Prior Notification System. The appellant says new buildings on adjacent land could have a greater impact on the surrounding countryside and residents' living conditions, adding that it would be wasteful and unsustainable for the Council to insist on the demolition of existing serviceable buildings. Whilst this may be so, any further analysis of the fallback position is not necessary given my decision to allow the appeal.
36. I have taken into account the objections raised by the Parish Council and local residents in reaching my decision. Concerns relate to additional traffic and poor access via narrow roads, a lack of need for agricultural storage at Perham Farm, the unattractive appearance of the barns, and the need for conditions to manage the size and impact of the development in relation to surrounding

properties and the area generally. Some residents are concerned that the barns could be used for animals and slurry storage, although in this regard a condition could be imposed to preclude these uses.

Conditions

37. The parties submitted a schedule of suggested conditions at the Inquiry which was largely agreed, and I have considered them in the light of the advice in Circular 11/95: *The Use of Conditions in Planning Permissions*. Since my determination will result in the grant of a new planning permission it will be subject to the other conditions imposed in the enabling permission, so far as the same are still subsisting and capable of taking effect,
38. I will deal firstly with the alternative conditions put forward by the appellant in substitution for the disputed conditions. That requiring implementation of the agreed revised landscaping scheme is necessary for the avoidance of doubt and in the interests of the appearance of the area (No 20). Conditions which permit the normal outdoor domestic use of tools/ mechanical equipment and outdoor burning/storage for residential occupiers only are necessary to ensure that such activities continue to be restricted for the commercial units (Nos 28 and 29). The suggested condition requiring the demolition of Barn G prior to the occupation of Barn A is needed in order to protect the living conditions of future occupiers of the residential part of Barn A due to the close proximity of these buildings (No 36). I therefore intend to impose these conditions.
39. I will turn now to the additional mitigating conditions which were put forward at the Inquiry. I agree that conditions to prevent the keeping of livestock and storage of slurry and to restrict vehicular access to Barns E-G are necessary to protect residents' living conditions. However, I consider the suggested condition to prevent reed combing and threshing anywhere on the site is unduly restrictive, particularly given the intermittent and seasonal nature of these activities. Therefore, I do not intend to impose it.
40. At the Inquiry the appellant indicated that she proposes to carry out external re-cladding and other cosmetic refurbishment to Barns E and F, and I do not disagree that this might better complement the high quality conversion work which has already taken place at the site. A condition was put forward requiring the submission and implementation of a scheme to cover this within an agreed timetable. However, given my conclusions relating to the absence of visual harm arising from the present appearance of the barns, I do not consider such a condition is necessary or relevant to the development to be permitted.
41. A further condition is required to secure compliance with the submitted plans (which now include a revised landscaping scheme), for the avoidance of doubt and in the interests of proper planning.

Conclusion

42. Therefore, for the reasons given above and having regard to all other matters raised, I conclude that the effect of removing/varying the conditions as requested would be acceptable in all respects. I shall allow the appeal and grant planning permission as requested.

Nigel Harrison

INSPECTOR

Schedule of Conditions:

Appeal Ref: APP/R3325/A/11/2163005

Perham Farm, Wick, Langport, Somerset, TA10 0NN

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 00-0087(L)010, 00-0087(L)015, 00-0087A(L)100, 00-0097A(L)200, 0087(L)300, 359(00)04C, and extract from the Conservation Rooflight brochure.
- 2) All hard and soft landscaping works comprised in the approved details of landscaping shown on Plan No 359(00)04C shall be carried out in the first planting season following the first occupation of any 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, unless the local planning authority gives written approval to any variation.
- 3) No processes related to the B1 uses at the site shall be carried using power-tools, equipment, machinery or plant of any kind, at any time anywhere on the site, except within the buildings to which those B1 uses relate.
- 4) There shall be no outdoor burning of any materials on any part of the site, except within the domestic curtilages of the dwellings hereby approved.
- 5) The dwelling unit hereby approved in Barn A shall not be occupied until Barn G has been dismantled and entirely removed from the site.
- 6) Barns E, F and G as shown on the approved plans shall be used for agricultural purposes only and the agricultural use shall exclude the keeping of livestock and the storage of slurry.
- 7) The sole means of vehicular access to Barns E, F and G as shown on the approved plans shall be from the existing access immediately to the south of Barn B, and not from any other existing access to the highway.

(End of conditions)

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Angela Watson	Solicitor, Legal Services Manager, South Somerset District Council
She called Claire Alers-Hankey	Planning Officer, South Somerset District Council

FOR THE APPELLANT:

Duncan Tilney	Solicitor, Bond Pearce LLP
He called Andrew Booth	Expert witness (agriculture), Symonds and Sampson
Andrew Kenyon	Expert witness (traffic and transport), Peter Evans Partnership
Clive Miller	Expert witness (planning policy), Clive Miller Associates

INTERESTED PERSONS:

Penelope Horne	The appellant
Janie Dromgoole	Local resident
Duncan Pyle	Local resident
Andrea Pyle	Local resident
David Mayor	Local resident
Andrew Booth	Local resident
Nigel Bunce	Thatcher
Kate Merry	Local resident

DOCUMENTS AND PHOTOGRAPHS

- 1 Council's submission in connection with Inspector's jurisdiction
- 2 Legal authorities in connection with Inspector's jurisdiction
- 3 Appellant's response to Council's submission regarding Inspector's jurisdiction on condition 36
- 4 Council's further submission on Inspector's jurisdiction
- 5 Signed Statement of Common Ground
- 6 Council's opening summary
- 7 Appellant's opening summary
- 8 Joint Structure Plan Review: Policy 19
- 9 Extract from Draft National Planning Policy Framework
- 10 Suggested agreed conditions
- 11 Council's closing submission
- 12 Appellant's closing submission
- 13 Costs application on behalf of the appellant
- 14 Council's response to Costs application
- 15 Photographs of the site taken by the Council on various dates



Costs Decision

Inquiry held on 14 and 15 February 2012

Site visit made on 15 February 2012

by **Nigel Harrison BA (Hons) MRTPI**

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

Decision date: 16 April 2012

Costs application in relation to Appeal Ref: APP/R3325/A/11/2163005 Perham Farm, Wick, Langport, Somerset, TA10 0NN

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs Penelope Horne for a full award of costs against South Somerset District Council.
 - The Inquiry was in connection with an appeal made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Mrs Penelope Horne

2. The costs application was submitted in writing at the Inquiry. A full award is sought and reference is made to paragraphs B8, B16, B23, B25, and B29 of Circular 03/2009: *Costs Awards in Appeals and Other Planning Proceedings*.

The response by South Somerset District Council

3. The response was made in writing at the Inquiry.

Reasons

4. *Circular 03/2009* advises that irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. I have considered the application in the light of *Circular 03/2009* and all the relevant circumstances. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.

Conditions 28 and 29

6. With regard to conditions 28 and 29, the Council said in its appeal submissions and Statement of Common Ground that it had no objections to these being varied to exclude the residential properties from the restrictions contained within them. In these circumstances I consider the Council could have issued a split decision had it been so minded, allowing these two conditions to be varied in the form proposed by the appellant.

7. However, it was conceded by the parties early in the appeal process that no Inquiry time needed to be spent on evidence relating to these conditions. Therefore, although I consider that the Council did behave unreasonably in not varying these conditions, it did not result in unnecessary expense being incurred by the appellant. As such no award of costs is justified in relation to Conditions 28 and 29.

Living Conditions

8. With regard to reason for refusal (1), the appellant says the Council's evidence erroneously referred to the possible effect of Class B1, B2 and B8 uses, even though the proposed use of the barns was for agricultural purposes. It is true that the Council considered the effect of other uses on residential amenity, making reference to a timber framing company who previously occupied one of the barns, although it conceded at the Inquiry that this consideration was not relevant. Nonetheless, I am not persuaded that significant extra costs have been incurred by the appellant in defending this point. I do however consider it was reasonable for the Council to fully address the possible impact of other possible future agricultural uses, and not confine their evidence to the current thatching activity and predominantly storage use of the buildings.
9. When I examined this issue in my decision I concluded that there would be no materially harmful effect on future residents' living conditions arising from the retention of the barns. Nonetheless, the Council is fully entitled to reach its own decision and this is clearly an area where a professional subjective judgement has to be made. I am satisfied that the Council adequately substantiated this reason for refusal, supporting its views that the proposal would conflict with Policies ST6 and EP2 of *the South Somerset Local Plan*. Overall on this matter I am satisfied that no unreasonable behaviour has occurred, as described in paragraph B16 of the Circular.

Highway Safety

10. Paragraph B23 of the Circular explains that thorough consideration should be given to relevant advice from statutory consultees, and where such advice is rejected the authority should clearly understand the basis for doing so and provide a clear and rational explanation of its reasons.
11. Although raising concerns regarding the standard of the road network and the sustainability of the location, the County Highway Authority nonetheless raised no substantive objections to the proposal subject to conditions. As it is entitled to do, the Council took a contrary view, saying the proposal would result in increased traffic which would be unacceptable due to the narrow width and poor alignment of the local access roads. Accordingly it concluded that the proposal conflicted with Policy 49 of the *Somerset and Exmoor National Park Joint Structure Plan*.
12. However, it will be seen from my decision that I found no reason to disagree with the technical highway advice. In my view, although it was correct to consider the traffic impact of a range of possible agricultural activities, the Council has not provided a sufficiently detailed or adequate explanation of its reasons why any increase in traffic arising directly from the retention of the agricultural barns would be materially harmful to highway safety. Nor was the analysis of the Highway Authority's consultation responses to earlier proposals at the site particularly relevant to the issues in the appeal.

13. I therefore find that the Council has not produced sufficient evidence to justify this reason for refusal, and as such consider that unreasonable behaviour resulting in unnecessary expense has occurred.

Conclusion

14. In conclusion, whilst I am satisfied that the Council gave reasonable planning grounds to support its decision with regard to future residents' living conditions; I consider it manifestly failed to do so with regard to the impact on highway safety. This has resulted in the applicant incurring unnecessary expense in having to refute this matter at appeal, including the appointment of a specialist highways witness.
15. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in *Circular 03/2009* has been demonstrated, and that a partial award of costs is justified.

Costs Order

16. In the exercise of my powers under section 250(5) of the Local Government Act 1972, and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other powers enabling me in that behalf, I HEREBY ORDER that South Somerset District Council will pay to Mrs Penelope Horne the costs of the proceedings insofar as they relate to reason for refusal (2) only, such costs to be assessed in the Supreme Court Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading to this decision.
17. The applicant is now invited to submit to South Somerset District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Supreme Court Costs Office is enclosed.

Nigel Harrison

INSPECTOR



Appeal Decision

Site visit made on 11 April 2012

by Gareth Symons BSc(Hons) DipTP MRTPI

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

Decision date: 24 April 2012

Appeal Ref: APP/R3325/X/11/2167089

The Old Tavern, Castlebrook, Compton Dundon, Somerset, TA11 6PP

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mrs S Money against the decision of South Somerset District Council.
- The application Ref: 11/02569/COL, dated 30 June 2011, was refused by notice dated 24 October 2011.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use or development is sought is for the occupation of the Annexe at The Old Tavern as a single dwellinghouse.

Summary of Decision: The appeal is allowed and a LDC is issued in the terms set out below in the Formal Decision.

Application for Costs

1. An application for costs made by Mrs S Money against South Somerset District Council is the subject of a separate Decision.

Procedural Matter

2. The annex is in a building at the back of the main dwelling known as The Old Tavern. In 2003 planning permission, Ref: 03/01170/FUL, was granted for the erection of an extension to the side of this building. Condition 7 of that permission stated "The accommodation within the outbuilding, which is the subject of this application, shall be used only as a sitting room, workroom/art studio, for bathroom and kitchen facilities ancillary to the residential use of the main dwellinghouse known as The Old Tavern".
3. There has been a breach of condition 7 in that it effectively prevented the use of the outbuilding as a self contained dwelling by reference to its facilities to be ancillary to the main dwelling. It also prevented any sleeping accommodation being installed. Despite breaches of conditions normally being subject to the ten year immunity period, the Court of Appeal in the case of *First Secretary of State v Arun DC and Brown [2006] EWCA Civ 1172*, held that residence as a single unit of occupation in breach of a specific condition was nevertheless subject simply to the four year limitation.
4. Furthermore, in this particular appeal the LDC was clearly sought (by reference to section 9 of the application form) on the ground that "the use as a single dwellinghouse began more than four years before the date of this application".

That is an application made under S191(1)(a) of the 1990 Act which enables a person to ascertain whether any existing use of buildings or other land is lawful. S191(2) states that "For the purposes of this Act uses and operations are lawful at any time if (a) no enforcement action may then be taken in respect of them (...because the time for enforcement action has expired...)".

5. S171B(2) of the 1990 Act states that "where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach". In all of the circumstances, the four year immunity period is the relevant test.
6. In the banner heading at the top of this Decision I have used a shortened version of the description of the use as set out in section 8 of the LDC application form. The description uses the phrase "the occupation of the Annex". However, in view of the parts of the Act referred to above my determination must be based on 'use' of the building as a single dwellinghouse and not 'occupation'.
7. It is noted that the Council suggests, when dealing with an alleged break in the use, there is no distinction between the concepts of occupation and use in the context of the claim that the annex is now a single dwellinghouse. I consider use and occupation below. Nevertheless, in terms of staying within the Act, being in line with the ground on which the application was clearly made, and according with the facts of the evidence, I consider that it would be appropriate to modify the description to read as "The use of the Annex at The Old Tavern as a single dwellinghouse". I shall use the powers available under S191(4) of the 1990 Act to modify the description accordingly.

Main Issue

8. In view of the above the main issue is whether, beginning with the date of the breach, the use of the annex as a single dwellinghouse had, on the balance of probability, subsisted on a substantially uninterrupted basis for four years prior to making the LDC application and therefore become lawful. The burden to prove cases involving legal grounds, as in this appeal, rests with the appellant.
9. Some of the appellant's evidence about the use of the annex as a self contained dwelling is based on Council Tax records. The Council has stated that any determinations made by it in relation to Council Tax are irrelevant and the involvement of the Valuation Officer is a HM Revenue and Customs matter. However, there is no contrary evidence that disputes or conflicts with the evidence submitted by the appellant which is that from the end of July 2006 until 20 September 2008, when Mrs Kerstholt lived in the building, and from 9 April 2009 when Ms Meyer moved in until now, that the annex has been lived in as a self contained dwelling.
10. For about six months in between these two periods of occupation, when the building was being refurbished and thus not occupied, the Council asserts that the use had ceased. As such there was a break in the continuity required to establish a four year period of immunity from enforcement action and during this time the Council would not have been able to take enforcement action as the breach of planning control did not exist. This was the basis on which the LDC was refused. It has also been the focus of attention by the parties in their appeal evidence. I shall therefore also consider the appeal accordingly.

Reasons

11. The Council has referred me to the case of *Thurrock BC v SSETR & Holding v [2002] EWCA Civ 226*. This case concerned the use of land, amongst other things, as an airfield for the storage of aircraft. The critical point of the case was that although it had been shown that the use had existed between 1981 to 1983 there was an absence of clear evidence that the breach alleged had continued throughout the period 1981-89. It was held that the Inspector in the case had erred by not examining what was going on throughout the whole 10 year period to consider whether the use continued unabated and that he mistakenly applied the concept of abandonment during that period considered in the case of *Panton & Farmer v SSETR [1999] JPL 461*. This was distinguishable since it concerned an accrued right to use land in a particular way and how this could be lost.
12. I am mindful that in *Thurrock* the period of time during which there was uncertainty about the nature of the uses taking place was from 1983-89 (during the critical 10 year period in that case from 1989-1991). That amounts to about 6 years out of the 10. This is clearly a substantial passage of time and is not comparable to the circumstances I am addressing.
13. Furthermore, the Council has referred to paragraph 15(iv) of the Court of Appeal (CoA) judgement (by Schiemann LJ) regarding how, if there was no breach and the Council could not therefore have taken any enforcement action over it, any such period could not count towards the rolling period of years needed to give rise to immunity. However, while I have then also noted paragraph 25 of the Discussion section of the CoA judgement, I consider that it is also appropriate to reflect and take account of paragraph 28 as well which states:

"I accept Mr Corner's point that an enforcement notice can lawfully be issued notwithstanding that at the moment of issue the activity objected to is not going on – because it is the week-end or the factory's summer holiday, for instance. The land would still be properly described as being used for the objectionable activity. However, I would reject Mr Hockman's submission that enforcement action can be taken once the new activity which resulted from the material change of use of the land has permanently ceased. I accept there will be borderline cases when it is not clear whether the land is being used for the objectionable activity. These are matters of judgment for others."
14. As I see it, not only did the *Thurrock* case deal with an alleged breach of planning control involving a break in activity very much longer than what I am now dealing with, there is also the scope for me to properly exercise my judgement about the circumstances of this case.
15. Therefore, I consider that it is not necessary for the outbuilding to have been actively occupied as a single dwellinghouse throughout the whole of a four year period. It is not uncommon for properties that are let to have various periods of vacancy from one tenant leaving and another arriving. Landlords will very often use that break in occupancy to carry out refurbishment works particularly as rented properties, in my opinion, are generally less well looked after by tenants than ones that are owner occupied. It would be difficult to argue that local planning authorities would not be able to take enforcement action against a breach of planning control during a break of occupancy such as this.

16. With regard to the circumstances of this appeal, it is also the case that during the time when it was known that Mrs Kerstholt was going to move out, the appellant had already been approached by a previous lodger, Ms Meyer, who had asked for first refusal on being a tenant of the outbuilding. As a result of the state that the premises had been left in when Mrs Kerstholt moved out, the appellant embarked on a renovation programme that was needed before Ms Meyer could move in. From the details provided the works were extensive and took six months to complete. I have little doubt that it was necessary for the property to be vacant in this time. The works were also probably slowed down due to the appellant's serious illness during this time.
17. From the evidence before me the appellant had every intention of letting the property to Ms Meyer and that is indeed what happened when she entered an assured shorthold tenancy agreement on 1 April 2009 and moved in on 9 April 2009. I also consider that the appellant would not have spent in excess of £6,000 on the refurbishment of the property if she did not have in mind that it would be let to Ms Meyer.
18. Although permanent cessation would amount to a fatal break, that was clearly never what was intended in this case. Furthermore, even though the six months of non-occupation was longer than the short periods of inactivity such as weekends referred to in the *Thurrock* case, as a matter of fact and degree I consider that the use effectively continued over this time. I am satisfied that during this six month period the Council could have taken enforcement action if it had considered it expedient to do so at that time.
19. Although I have reached the above view based on the merits of this particular appeal, my attention has been drawn to the judgement of *Basingstoke & Deane v SCLG & Stockdale* [2009] EWHC 1012 (Admin). I note the Council's misgivings about the applicability of this case.
20. However, despite the fact that *Basingstoke* was a ten year breach of condition case, it did consider the matter of non-occupancy of a dwellinghouse during a period of refurbishment. The break in occupancy was 12 months. Also it is fair to say that the judgement discussed and took account of *Thurrock*. In short, Collins J held, on the facts, that a substantial period of non occupation for refurbishment of an agricultural workers dwellinghouse did not bring the breach to an end. On this basis, the parallels that may be drawn between *Basingstoke* and the appeal before me are such that it lends support to the view that a break in occupation does not necessarily stop the immunity clock ticking.
21. Drawing all of the above together, my judgement is that the period of non-occupation from the end of September 2008 to the end of March 2009 did not amount to the cessation of the use in a material planning sense. The non-occupation, for the reasons given by the appellant, did not break the overall 4 year continuity period of use as a single dwellinghouse. There was every intention that the dwellinghouse would be re-occupied and the use would continue. Consequently the Council was not precluded from taking enforcement action in this period. The overall time accrued, by the time that the LDC application was made, was nearly five years. The minimum four year requirement had thus been exceeded.
22. Therefore, having regard to all other matters raised, I conclude, on the evidence before me, that the Council's refusal to grant the LDC was not well

founded. Subject to modifying the description of the LDC application as outlined in the Procedural Matter section above, the appeal should succeed.

Formal Decision

23. I direct that the original application description should be deleted and replaced with "The use of the Annex at The Old Tavern as a single dwellinghouse". Subject to this modification I allow the appeal, and I attach to this decision a LDC describing the existing use which I consider to be lawful.

Gareth Symons

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2010: ARTICLE 35

IT IS HEREBY CERTIFIED that on 30 June 2011 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and hatched in black (also labelled Annex) on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use described in the First Schedule had been taking place on the land specified in the Second Schedule for a period of 4 years prior to the date of the LDC application.

Gareth Symons

INSPECTOR

Date: 24 April 2012

Reference: APP/R3325/X/11/2167089

First Schedule:

The use of the Annex at The Old Tavern as a single dwellinghouse

Second Schedule:

The Old Tavern, Castlebrook, Compton Dundon, Somerset, TA11 6PP

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

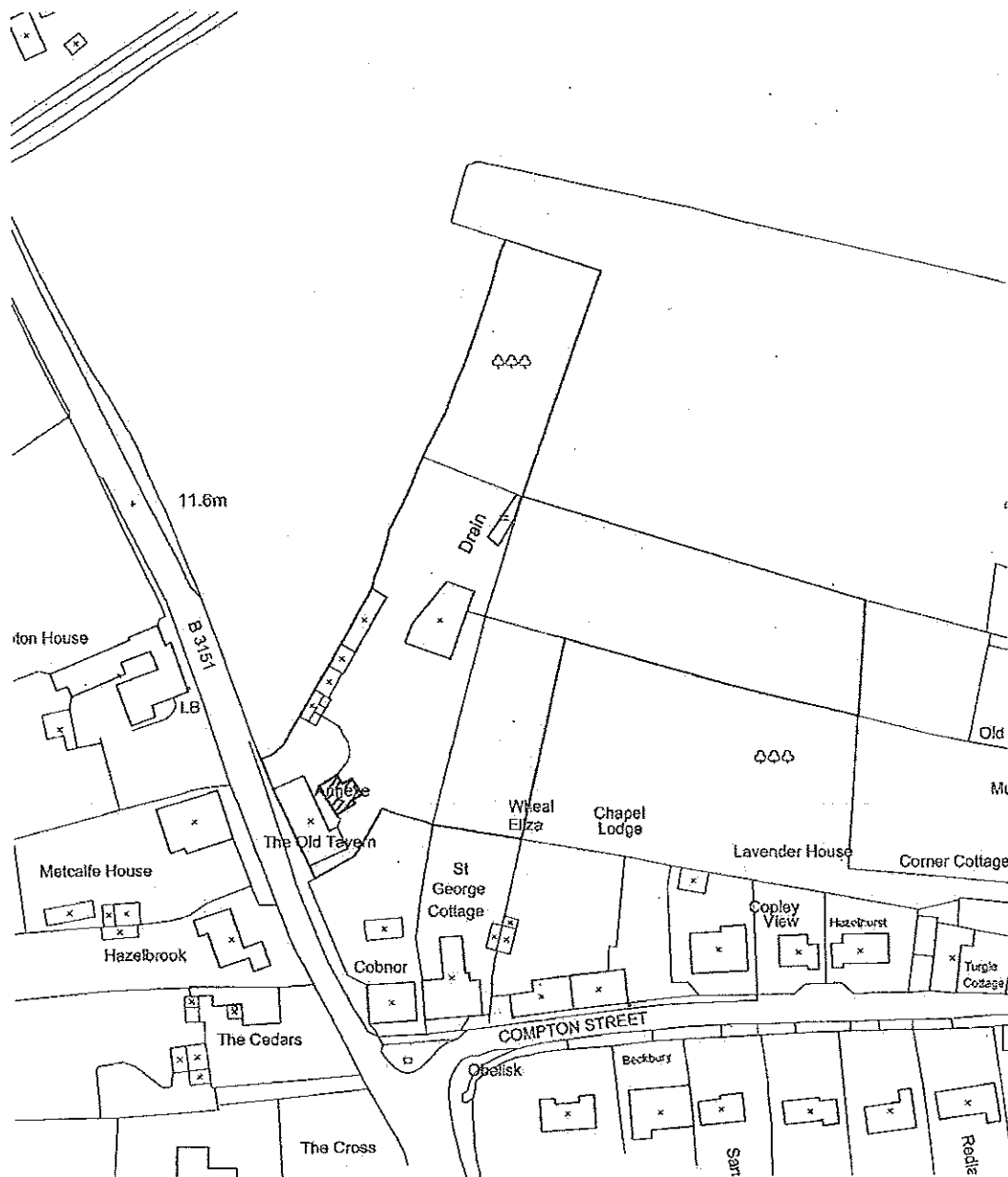
This is the plan referred to in the Lawful Development Certificate dated: 24 April 2012

by **Gareth Symons BSc(Hons) DipTP MRTPI**

**Land at: The Old Tavern, Castlebrook, Compton Dundon, Somerset,
TA11 6PP**

Ref: APP/R3325/X/11/2167089

Scale: Do not scale.





Costs Decision

Site visit made on 11 April 2012

by **Gareth Symons BSc(Hons) DipTP MRTPI**

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

Decision date: 24 April 2012

Costs application in relation to Appeal Ref: APP/R3325/X/11/2167089 The Old Tavern, Castlebrook, Compton Dundon, Somerset, TA11 6PP

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs S Money for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of a certificate of lawful use or development for the use of an annex as a self contained dwellinghouse.
-

Decision

1. The application is refused.

Reasons

2. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application is broken down into three main areas. These are: the Council did not consider in sufficient detail the Council Tax records; a failure by the Council to substantiate its position in relation to the statutory provisions and case law; procedural matters.
4. The Council, in my view, did consider the details of the Council Tax records. It was those details that, during a period of exemption from the payment of Council Tax between 30 September 2008 to 31 March 2009, when the annex was being refurbished and was unoccupied, led the Council to conclude that the relevant four year immunity period had been interrupted.
5. The refusal reasons and the Council's delegated report did not refer to what might be considered to be relevant legal judgements. However that is largely a matter for the Council. There is no evidence to show that the Council's legal officer did not take account of case law such as *Basingstoke & Deane v SSCLG & Stockdale* [2009] EWHC 1012 (Admin) on which the applicant's agent clearly considers that the Council's decision could have turned. Even if the Council had taken account of *Basingstoke* it is not certain that this would have led to the application being granted bearing in mind the reliance by the Council on the case of *Thurrock BC v SSETR & Holding v* [2002] EWCA Civ 226. Although I have found *Thurrock* to be distinguishable, it is a matter that I have had to consider and respond to in my appeal decision.

6. Furthermore, the officer report and the Council's decision notice are clear and precise as to why it was considered that a certificate of lawfulness could not be issued. Although I have not agreed with those reasons and therefore found that the decision made by the Council was not well founded, they do not point towards a lack of an appropriate examination of the evidence.
7. In terms of procedural matters, the application did appear to take an unusually long time to determine. I have read the Council's reasons behind the delay. The part-time working by certain officers is noted. So too is the fact that the Council's legal officer telephoned and spoke to the applicant's agent on 21 September 2011 to explain the delay. The agent was apparently happy with being advised that it was hoped she would have a decision "in the next 10 days". However, the Council did not issue its decision notice until 24 October 2011. That was after the applicant's agent had e-mailed the Council on 12 October 2011 to enquire again about progress on determining the application. How a Council administers its handling of applications is a matter for it, but that process should not hinder making timely decisions. Against this background some criticism of the Council is due.
8. However, the effect of such a delay needs to be considered. While the process was frustrating to the appellant, and it was an anxious time, in the context of Circular 03/2009 these are not reasons to award costs. It is also very unlikely that the Council would have taken rapid enforcement action in relation to the occupation of the building during this time. It would not have made sense too because the lawfulness of how the building was being occupied was still under consideration. The basis for awarding costs is that unreasonable behaviour led to the party applying for costs to incur unnecessary or wasted expense in the appeal process. The delay in determining the application did not cause wasted expense in the appeal. In all the circumstances an appeal seemed likely.
9. The grounds for an award of costs have not been justified.
10. Therefore, having regard to all other matters raised, the application for a full award of costs should be refused.

Gareth Symons

INSPECTOR

Area North Committee – 23 May 2012

15. Planning Applications

The schedule of planning applications is attached.

The inclusion of two stars (**) as part of the Development Manager's recommendation indicates that the application will need to be referred to the District Council's Regulation Committee if the Area Committee is unwilling to accept that recommendation.

The Lead Planning Officer, at the Committee, in consultation with the Chairman and Solicitor, will also be able to recommend that an application should be referred to District Council's Regulation Committee even if it has not been two starred on the Agenda.

Human Rights Act 1998 Issues

The determination of the applications which are the subject of reports in this plans list are considered to involve the following human rights issues: -

1. Articles 8: Right to respect for private and family life.
 - i) Everyone has the right to respect for his/her private and family life, his/her home and his/her correspondence.
 - ii) There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others.
2. The First Protocol

Every natural or legal person is entitled to the peaceful enjoyment of his/her possessions. No one shall be deprived of his possessions except in the public interests and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Each report considers in detail the competing rights and interests involved in the application. Having had regard to those matters in the light of the convention rights referred to above, it is considered that the recommendation is in accordance with the law, proportionate and both necessary to protect the rights and freedoms of others and in the public interest.

David Norris, Development Manager
david.norris@southsomerset.gov.uk or (01935) 462382

Background Papers: *Individual planning application files referred to in this document are held in the Planning Department, Brympton Way, Yeovil, BA20 2HT*

Planning Applications – 23 May 2012

Planning Applications will be considered no earlier than 3.45pm

Members of the public who wish to speak about a particular planning item are recommended to arrive for 3.30 pm.

The inclusion of two stars (**) as part of the Development Manager's recommendation indicates that the application will need to be referred to the Regulation Committee if the Area Committee is unwilling to accept that recommendation.

The Lead Planning Officer, at the Committee, in consultation with the Chairman and Solicitor, will also be able to recommend that an application should be referred to Regulation Committee even if it has not been two starred on the Agenda.

Item	Page	Ward	Application	Proposal	Address	Applicant
1	54	ST MICHAELS	11/04132/ FUL	Proposed change of use of land to equestrian, erection of stables, formation of manège, retention of 2 No. field shelters, new vehicular access and the stationing of a mobile home for an equestrian worker (Part Retrospective).	Land at Shortland Farm, Ilchester Road, Chilthorne Domer.	Mr D and Mrs S A Sutton
2	72	TURN HILL	11/01904/ S73A	Variation of Condition 2 of planning permission 03/03394/FUL to incorporate previously varied condition 1 (as approved by 11/00024/S73), and to allow for an additional 15 touring units to occupy the site.	Bowdens Crest Caravan and Camping Park, Wood Drove, Huish Episcopi.	Bowdens Ltd
3	78	TURN HILL	12/00463/ S73A	Application to vary condition 11 of planning application 06/02183/COU (changes to traffic movements) (Retrospective).	Bridge Horn Barn, Henley, Langport.	S. Cowling and K Cook
4	87	HAMDON	12/00692/ FUL	The erection of an eco-dwelling and replacement stables.	Land off Little Street, Norton Sub Hamdon	Mr A Holm

Area North Committee – 25 April 2012

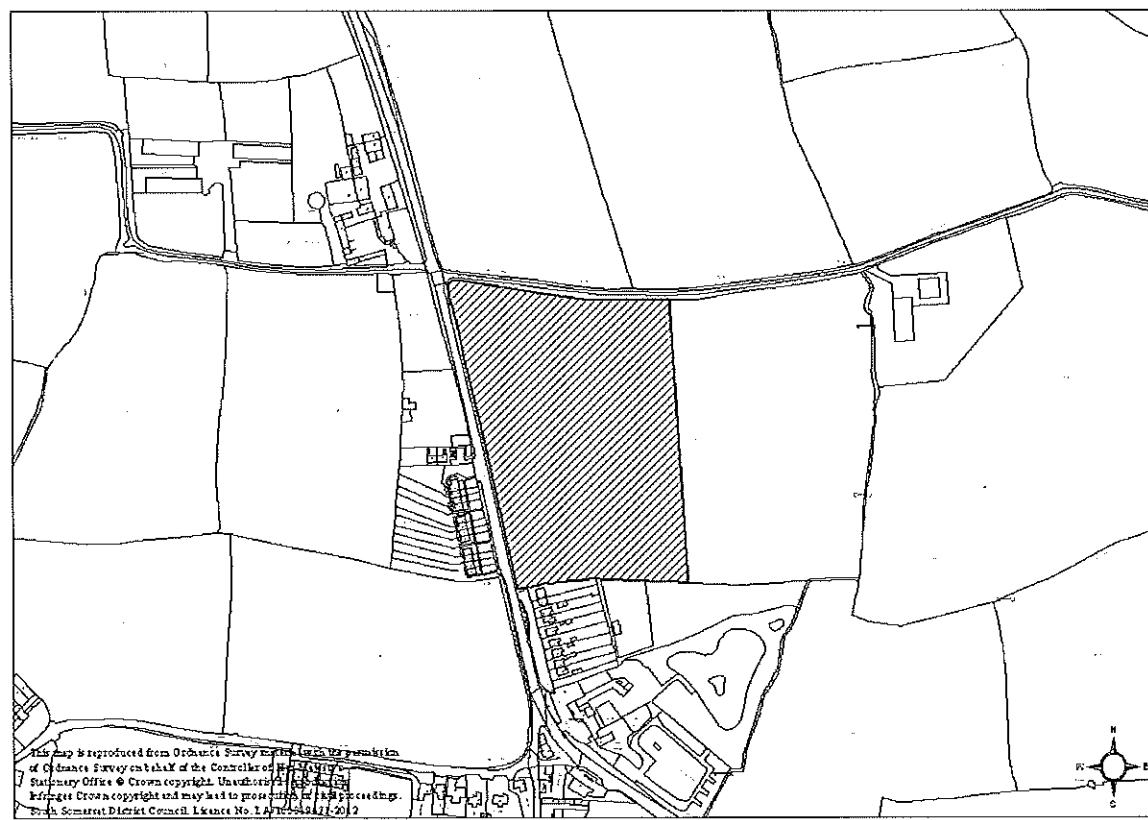
Officer Report on Planning Application: 11/04132/FUL

Proposal :	Proposed change of use of land to equestrian, erection of stables, formation of manège, retention of 2 No. field shelters, new vehicular access and the stationing of a mobile home for an equestrian worker (Part Retrospective)(GR 353115/119696)
Site Address:	Land At Shortland Farm, Ilchester Road
Parish:	Chilthorne Domer
ST MICHAELS Ward (SSDC Member)	Cllr Jo Roundell Greene
Recommending Case Officer:	Simon Fox Tel: (01935) 462509 Email: simon.fox@southsomerset.gov.uk
Target date :	11th January 2012
Applicant :	Mr D And Mrs S A Sutton
Agent: (no agent if blank)	Brimble Lea & Partners Wessex House, High Street, Gillingham, Dorset
Application Type :	Major Other f/space 1,000 sq.m or 1 ha+

REASON FOR REFERRAL TO COMMITTEE

This application is referred to the Area North Committee with the agreement of the Area Chair and Ward Member so that full consideration of the evident issues can be given

SITE DESCRIPTION AND PROPOSAL



The application site, known as 'Orchid Stud', comprises 4.162ha of agricultural land located on the outskirts of Chilthorne Domer. The site is rectangular in shape and forms half of a larger field; the other half is not within the ownership of the applicant. The field is bound by hedgerows on each side except on the eastern side where post and rail fencing subdivides the once larger field. The field is on a gentle slope from south to north with no apparent significant undulations.

The western side of the field is adjacent to the A37 Ilchester Road and the northern side adjoins Oakley Lane which is a single width no-through lane serving several farms accessed from the A37 via a junction in the northwest corner of the site. Currently the field has a vehicular access in the northwest corner onto the radius point of the junction.

Numerous residential properties are located towards the southwest corner of the site; one dwelling adjoins the southern boundary whilst others overlook the site from the other side of Ilchester Road. A farm complex which previously owned the field is located diagonally opposite the northwest corner on the other side of the road.

The vehicular access enters into a small yard surfaced with hardcore bounded by post and rail fencing. A small stone pitched roof barn also sits in this corner that has been extended by way of a pole-barn. Across the site other fencing has been erected to create paddocks and several containers and two field shelters have been sited against the western boundary.

The application seeks to:

- change the use of the application site to equestrian use;
- formation of a new vehicular access onto Oakley Lane in the northeast corner and closing up of the existing access onto the Oakley Lane/Ilchester Road junction;
- erect an American style timber barn under a metal profiled sheet roof inclusive of 7 No. stables, a feed store and a tack store; the building to measure 11.26m by 19m with a ridge height of 4.2m;
- formation of a rubber and sand manège measuring 60m by 20m bound with post and rail fencing;
- retention of 3 containers for a temporary period;
- permanent retention of 2 field shelters;
- the siting of a mobile home for a period of 3 years for an equestrian worker;
- creation of 'yard' in the northeast corner to contain manège, mobile home and barn, with hardstanding area around entrance for parking and turning; and
- planting of hedgerow along the eastern boundary and to enclose the 'yard'.

The nature of the business proposed is an equestrian enterprise for the breeding, training and sale of thoroughbred Iberian horses. The application documentation states, "Orchid Stud owns the only purebred Spanish stallion carrying the double dilute cream gene in the UK".

The site lies outside the defined development boundary.

HISTORY

No relevant history.

POLICY

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

Regional Spatial Strategy (RSS)

Whilst the Localism Bill has indicated that it is intended to abolish the RSS, it remains a material consideration until the Bill is agreed and therefore regard should be had to the draft policies. The RSS vision is to deliver sustainable communities and a more sustainable future for the region. The spatial strategy focuses most new development in a limited number of Strategic Significant Cities and Towns (SSCT - Development Policy A). Below these places, locally significant development will be appropriate in settlements with a range of existing services and facilities and the potential for sustainable development (Development Policy B). The RSS identified that these SSCTs should take the bulk of new development.

In March 2012 the existing national Planning Policy Statements and Guidance Notes (PPS's and PPG's) were superseded by the publication of the National Planning Policy Framework.

The development plan comprises the Regional Spatial Strategy and the saved policies of the Somerset and Exmoor National Park Joint Structure Plan Review, and the South Somerset Local Plan.

The policies of most relevance to the proposal are:

Somerset and Exmoor National Park Joint Structure Plan (Adopted 2000):

STR1 - Sustainable Development
 STR6 - Development Outside Towns, Rural Centres and Villages
 Policy 5 - Landscape Character
 Policy 49 - Transport Requirements of New Development

South Somerset Local Plan (Adopted April 2006):

ST3 - Development Areas
 ST5 - General Principles of Development
 ST6 - The Quality of Development
 EC3 - Landscape Character
 HG15 - Agricultural and Forestry Dwellings
 CR7 - Commercial Development Involving Horses

National Planning Policy Framework - March 2012

Chapter 1 - Building a Strong Competitive Economy
 Chapter 3 - Supporting a Prosperous Rural Economy
 Chapter 6 - Delivering a Wide Choice of High Quality Homes
 Chapter 7 - Requiring Good Design
 Chapter 11 - Conserving and Enhancing the Natural Environment

South Somerset Sustainable Community Strategy:

Goals 1, 5, 8, and 11.

CONSULTATIONS

Chilthorne Domer Parish Council:

Although some concerns were raised about a possible increase of traffic using the junction with the A37 and also the regular surface flooding of the land, it was agreed by a majority vote that the Council DID NOT OBJECT TO THE APPLICATION".

Neighbouring Parish:

Yeovil Without PC - No objections.

Highways Authority (Somerset County Council):

Initial response-

"This site/proposal was the subject of pre-application consultation between the Highway Authority (HA) and the Local Planning Authority (LPA), when a view was expressed by the HA that due to the substandard nature of the approach road and its junction with the A37 it was unlikely that the HA would be supportive of any future planning application and it is my understanding that this was relayed to the Applicant/Agent.

As the Planning Officer will be aware, the site is located outside of any development limit and whilst there are a number of bus services that pass the site, it is likely due to the nature of proposal that in overall terms the development if approved will increase the reliance on the private motorcar. Such fostering of growth in the need to travel would be contrary to government advice and therefore from a planning policy view point the development is considered to be unsustainable in transport terms.

The HA also have concern as to what justification there is for a mobile home (residential use) for an 'Equestrian Worker', particularly as it would appear that the Applicant appears to live approximately 4.5km from the application site, which would take approximately 5 minutes to drive from/to (according to AA route finder). It is noted that on the application form that the proposal is a business employing 1 full time and 1 part time member of staff.

It is noted and accepted by the HA that the existing agricultural use of the land, would have generated a level of vehicular traffic, however no information has been provided by the previous land owner with regard to what this would have been. In any event it would appear that land may have become surplus to the previous landowners requirement hence why it's been sold off. Notwithstanding this, the agricultural use is historical and the purpose of planning applications is to be enable a reassessment to be made of the use of land in respect of all the issues that are relevant and appropriate today.

In terms of the detail of the current application, the proposed development will derive access from/onto Oakley Lane which is an unclassified highway and a no through road. Oakley Lane in turn derives access onto the A37, which is classified as a National Primary Route Primary Route, in the Somerset and Exmoor Park Joint Structure Plan Review and is a well utilised route in the highway network.

The section of highway where Oakley Road joins the A37 (Ilicester Road) is subject to the national speed limit (60mph) and from personal observations speeds appear to be up to the permitted maximum. It is noted that the change of speed limit from 60 to 40mph is located approximately 140m to the south of the junction. There has been a history of personal injury accidents reported and recorded on this stretch of highway three of which are specifically related to vehicles travelling from Yeovil and turning right into Oakley Lane.

The A37 is defined as a National Primary Route in the Somerset and Exmoor National

Park Joint Structure Plan Review, which states that development should "**Provide safe access to roads of adequate standard within the route hierarchy and, unless the special need for and benefit of a particular development would warrant an exception, not derive access directly from a National Primary or Country Route**".

Therefore there is a highway policy objection in respect of a new development in this location deriving access onto/from the A37, as it has not been demonstrated that there is special need or benefit for this development in this location.

The HA are concerned that if permission was granted it would set a precedent for further non-agricultural development, i.e. business/commercial uses, in this location, and the cumulative affect on the junction with the A37 is considered to be detrimental to highway safety.

Notwithstanding the report submitted by Mr Colin Jones, it is considered that the junction does not incorporate sufficient visibility splays that are commensurate with traffic speeds. Splays based on co-ordinates of 2.4m x 215m to the nearside carriageway edge, with no obstruction greater than 900m in each direction are commensurate with vehicles speeds of 60mph, which is currently not available.

As the Planning Officer will be aware, visibility splays which are the subject of planning conditions have to be provided and maintained in perpetuity by the Applicant, and would therefore have to be located either within the application site or on adopted highway, in any event the splay will need to be included within the red line of the application site. As such any encroachment onto third party land is not considered to be acceptable, as there is no guarantee that the splays could be incorporated and thereafter maintained in perpetuity and in this case it is the HA's contention that the visibility splays to the north of the junction of Oakley Lane and the A37 is not achievable for this very reason.

In addition a further issue with this junction is that there is no right turn lane for vehicles travelling from the Yeovil direction and turning right into Oakley Lane, again the precedent could incrementally increase the risk to the safety of road users, if permitted. In terms of the existing vehicular access serving the site, which is currently located on the inside of a bend in very close proximity of the junction of Oakley Lane and the A37. This arrangement is considered (by the HA) to be substandard in terms of position and visibility, and as part of this application it is proposed to stop up this access and relocate it further along Oakley Lane, approximately 175m to the east.

Whilst, I have no objection in principle to this access being relocated further along Oakley Lane on the basis that it meets the required highway standard and the existing one is permanently stopped up, and such betterment is welcomed by the HA.

A new access has been shown however it would be better to position the access more centrally along northern boundary of the site, to enable essential visibility splays to be provided so that vehicles exiting the site can see and be seen by the other traffic that utilises this lane. In addition the access would act as a passing place to enable vehicles to pass each other given that this section of lane is predominately single width.

Sufficient visibility splays should be provided, where the access meets the public highway, commensurate with the speed of traffic on the adjoining highway. In the case of the new access, there should be no obstruction to visibility greater than 900mm above adjoining road level forward of a line drawn 2.4m back from the carriageway edge on the centreline of the access and extending to points on the nearside carriageway edge 43m either side of the access. This was advised during pre-application discussions and has been reduced since from 60m to 43m, as it is considered that Manual for Streets, would

be applicable to Oakley Lane.

However, despite the advice given, splays based on co-ordinates of 2m x 20m have been denoted on the plans and this is considered insufficient, particularly as the Applicant appears to have sufficient land to incorporate a safe and improved access that could meet the standards that the HA would seek are appropriate in this location.

In light of the above I have no alternative but to recommend refusal of the application for the following reasons:

1. The site is located outside the confines of any defined development limit, and if approved will increase the reliance on private motorcar and foster a growth in the need to travel, contrary to government advice given in PPG13, RPG10 and Policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan (Adopted April 2000).
2. The proposal is contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted April 2000) since the proposed development derives direct access from a National Primary Route/County Route and no overriding special need or benefit has been demonstrated, to warrant an exception for the proposed development on this specific site.
3. The proposal is contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted April 2000) since the increase in the use made of the sub-standard junction in terms of visibility of Oakley Lane with Ilchester Road (A37), such as would be generated by the proposed development, would be prejudicial to highway safety.
4. The proposal is contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted April 2000) since the proposed splays are considered to be inadequate to secure the visibility necessary for the safety and convenience of the traffic associated with the proposed development".

The applicant's agent submitted a rebuttal of these comments, prepared by a Highways Consultant, in response the HA commented-

"Further to my formal consultation response dated 22 November, I have the following additional points to make/reiterate in relation to the information submitted since this date:

1. The National Planning Policy Framework (NPPF) was published recently and has replaced a number of planning Policy Guidance and statements. The NPPF seeks, as a general aim, to achieve sustainable development, however it goes on to state that a '*safe and suitable access*' (Para 3.2) be provided for all people and furthermore states that new developments should be designed to create '*safe and secure layouts which minimises conflicts between traffic and cyclists or pedestrians*' (Para 3.5). In this case it is the HA's view that neither of these criteria have been met and it is considered that if approved this development is likely to have a severe impact on highway safety.
2. The site is located outside of any defined development limit it is likely due to the nature of proposal that in overall terms the development if approved will inevitably increase the reliance on the private motorcar to and from the site.
3. The Highway Authority (HA) also have concern as to what justification there is for a mobile home in his case (residential use) for an 'Equestrian Worker'. It is unclear if any restrictions would be in place on other occupants of the mobile home associated with the 'Equestrian Worker'.
4. The previous agricultural use of the land is historical and the purpose of any planning application is to enable a full assessment to be made with regard to the use of land and the impact of such a use has on the surrounding highway network with respect to all the issues that are relevant and appropriate in each case.
5. The HA are concerned that if permission was granted, it would set a precedent for further non-agricultural development on the site and adjoining areas, (e.g.

equestrian/business/commercial uses) and the cumulative impact on the junction with the A37.

6. Visibility splays (at the junction of Oakley Lane and the A37) based on co-ordinates of 2.4m x 215m to the nearside carriageway edge, with no obstruction greater than 900m in each direction are commensurate with vehicles speeds of 60mph, and these currently are not available nor are they proposed as part of this application.

As the Planning Officer will be aware, visibility splays which are the subject of planning conditions have to be provided and maintained in perpetuity by the Applicant. In this case the Applicant does not own/control the land to ensure a splay can be provided and maintained in perpetuity to the north of the junction.

Furthermore I have liaised with my colleagues in the Area Highway Office who have confirmed that whilst SCC are responsible for the maintenance of grass verges they are only cut twice a year to a width of one metre. Which they regard to be the appropriate level of maintenance and forms part the established highway verge maintenance programme for this area. There are no defined visibility splays at this junction and all hedge lines are private and therefore the responsibility of the adjacent land owners to cut and maintain in this case.

It is self evident therefore that the splay to the north could not be incorporated into any planning approval, nor could it be maintained in perpetuity.

7. There is no right turn lane for vehicles travelling along the A37 from the South, (from the Yeovil direction) and turning right into Oakley Lane and it is the HA's view that if approved the development could increase the risk of a conflict occurring, to the detrimental of highway safety for all road users if permitted and could compromise the efficient functioning of this stretch of National Primary Route.

It is self evident that there have been issues with speed along this stretch of the A37, given the fixed speed camera located to the south. In addition there has been a history of personal injury accidents along this stretch of highway, three of which were in relation to the junction involving vehicles turning right into Oakley Lane.

8. As part of the planning application a new access into/from the site is proposed approximately 175m to the east along Oakley Lane, whereby the existing one which is located practically on the junction will be permanently stopped up.

This is considered an improvement compared to what exists currently, on the basis that splays based on co-ordinates of 2.4m x 43m in each direction are incorporated and the access is properly consolidated/surfaced (not loose stone or gravel), and drained.

9. In terms of parking there is sufficient space within the site to accommodate parking and turning commensurate with the use and in line with the recently adopted (April 2012), Somerset County Council Strategy.

In light of the above I have no alternative but to recommend refusal of the application for the following (amended) reasons:

1. The site is located outside the confines of any defined development limit, and if approved will increase the reliance on private motorcar and foster a growth in the need to travel, contrary to government advice given.
2. The proposal is contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted April 2000) since the increase in the use of the sub-standard junction in terms of visibility and right turn movements from the A37 into Oakley Lane are considered to be prejudicial to highway safety".

SSDC Landscape Architect:

"I have reviewed the above application seeking a COU from agricultural to equestrian land; and the construction of a stables, manège, and mobile home. I am also familiar with the site's location, and the wider landscape context

- 1) In this location, at the toe of the Yeovil Sands scarp and to the north of the village of Chilthorne Domer, the landscape of the Ilchester vale is clearly rural, and

characterised by its relatively level and open profile of predominantly pasture fields, defined by an enclosure field pattern that is in most part rectilinear in layout. Other than dispersed farmsteads and farm building groups, there is increasingly minimal development presence as one moves north and away from the village edge.

The application site lays to the north of the village edge, in a rural setting, yet not divorced from a number of small farmsteads and housing that characterise this northern fringe of Chilthorne Domer parish. It is placed within a typical rectilinear field, and comes with hedge planting proposals that supplement the landscape pattern, as well as define and contain the 'built' element of the proposal, i.e.; manège, stables and mobile home. If you are satisfied that the proposal is justified, then on balance, I can confirm that with appropriate landscape treatment, this site has the capacity to accommodate a development of the scale and form proposed within this specific landscape context.

- 2) Policy CR7 requires stables to be closely related to existing buildings or settlements if they are to be acceptable. In this instance I am not convinced there is a close relationship, though I accept there is an existing building presence on site. However, there are both housing and farmsteads in relatively close proximity to east, west and southwest, and the proposal infills an established pattern in a way that is not uncharacteristic of the local landscape. Whilst a field corner siting to the northwest would be more acceptable if strictly following the guidance of policy CR7, if you are satisfied that there is a strong functional case for a siting away from the edge of the A37, then given the local rural development pattern in this location, whilst not overly supportive of the siting before us, I do not raise grounds for an over-riding landscape objection.
- 3) Policy ST3 seeks environmental benefit from a scheme: The use of land for horses does not intrinsically bestow environmental benefit, for equestrian activity can express itself in a manner that can degrade both the character and condition of the countryside: Impacts can include the visual clutter created by polytape, fencing, jumps, security gates, and vehicle storage; whilst the landscape and visual impacts of arenas, maneges and stables can appear intrusive. In this instance, the majority of the built form is concentrated, and contained by future planting, and lays behind an established roadside hedgerow, which acts as both screen from the north, and backdrop as viewed from the south. I also recollect the planning agent stating at pre-application stage that beyond paddock demarcation - which could be low-key in its visual expression - there is no intent to introduce further elements into the main field. Providing this is confirmed and can be covered by a suitably worded condition, then on balance I believe the potential 'worst excesses' of equestrian land-use, as considered from a landscape perspective, can be avoided.

If minded to approve this application, please condition the planting proposals as detailed on drawing 11102-3A, to be undertaken during the forthcoming planting season, mid-November 2011- mid March 2012".

SSDC Ecologist:

"I've considered this application and don't have any comments to make. However, if any representations are received that raise specific wildlife issues, I'd be happy to give these further consideration".

EA:

No objections, subject to conditions and informatives being placed on any permission granted. The site is not within Flood Zone 2 or 3.

SSDC Technical Engineer -
Surface water disposal via soakaways.

REPRESENTATIONS

A number of local residential properties were consulted (24), a press advert was placed and a site notice was displayed on site (major development).

Two letters of objection were received, a summary of comments:

- Concern that granting a permanent residential property after a temporary mobile home may lead to greater residential development of the site.
- The dwelling should run with the business and be removed if the business ceases or the ownership of the land changes.
- "We are very pleased to hear that there is to be a change in access to the property, but remain concerned about the safety of the junction of Oakley Lane with Ilchester Road (A37), which is actually a slightly offset crossroad. There have been several accidents at that junction in the 20 years we have lived in the vicinity (two involving one of us) and many more near misses when vehicles are turning right into Oakley Lane having travelled from the Yeovil direction. These have generally been caused by vehicles increasing their speed as they leave the 40 mph speed limit approximately 150 yards from the junction and attempting to over-take traffic moving more slowly without paying full attention to what is happening ahead of them. On 4th November there was 4-car accident, not too far from the junction due to drivers not paying attention on this dangerous local section of road which starts at the Halfway House. There is insufficient signage warning of the junction when travelling from the Yeovil direction, especially compared to signage when travelling from the Ilchester direction".
- During observations, a distinct difference in driver behaviour was witnessed.
- As soon as drivers travelling from the Yeovil direction were in a position to see the national speed limit sign, they increased their speed, long before reaching the sign. Not one of the 20 or more drivers, witnessed at the time, braked when approaching the crossroad.
- Drivers travelling from the Ilchester direction behaved somewhat differently; 75% braking at or before the 'slow' markings on the road surface, the majority of the remainder seemed to slow by lifting their foot from the accelerator at the 'collision site' warning.
- We would request that the 40 mph limit be extended to beyond the junction. We would also ask that the warning signage be improved and that 'slow' markings be painted on the road surface when travelling from the Yeovil direction.
- Traffic levels seem to have been underestimated.
- Oakley Lane floods and the northern part of the field is a natural collecting basin.
- Horse waste storage and the septic tank of the mobile home could contaminate wet ground.
- The applicant has applied for a riding stables licence.

One further representation objecting to the retention of the containers was later withdrawn.

CONSIDERATIONS

The application raises several main issues that will be discussed in turn:

Change of Use of Land, Erection of Barn and Installation of Manège

With the recent publication of the National Planning Policy Framework (NPPF) the previous planning policy statements and guidance notes (PPSs and PPGS), such as PPS7: Sustainable Development in Rural Areas, have been superseded.

Chapter 3 of the NPPF sets out a supporting statement for rural economic growth. It urges planning policies to support the sustainable growth and expansion of all types of business and enterprise in rural areas, and promote the development of agricultural and other land-based rural businesses.

The NPPF reaffirms the objectives of PPS7 in that Local Planning Authority's should continue to ensure that the quality and character of the wider countryside is protected and, where possible, enhanced. As such policies ST3, CR7 and EC3 of the Local Plan are relevant, these policies dovetail considerations relating to equine development in the landscape and the need to conserve and preserve landscape character whilst approving such development.

As the Landscape Architect suggests the use of land for horses does not intrinsically bestow environmental benefit, for equestrian activity can express itself in a manner that can degrade both the character and condition of the countryside: Impacts can include the visual clutter; whilst the landscape and visual impacts of arenas, manèges and stables can appear intrusive.

Policy CR7 of the South Somerset Local Plan concerns commercial development involving horses:

- Policy CR7

Proposals for development involving the keeping of horses for commercial purposes including provision of stabling, tack and feed rooms, manèges or jumps will only be permitted provided that:

- 1. The proposal utilises existing buildings as far as possible or is closely related to an existing group of buildings,*
- 2. The proposal would not be unacceptably harmful to highway safety.*

The first criterion can be considered here. There is only one building on site, a traditional stone barn, approx 12x5.5m in footprint. The applicant claims that this barn cannot be used because it is in poor structural order and not suitable for accommodating horses because of the spooking caused by the traffic on the A37. This latter reason is also the justification for locating the proposed development in the opposite northeast corner of the site.

The issues concerning highway safety will be discussed separately as a number of policies refer to this.

Policy EC3 of the South Somerset local Plan concerns the preservation of landscape character:

- Policy EC3

Outside development areas, development proposals which are otherwise acceptable will be permitted provided that they do not cause unacceptable harm to the distinctive character and quality of the local landscape. In particular, development should:

- 1. Respect or enhance the characteristic pattern and features of the surrounding landscape; and,*

- 2. Avoid built forms whose visual profiles would be out-of-keeping with and uncharacteristic of the surrounding landscape when viewed from publicly accessible vantage points.*

The area is characterised by sporadic groupings of rural/farm buildings and this is evident along Oakley Lane and along the A37, so the decision not to group the development around the stone barn was not seen as contrary to landscape character. This also led to the relocation of the access point and the creation of what has been coined the 'yard' to contain the development of the proposed barn, manège and mobile home. A native hedge inclusive of ash trees at irregular intervals will in time provide visual containment of the yard contents, which will also include vehicles and other equine paraphernalia. This same hedge and tree treatment is also proposed for the eastern boundary of the site, formed by the sub-division of the large field, some 230m of hedging.

This additional hedging complements the existing high hedgerows adjacent to the A37 and Oakley Lane, therefore affording only limited glimpses into the site from public vantage points. Whilst serving a primary purpose in mitigating the landscape impact of development the landscaping does provide environmental/ecological benefits and so also satisfies the relevant criteria of Policy ST3.

The American barn is a simple timber clad pitched roof structure and the manège a sand/rubber surface with post and rail fencing enclosing it. Specific details could be secured by condition relating to treatments for the cladding, fencing and the manège surfacing to ensure they are visually acceptable. A further condition would be required concerning external lighting.

Although the functional requirement for an on-site residential presence will be considered elsewhere provision has been made for an area of curtilage for a initial mobile home and future-proofed for a permanent dwelling. This is all contained within the yard area.

The fields are already demarked with post and rail fences creating paddocks and so further sub-division is required. As such a condition could be imposed to control this and preventing other equestrian paraphernalia such as jumps being located outside of the confines of the yard.

Presently several shipping containers are located on the site to provide short-term secure storage until a permanent solution in the form of the American barn is provided. These containers are subject to an enforcement complaint but have been reduced in number to four and relocated alongside the western boundary, where they pose less of a visual impact, in consultation with the planning department pending the outcome of this application. The applicant wishes to retain the containers for 12 months to allow the American barn to be constructed, upon which time they will be removed.

Two open fronted field shelters are also present along the western boundary, the applicant wishes to retain these permanently and due to their size and scale and siting adjacent to the roadside hedge there are few issues arising from this.

Whilst mindful of the comments of the Landscape Architect it is considered that a sufficient argument and proposal has been submitted to conclude that subject to appropriate landscape treatment, this site has the capacity to accommodate a development of the scale and form proposed within this specific landscape context in accordance with policies ST3, EC3 and CR7.

Policies relating to farm diversification have not been considered as the application site

is not owned by a farmer nor is the applicant a farmer, and the land holding is a separate entity to any agricultural holding and therefore as the proposal does not include agricultural use this scheme cannot be considered farm diversification.

It has been confirmed this is a horse breeding business only and not a riding school or livery. The business is based on 2 resident stallions and 4 mares, plus visitors and AI collections.

Siting of a Mobile Home for an Equestrian Worker

This application does expressly include the proposed siting of a mobile home for a temporary period of 3 years. Information submitted by the applicant to justify a new house in the countryside is extensive and so not all of this is contained within this section of the report. All the information is viewable on the application file. Financial records are however confidential.

With PPS7 Annex A now superseded guidance on agricultural, forestry and other occupational dwellings is given by Chapter 6 of the NPPF and policy HG15 of the Local Plan. Where there is a lack of direction on a particular point the spirit of PPS7 has been used as a guide and this approach has been informed by the Planning Minister saying it is up to Council's and not the government to define the meaning of the NPPF, where there are apparent parts of ambiguity.

The NPPF states broadly it is still the case that Local Planning Authorities should avoid new homes in the countryside unless there are special circumstances and such a circumstance could be the essential need for a rural worker to live permanently at or near their place of work in the countryside, but with PPS7 Annex A now superseded Policy HG15 is the primary policy that gives detailed criteria on which to assess the justification for an agricultural dwelling (albeit temporary) in the countryside:

- Policy HG15

Proposals for agricultural or forestry worker dwellings will only be permitted in the countryside where:

- 1. The dwelling is essential for the proper functioning of the enterprise so that one or more workers would be readily available at most times. In cases where a functional test alone is not conclusive, it may be appropriate also to apply a financial test;*
- 2. The need is for accommodation for a full-time worker, or one primarily employed in agriculture;*
- 3. No other housing accommodation is available for occupation locally by the worker concerned that would fulfil the functional need;*
- 4. The necessary accommodation cannot be provided by the conversion of an existing building or structure on the holding.*

Dwellings that are unusually large in relation to the agricultural needs of the unit or are unusually expensive to construct in relation to the income of the unit in the longer term will not be permitted.

Where there is inconclusive evidence supporting the need, temporary planning permission may be granted for temporary accommodation on a new farm unit, to allow three years to test the viability of the proposal.

The renewal of a temporary planning permission for temporary accommodation will not be granted if the case for permanent accommodation has not been made by the end of the temporary period.

A condition will be attached to any planning permission granted to ensure that the dwelling is kept available to meet the justified need. A planning obligation will be sought where a planning condition would not keep the dwelling available to meet the justified need.

- Policy HG15 Criterion 1 and 2 - the functional requirement or need for accommodation for one full-time worker:

Permission has been sought for a temporary mobile home, such an approach where the business has yet be to fully developed, was advocated by PPS7 to allow a period, normally three years, to demonstrate the business has developed as intended to justify a permanent dwelling being sought. The policy has an agricultural slant but similar policy wording in PPS7 was held to be relevant and transferable to other rural occupation dwellings such as for equestrian enterprises. Whilst the policy suggests a temporary consent should be granted where there is inconclusive evidence supporting the need this is interpreted to mean that for a new business where predictions/forecasts are being made the most sensible thing to do is allow a temporary permission to test the business plan, and if after that period the business has failed or circumstances change then a permanent dwelling is not implicated.

In order to support even a temporary consent the applicant needs to prove that a dwelling is *essential* for the proper functioning of the (proposed) enterprise. This is coined the functional need or test.

The proposed business is an equestrian enterprise for the breeding, training and sale of thoroughbred Iberian horses. It is a new breeding business based on the pedigree Perlino Stallion that the application documentation states is, "the only purebred Spanish stallion carrying the double dilute cream gene in the UK". It is intended that Orchid Stud, as the business and site have been named, will produce purebred Spanish horses either through coverings undertaken on the site or through an AI service to the UK or abroad. Natural coverings will take place with visiting mares and the four mares owned by the applicant in order to sell progeny for a high price. There also is another bay covering stallion (a bay horse is characterised by a reddish brown body colour with a black mane, tail, ear edges, and lower legs. Bay is one of the most common coat colours in many horse breeds). Four other horses complete the applicants' ownership of ten horses.

The applicant states it is *essential* to live on the site for the welfare of the horses and security of the property and horses. The need extends to one full-time worker, although family and dependents will be permitted to reside; that full-time worker is the applicant, Mrs Sutton.

The applicant states unreasonable hours will result, from 6.30am checks through to 9.30pm checks and the daily routine. The attention required for AI services and monitoring ovulating mares may be labour intensive but given the need for a veterinarian to be on hand to perform ultrasounds means this is less likely to be at night and so this labour demand is likely to be just during the day and so the argument for 24-hour supervision and a dwelling on the site is debatable for this aspect alone.

Pregnant mares will require greater attention and thereafter foals too; this is a more reasonable argument for 24-hour supervision as mares foal at night. It is envisaged the business would receive at least 2 mares per stallion per month from March to August, plus at least 2 AI collections per stallion per month. Mares foal from February to October.

Beyond foaling it is also stated that a cast horse is a danger to itself and its unborn foal. A cast horse is one that is stuck in a stall and thrashes to free itself. Injury can occur as the horse panics. Cast horses are also prone to suffocation if not freed. Horses are also prone to serious illnesses, including colic, which can, apparently, even strike a healthy looking horse at very short notice. So 24-hour supervision enables a rapid response to these issues.

Whilst the Animal Welfare Act 2006 and the subsequent Regulations in 2007 may

suggest the ability for somebody to live on the site will contribute to easier fulfilment it is not an express requirement. PPS7 did state, "the protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for an agricultural". There will of course be expensive equipment and horses on the site and the applicant points to the location of the site adjacent to the A37 and the public knowledge on the business will, it is argued, make the site a target. According to the application there have already been instances of theft. Whilst CCTV could be installed this would not assist to the welfare and security of livestock.

Concerns have been raised over the numbers of horses on the site; the applicant owns two stallions and four mares. In a recent appeal (APP/V3310/A/11/2160672) - against a decision by Sedgemoor DC the Inspector concluded that whilst economies of scale can be achieved with larger numbers, about 5 horses is the threshold for the need for continuous care, in view of both the number and frequency of foaling, proneness to illness, injury and other physical issues and the high value of the animals.

What is clear is that the business has functioned, albeit in its primacy, and foals have been born and then sold without any accommodation on site. The issues seems to be the ability to attract and secure other peoples mares brought to site for coverings with the stallions.

Taking all aspects of operating the enterprise into consideration and in light of appeal decisions and previous decisions of this authority a functional requirement is accepted for a temporary dwelling.

There are though reservations over the fact that the basis of this business is the one pedigree Perlino Stallion that the application documentation states is, "the only purebred Spanish stallion carrying the double dilute cream gene in the UK", it is also stated in the application that, "and is incredibly valuable therefore the likelihood of another breeder offering a stallion such as him remains very rare". There is nothing to prove this and if anything was to happen to this horse then profitability could be affected and the functional requirement for on-site accommodation reduced. The applicant argues that although the pedigree Perlino Stallion is the 'backbone' there is another stallion who would bring a profit and although the pedigree Perlino Stallion is rare he is not one of kind and so *could* be replaced. It should also be noted that this stallion is yet to be graded and will not be available to stud until 2014 and so income is not expected to accelerate until then. Nonetheless the applicant has submitted information, verified by their accountant, concluding that the business will be profitable by year three. PPS7 did state that a business should be profitable for one year of the three following a temporary residential consent and Policy HG15 says temporary planning permission may be granted for temporary accommodation on a new unit, to allow three years to test the viability of the proposal.

So whilst an essential need has been justified the financial aspects can be reviewed in three years time in the context of a future application.

- Policy HG15 Criterion 3 and 4 - alternatives to a mobile home:

A mobile home for occupation by a full-time worker on the site can be agreed on the basis there is a need to reside on the site provided there is no other accommodation in the vicinity that would fulfil the same role or a building on the site that can be converted.

Whilst the site is in close proximity to residential properties in reality even the closest one, even if it was available at this point in time, would not be close enough to provide the security and supervision at close quarters required by the applicant for the nature of the business proposed.

There is a barn on site, which the applicant states is not suitable for stables due to its structural condition. Whilst this would be closer to the action due to the practical reasons of locating the American barn on the opposite side of the field it would still be over 100m away and less able to provide natural surveillance. But an overriding reason would be the costs of converting this small barn to a residential standard would be prohibitive for a temporary period. It is considered criterion 3 and 4 are met.

Other Matters

Matters of the size and cost of a permanent dwelling are better assessed nearer the expiry of the three-year period.

In having foresight to the potential for a permanent consent in the future temporary permissions should not be permitted in locations where, for whatever reason be it landscape impact, flooding, highways, ecology etc, a permanent dwelling would not be. It is clear that the long-term intentions are to develop a permanent dwelling on the site and so this requires some consideration. The proposed layout plan shows the location for the mobile home and an indicative residential curtilage to serve the mobile home and potentially to receive the permanent dwelling. This forward planning has allowed the inclusion of hedging and trees to provide some established mitigation well in advance of any proposal. With the landscaping proposed and the indication on the site plan of a likely position it is felt that at this stage a suitable siting could be found that would not create a significant landscape impact not taking into account final sizes, heights and materials, but this can be considered in more detail at the time.

As advocated by Policy HG15 a condition would be attached to any planning permission granted to ensure that the dwelling is kept available to meet the justified need (an occupancy condition), this would be coupled with a temporary 3-year condition and the restoration of the land thereafter.

Highways

The existing site has one vehicular access onto the radius point of the Oakley Lane/A37 junction. The proposal seeks to block this one up with hedging and form a new access some 180m further down Oakley Lane into the new 'yard'. Oakley Lane is a no-through road serving several farmsteads.

During pre-application discussions it was evident the relationship of the site to the A37 was to be a significant issue. The applicant was therefore advised to consult with the Highways Authority (HA) for advice in advance of the application being submitted. This application was then submitted and upon consultation the HA initially offered 4 reasons for refusal.

A rebuttal produced by the applicants Highway Consultant was submitted in response to the comments made and the reasons for refusal offered. Further comments were made by the HA and the 4 reasons previously offered had been cut to 2 reasons. Both sets of comments made by the HA are copied within the Consultations section of this report for clarity as to the argument being made and the importance of the matter to the determination of this application.

The first relates to sustainability and growth in the need to travel by private motorcar. This is not considered to be a valid reason to refuse this type of application due to the need for an equestrian business to be located in the countryside. Clearly a development of this type, along with farms and other rural based enterprises have to be located in the open countryside rather than in areas termed 'sustainable' like industrial parks in and around larger towns. It is not a matter for the HA to comment or determine whether there is a need for a development, but simply to address whether a highway issue arises from

that development.

Reason two relates to the nature of the junction of Oakley Lane and the A37 and the potential for the increased number of movements generated by the proposal to prejudice highway safety because of vehicles turning into Oakley Lane from the A37 as there is no separate right turn lane and vehicles pulling out of Oakley Lane onto the A37 because of restricted visibility.

Reason two refers to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted April 2000)

- *Policy 49*

Transport Requirements of New Development-

Proposals for development should be compatible with the existing transport infrastructure, or, if not, provision should be made for improvements to infrastructure to enable developments to proceed. In particular development should:

- *provide access for pedestrian, people with disabilities, cyclists and public transport;*
- *provide safe access to roads of adequate standard within the route hierarchy and, unless the special need for and benefit of a particular development would warrant an exception, not derive access directly from a National Primary or County Route; and,*
- *in the case of development which will generate significant freight traffic, be located close to rail facilities and/or National Primary Routes or suitable County Routes subject to satisfying other Structure Plan policy requirements.*

Policy ST5 also contains criteria concerning access arrangements.

In terms of traffic generation the highways consultant states that all movements generated by the new use and proposed dwelling need to be assessed against movements generated by the agricultural use of the site for sheep and cattle grazing. The highways consultant predicts that on average 39/40 single trips per week would be created by the new use and dwelling whilst 29/30 single trips per week could be ascribed to the same site in agricultural use. This, it is said would result in 1.68 trips per day extra through the junction which is significantly less than the 5% increase normally considered as a material addition.

The section of highway where Oakley Lane meets the A37 is subject to a speed limit of 60mph, and the junction has been subject to a number of personal injury accidents, 3 incidents relate to vehicles from the Yeovil direction turning right into Oakley Lane from the A37. The extensive and detailed representation from a neighbour to the site and the concerns expressed by the PC highlights the concern locally with regards to the A37 in the vicinity on this site.

The HA point out that there is no separate right turn lane for vehicles travelling towards Ilchester and with an increase in traffic predicted the opportunity for conflict is greater taking into account the existing problems along this stretch of road evidenced by speed cameras and the accident record.

The other matter of concern is the available visibility when pulling out from Oakley Lane onto the A37, especially to the north where oncoming vehicles are in the near side lane. The HA contend that splays of 215m cannot be suitably achieved on land either within the applicants control or on land within the control of the HA, this is the case to the north. With land forming the splay within third-party ownership its continual provision cannot be guaranteed and so the risk of an accident is increased. The highways consultant states that a limited view up to 215m is achievable and that part of the problem is the HA not

cutting back a hedge. The HA respond by saying that the hedgerows are maintained in accordance with the established highway maintenance programme for this area. Due to the fact there are no defined splays evident at Oakley Lane then all hedge lines are private and it is for adjacent landowners to cut and maintain. Whilst it is common ground that guidance within Design Manual for Roads and Bridges is relevant for assessing visibility splays the HA do not agree with the highways consultant who suggests Manual for Streets 2 is also applicable in allowing a more liberal approach (lessening) to calculating splays.

On a separate point although understandable, concerns expressed by the HA regarding future development on this site or another, if requiring planning permission, will have to be considered on their own merits with regards to potential future increase in traffic and use of the junction.

There has been opportunity for both parties to seek a resolution but the HA remain steadfast in their objections, but for the reasons mentioned reason 1 cannot be supported as a valid reason to refuse this application and therefore reason 2 alone will inform the officers recommendation as the means of access is considered sub-standard and contrary to Policy 4 of the Structure Plan.

There are no issues on site with parking and turning or the proposed access onto Oakley Lane from/to the new 'yard' area.

Drainage, Flooding and Pollution

The site lies within Flood Zone 1 (an area that is at least risk from fluvial flooding). There is a small watercourse to the east of the other half of this larger field. As the application site extends to more than 1 hectare a Flood Risk Assessment has been submitted. Despite this, only the roofs of the mobile home, barn and temporary storage containers present impermeable surfaces and so any run-off is minimal.

The site is sloping and some localised pooling of surface water does occur on the site and in Oakley Lane, but consistent maintenance of existing highway and private ditches should mean no significant problems occur. The EA raises no objections but provides recommendations and informatives to include on any permission. Some slight confusion concerning the relationship of a watercourse to the site was clarified and is not an issue. A surface water management/sustainable drainage condition could also be imposed to seek betterment.

There is nothing to suggest that building regulations/EA consents cannot control foul drainage from the mobile home or the storage of straw and manure cannot be adequately controlled and managed by planning condition.

CONCLUSION

The applicant has satisfactorily demonstrated that an essential need for one full-time worker necessitates the need for a mobile home on the site where there are no viable alternatives. The financial plan, although questionable in places and concerns persisting regarding the reliance on a single pedigree animal, does show a predicted profit in year three. The continuing functional need and financial viability predictions will be proved or disproved in relation to any future application for a permanent residence.

In terms of the highway issues there is a clear divide between the HA and the highways consultant which have not been able to be closed to a point where a positive recommendation could be given. As such the application is recommended for refusal.

based on the fact that a safe and satisfactory means of access cannot be achieved for the development proposed.

RECOMMENDATION

Refuse permission for the following reasons:

01. The proposal is contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted April 2000) and Policy ST5 of the South Somerset Local Plan (Adopted April 2006) since the increase in the use of the sub-standard junction in terms of visibility and right turn movements from the A37 into Oakley Lane are considered to be prejudicial to highway safety.

Informative:

01. In the interests of clarity the refused plans are-
 - a) Location Plan, Drawing No. 11102-6
 - b) Proposed American Barn, Drawing No. 11102-5
 - c) Partial Survey and Scheme Proposal, Drawing No. 11102-3 RevB
 - d) Partial Survey of Land and Access from Oakley Lane Junction with the A37 Ilchester Road, Drawing No. 11102-2 RevA
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Area North Committee – 23 May 2012

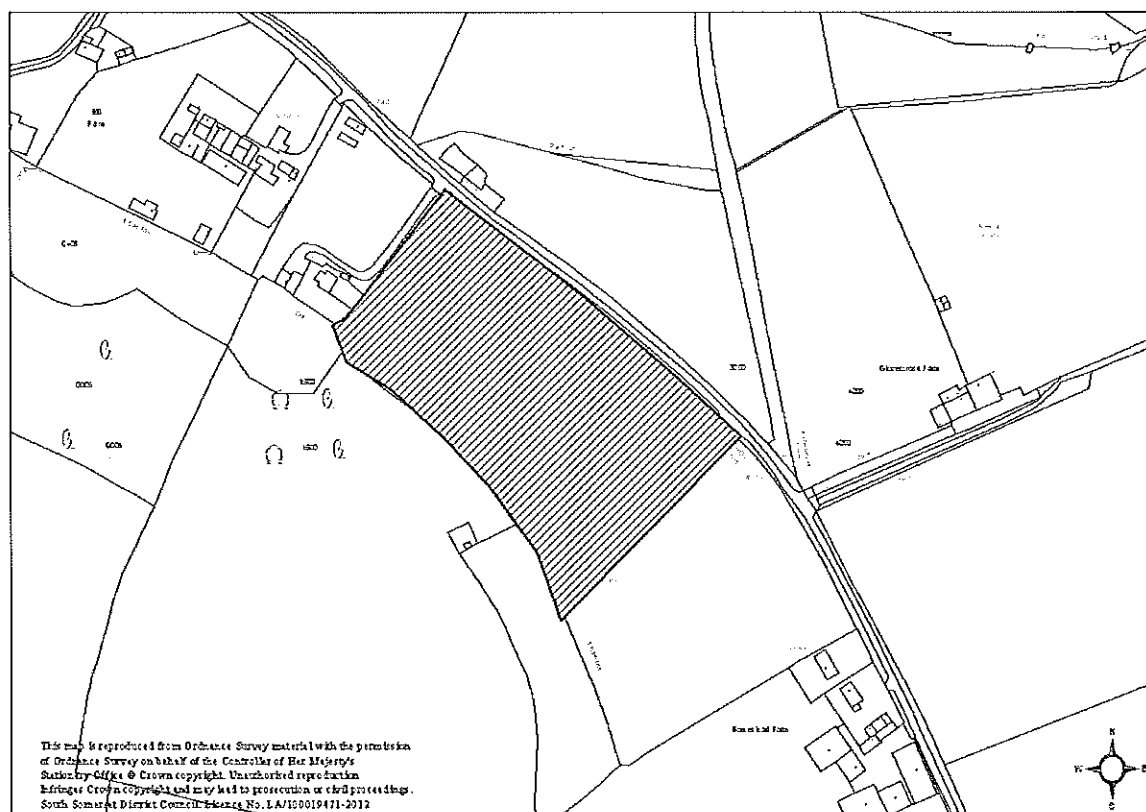
Officer Report On Planning Application: 11/01904/S73A

Proposal :	Variation of Condition 2 of planning permission 03/03394/FUL to incorporate previously varied condition 1 (as approved by 11/00024/S73), and to allow for an additional 15 touring units to occupy the site. (GR 341284/ 129002)
Site Address:	Bowdens Crest Caravan And Camping Park, Wood Drove, Huish Episcopi
Parish:	Huish Episcopi
TURN HILL Ward (SSDC Member)	Cllr Shane Pledger
Recommending Case Officer:	Lee Walton Tel: (01935) 462324 Email: lee.walton@southsomerset.gov.uk
Target date :	4th July 2011
Applicant :	Bowdens Ltd
Agent: (no agent if blank)	Paul Dance Foxgloves, 11 North Street, Stoke Sub Hamdon TA14 6QR
Application Type :	Other Change Of Use

REASON FOR REFERRAL TO COMMITTEE

This application is referred to Committee at the request of the Ward Member, with the agreement of the Chairman, to enable the impact on highways safety to be debated.

SITE DESCRIPTION AND PROPOSAL



The application relates to a caravan and camping park in the countryside located some 2km to the north of the Langport. Bowdens Crest is an established camp site with permission for up to 60 units (divided between 30 static and 30 touring units). In 1998 this was split between 30 static caravans, 10 touring caravans and 20 tents. The condition was amended in 2011 to allow 30 static caravans and 30 touring units (caravans, tents or motor homes) to reflect the changes in camping and the rise of the motor home. The site is served by a clubhouse that is open to non-residents to the south side of the caravan park.

The proposal seeks variation of Condition 2 of planning permission 03/03394/FUL to allow for an additional 15 tent pitches. The proposal identifies a specific need by walkers and cyclists and indicates that the additional pitches would be occupied by non-car borne arrivals. A specific area, annotated 'D' on the submitted plan, is proposed to be set aside for these pitches. Additional plans have been received with the agent's letter dated 23 April 2012 that clarifies the location of all pitches within the site and shows the proposed site to be kept free of hook ups.

The current condition states:

"No more than 30 static caravans and 30 touring units (caravans, tents or motor homes) shall be sited on the application site and no individual person shall stay on the site for more than 10 weeks in any calendar year. Records of the occupation of each static caravan shall be kept and made available to the District Council Planning Authority on request at any reasonable time."

The reworded condition could read:

"No more than 30 static caravans and 30 touring units (caravans, tents or motor homes) and 15 tent pitched located in the area annotated 'D' on the approved drawing no. 04/495/03/A shall be sited on the application site. No individual person shall stay on the site for more than 10 weeks in any calendar year. Records of the occupation of each static caravan, and each occupied pitch within the area annotated 'D' in the approved drawing and their means of arrival shall be kept and made available to the District Planning Authority on request at any reasonable time."

In effect the current application, if approved, would supersede application 03/03394/FUL, as varied by 11/00024/S73 and 10/000360/S73, and become the de facto operational permission for the site.

RELEVANT PLANNING HISTORY

- 11/00024/S73 Variation of condition 2 of 03/03394/FUL to allow for more flexibility in touring caravan, tent and motor home mix. Approved.
- 10/00360/S73 Application to vary condition 8 and 9 of decision notice 03/03394/FUL to allow clubhouse to be used by non-residents of site and to vary opening hours. Approved.
- 06/03452/FUL Erection of replacement toilet building. Approved.
- 06/02496/FUL Variation of conditions 8 and 9 of 03/03394/FUL to allow the clubhouse to be used by non-residents of the site and to vary the opening houses. Temporary Approval, superseded by 10/00360/S73.

- 05/02143/FUL Variation of conditions 8 and 9 of previous approval 03/03394/FUL. Refused.
- 04/03041/FUL Erection of an extension to the club building and erection of a games room to replace the existing building. Approved.
- 04/02052/FUL Continued use of land for the storage of gas cylinders. Approved.
- 04/02058/FUL Retention of existing hut for use as shop and store (renewal 94/01347/FUL).
- 04/00385/FUL Erection of two new buildings for use as a shop and games room to replace existing buildings. Approved.
- 03/03394/FUL Use of land as a site for 30 static caravans, 10 touring caravans, 20 tents and associated buildings for 12 months of the year without compliance with condition 2 of 9802342COU and condition 4 of 0300364FUL. Approved.
- 03/00364/FUL Erection of two new buildings. Approved.
- 98/02342/COU Use of land as a site for 30 static caravans, 10 touring caravans and 20 tents for 11 months in any one year from 14 February to 14 January. Approved.

Before 1998 various applications made involving a recreational campsite whose lawful use dates from the 1950s.

POLICY CONTEXT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under 54A of the Town and Country Planning Act 1990 and requires that decisions must be made in accordance with relevant development plan documents unless material considerations indicate otherwise.

For the purposes of determining current applications the local planning authority accords significant weight to the saved policies of the Somerset and Exmoor National Park Joint Structure Plan Review, and the saved policies of the South Somerset Local Plan.

Relevant Development Plan Documents:

Somerset National Park Joint Structure Plan
 Policy STR1 Sustainable Development
 Policy STR6 Development Outside Villages
 Policy 23 - Tourism Development in the Countryside
 Policy 49 Transport

Somerset Local Plan

ST3 Development Areas
 ST6 Quality of Development
 ST5 Principle of Development
 ME10 Tourism

Regards shall also be had to:
 National Planning Policy Framework (March 2012)
 Chapter 1 Building a Strong Competitive Economy
 Chapter 3 Supporting a Prosperous Rural Economy
 Chapter 4 Promoting Sustainable Transport
 Chapter 11 Conserving and Enhancing the Natural Environment

CONSULTATIONS AND REPRESENTATIONS

Huish Episcopi Parish Council - No objection

Aller Parish Council (neighbouring PC) - Support.

County Highway Authority – Objects, noting:-

“In previous applications the Highway Authority raised concerns about the suitability of the approach road and the junction of Whitehill with the A372. It was signalled that no further increase in traffic generated by the site would be acceptable. Whitehill is very steep and from this steep road drivers are asked to make a sharp turn into Bowdens Lane without the benefit of sufficient visibility. Towing units tend to be slower moving and find it harder to make this turn. The junction with the A372 is a strange hybrid affair with the classified un-numbered Wearne Main Road joining the A372 with junction with Whitehill almost immediately afterwards. A vehicle and caravan towing unit would struggle to get in position to join the A372 from Whitehill without blocking Wearne Main Road.”

“Bowdens Lane is a single track lane with few passing places and those that do exist are informal and short in length for a towing unit. Two towing units meeting could be several hundred metres from the nearest passing place which would mean excessive reversing requiring very good skill levels. Clearly there is a tipping point where such conflicting movements go from being rare to being much more likely and the situation becomes unacceptable. These things are hard to judge but, having said that the tipping point had been reached, the Highway Authority has no option but to recommend refusal.”

SDDC Technical Services - No comment

Area North Development - notes that there is a view that camping and caravanning is on the increase due to a number of factors - the current economy, people looking to take low impact breaks, general improvements in sites and camping gaining popularity. While we have a few campsites in the area, they each offer a slightly different service - Bowdens offering probably more facilities than some, and would possibly attract a different client group. Visitors to the area for its cycling/walking etc are looking at facilities, including campsites, for future breaks. This would suggest that there is growing potential.

REPRESENTATIONS

None.

APPLICANT'S CASE SUMMARISED BY THE PLANNING OFFICER:

A great deal of demand is from walkers and cyclists who erect one/ two man tents for one night at a time whilst staying for a local event or just passing through. For instance Bowdens Crest Caravan Park is a recognised stopping point on the Lands End to John O'Groats walking route. These small one/two man tents don't take up a great deal of space and they are not on the site for very long but there is always the potential to tip the numbers over the existing limit of 30 due to the fact that these people rarely book in advance.

The submitted plan indicates the area D to be set aside for walkers and cyclists. The Council might control the camping pitches for non-car bound campers and, practically, there is only one area that lends itself to the pitching of one and two person tents due to the fact that all other areas are occupied either by the statics or in the case of the touring caravans/ large tents/ motor homes the pitches have hook ups (electric and water). These are premium sites and there is no incentive to use these for one and two person tents as they do not hook up and as such this would not be cost effective.

The central area identified as D on the submitted plan could be set aside and conditioned for no more than 15 one and two person tents for persons arriving either on foot or bicycle. I believe the area could be restricted to that by such a condition backed up by a standard register of campers with the condition noting down their mode of transport i.e. either on foot or via a bicycle.
(Ref: Agent's letter dated 23 April 2012).

CONSIDERATIONS

The campsite is relatively self-contained with no issues arising in terms of residential or visual amenity and landscape character. The site is an established camping site contributing to the local tourist economy and as such there is no objection in principle to its further development. Accordingly the sole issue is therefore the increased traffic levels and highway safety.

The proposal seeks an additional 15 pitches - a 25% increase in use of the site. It is suggested that the additional 15 pitches would cater for an identified need from walkers and cyclists as the site is said to be on the Lands End to John O'Groats route. From experience the site owner has identified a level of non-vehicle based arrivals, which would be catered for by the current application.

However consideration must be given whether the local planning authority could enforce a requirement that campers on this part of the site should not arrive by car, as there would be a concern that there could be a displacement of tents from the 30 touring pitches already permitted. Should this occur the effect would be a freeing up of the existing pitches for use by caravans and/or mobile homes leading to an increase the number of larger/ towed vehicles that concerns the Highway Authority.

The applicant's agent argues the increased number of pitches would be limited to those arriving on foot or cyclists. However there would be no reason to suppose the number of vehicular movements would not increase either, as a result support vehicles for long distant walkers and cyclists or as a result of displaced campers without the need for the premium pitches providing electricity and water supply hook ups. A condition has been suggested to require campers within 'Area D' not to arrive by car, however is not considered that such a restriction would be reasonable or enforceable.

The Highway Authority have previously raised concerns about additional development on site and the suitability of the approach road. The junction of Whitehill with the A372 is considered difficult and is followed by a steep haul up Whitehill, at the top of which drivers are asked to make a sharp turn into Bowdens Lane without the benefit of sufficient visibility. It is considered that a large and/or towing vehicles struggle to get in position to join the A372 from Whitehill without blocking Wearne Main Road. Accordingly there is an objection to any proposal that would trigger an increase in vehicular movements from Bowdens Crest, particularly an increase in larger or towing vehicles.

Conclusion

The applicant's proposal seeks an additional 15 pitches or a 25% increase in pitches on site, to occupancy of which could not reasonably be restricted by condition to those arriving on foot or by bicycle. Further more the proposal could result in the displacement of tents from the existing pitches, releasing up to half of the existing 30 touring pitches for increased use by caravans/trailer tents and mobile homes. This potential increase in traffic would, in the opinion of the highways authority, be detriment to highways safety due to the substandard nature of the local road network.

RECOMMENDATION

Decline to vary condition

REASON FOR REFUSAL

01. The approach roads, by reason of their restricted width, poor alignment and substandard junctions are unsuitable to serve as a means of access with the increase in traffic that would be generated by the proposed variation of condition to allow 15 additional pitches. The proposal is therefore contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review (adopted April 2000), Policy ST5 of the South Somerset Local Plan and the advice of the National planning Policy Framework.
-

Area North Committee – 23 May 2012

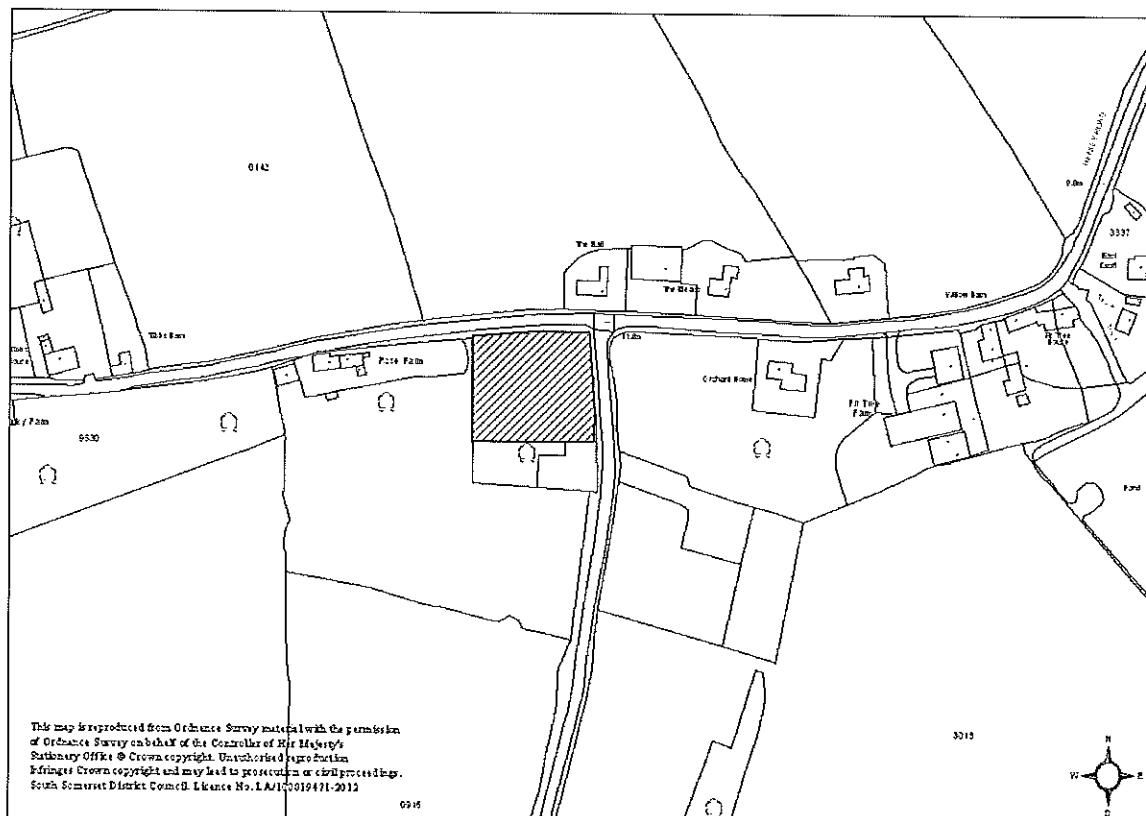
Officer Report On Planning Application: 12/00463/S73A

Proposal :	Application to vary condition 11 of planning application 06/02183/COU (changes to traffic movements) (Retrospective) (GR: 343153/132316)
Site Address:	Bridge Horn Barn, Henley, Langport
Parish:	High Ham
TURN HILL Ward (SSDC Member)	Cllr Shane Pledger
Recommending Case Officer:	Claire Alers-Hankey Tel: 01935 462295 Email: claire.alers-hankey@southsomerset.gov.uk
Target date :	5th April 2012
Applicant :	S Cowling & K Cook
Agent: (no agent if blank)	Paul Dance Ltd Foxgloves, North Street, Stoke Sub Hamdon TA14 6QQ
Application Type :	Other Change Of Use

REASON FOR REFERRAL TO COMMITTEE

This application is referred to the Area North Committee with the agreement of the Area Chair and Ward Member so that full consideration can be given to local concerns.

SITE DESCRIPTION AND PROPOSAL



The site is located at Henley, and accommodates a live/work unit comprising a converted residential barn and two outbuildings, which are used for the work element. The dwelling is a detached two storey building constructed from blue lias stonework with red clay double Roman roof tiles. The outbuildings are constructed from concrete blockwork, one of which is rendered, with fibre cement sheeting on the roof and sides. The outbuildings are used in relation to the business of maintenance and sale of classic, compact and vintage tractors, and ancillary implements/accessories.

This application seeks planning permission to vary a condition that was attached to a previous permission at the site (condition 11 of 06/02183/COU). This condition states the following:

Within 3 months of the date of this permission an Operational Management Plan in relation to the vehicles writing or operating at the site, including vehicle types, frequency and local traffic routes shall be submitted to and approved by the LPA. The uses hereby approved shall at all times be operated strictly in accordance with such approved Plan.

Reason: In the interests of the amenities of local residents and of highway safety.

An Operational Management Plan (OMP) was submitted to discharge condition 11 on 31st August 2007 following the approval of 06/02183/COU on 5th June 2007. The OMP proposed:

- 6 x artic movements per year
- 74 x movements per year from either Palletline (7.5 tonne lorry) or land rover and trailer
- 12 x delivery movements per year with land rover and trailer
- Occasional deliveries by other commercial vehicles (no limit set on this)

The OMP was approved by discharge of the condition on 23rd January 2008.

With this application revised vehicle numbers have been submitted in an attempt to regularise the amount of traffic that has actually been accessing the site. The information submitted with the application has applied for the following movements:

- 5 x HGVs per week for deliveries of tractors and machinery
- 1 x HGV per week by the courier
- 1 x HGV every two months for recycling collections
- 2 x HGVs per month for general deliveries such as oil, supplies, animal feeds, customers with their own vehicle collecting, and passing trade

This totals 342 HGV movements per year, which equates to approximately one HGV movement per day. It is worth noting that any vehicle over 3.5 tonnes is classified as a HGV vehicle. The agent has provided further information to give an approximate breakdown of the types of vehicles and number of vehicle movements for specific vehicle types requested, which is as follows:

- 15% of the total movements proposed as articulated lorries (which equates to 1 per week delivering tractors, machinery and general agricultural supplies)
- 5% of the total movements proposed as 13 tonne HGVs
- 40% of the total movements proposed as 7.5 tonne HGVs
- 40% of the total movements proposed as 3.5 tonne HGVs

HISTORY

10/01915/COU: Permission refused for retrospective change of use of land from agricultural to business use together with variation to condition 8 of 06/02183/COU to allow the inclusion of the sale of ancillary tractor goods/tractor accessories (02/08/2010). Appeal against the refusal resulted in a split decision on 10/02/2011, allowing the variation of condition to include the sale of tractor accessories and implements, but refusing the extension of the commercial site on the grounds that:-

- *'were significant additional traffic to be generated from the site, it would result in conflict with criterion 5 of Policy ST5 of the adopted South Somerset Local Plan.'* (para. 18)
- *'Detailed changes in the pattern of activities on the site may result in variations in the scale and type of traffic generated. Nevertheless, the capacity for greater activity on the site - and the consequent potential for traffic generation - seems to me to be largely determined by the land area available for the storage and display of those goods available for sale.'* (para 21)
- *'The Council chose to give permission for a range of uses. In doing so, it must have accepted, subject to any conditions imposed, that the use of the site could expand to its full potential capacity and that the appellant could vary the pattern of activity undertaken on the site within the span of uses that the permission allows.'* (para 22)

10/01926/COU: Retrospective change of use of land, extension to residential curtilage. Granted conditional approval on 22/06/2010.

09/03813/COU: Change of use of land from agricultural to form extension to work/home premises (residential and business curtilage). Retrospective application. Application refused on 03/02/2010.

06/02183/COU: Retention of agricultural buildings and change of use to (1) a depot for local agricultural contracting business (2) a base for the maintenance and sale of classic vintage and compact tractors. Granted conditional approval on 05/06/2007.

02/02423/FUL: Conversion of redundant barn to one workplace home. Granted conditional approval on 24/10/2002.

01/01746/FUL: Conversion of barn to one workplace home and use of agricultural buildings for B1 office/light industrial use. Application refused on 31/08/2001.

POLICY

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

Saved policies of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011:

Policy STR1 - Sustainable Development

Policy 19 - Employment of Community Provision in Rural Areas

Policy 49 - Transport Requirements of New Development

Saved policies of the South Somerset Local Plan:
Policy ST3 - Development Areas
Policy ST5 - General Principles of Development
Policy ST6 - The Quality of Development

National Guidance
National Planning Policy Framework - March 2012
Chapter 1 - Building a Strong Competitive Economy
Chapter 3 - Supporting a Prosperous Rural Economy
Chapter 4 - Promoting Sustainable Transport

South Somerset Sustainable Community Strategy
Goal 7 - Distinctiveness
Goal 8 - Quality Development
Goal 9 - Homes

CONSULTATIONS

HIGH HAM PARISH COUNCIL - States that their attempts to encourage meaningful dialogue between the applicant and local residents have failed, as neither party were prepared to do this. Comments that they understand that a realistic level of vehicle movements need to be determined that both satisfy the business needs and do not adversely impact upon local people living in close proximity to the site. Notes that it would have been helpful to have the anticipated number of articulated vehicles identified in the supporting information, as well as the County Highway response before their comments were made. Reference to the recent appeal decision at Bridgehorn Barn is made regarding the capacity of the local highway infrastructure and the capacity of the business which is dependent on the size of the site/land available for the storage and display of goods available for sale. Concludes by saying that the PC believes the optimum capacity of the site has been reached and has stated in the past that it will not support any further expansion of the site.

COUNTY HIGHWAY AUTHORITY - Refers to previous Highway responses for the application site which objected to development proposals given the standard of the surrounding highway network and the likely type and volume of traffic generated by the use. Having recently visited the site notes that the approach roads and nearby junctions are still considered to be substandard. Considers the enforcement of condition 11 is considered to be onerous from a highway perspective, and is not a condition that was imposed by the Highway Authority. Refers to the comments made by the Inspector in the recent appeal decision at the site, particularly comments over the potential traffic generation being determined by the land available for the storage and display of those goods available for sale, significant additional traffic generated from the site being in conflict with Local Plan policy and the permission on the site allowing the site to expand to its full potential capacity. Concludes by saying that the business granted permission on the site was contrary to the advice of the Highway Authority and the business permitted has the potential to generate a significant level of traffic movement including those made by HGVs. Whilst being mindful of what has previously been approved at the site, the Inspectors comments and subsequent appeal decision, states it is a matter for the LPA to decide what is reasonable and appropriate in respect of this latest application.

AREA ENGINEER - No comment

LANDSCAPE ARCHITECT - No landscape issues to raise

REPRESENTATIONS

FIVE LETTERS OF OBJECTION - Have been received, raising concern over the following issues:

- There are already too many HGVs accessing the site via a single track lane
- Applicant already breaches the traffic allowances he has
- Risk to other highway users (e.g. horse riders, dog walkers, children playing) from increased traffic
- Only reason business has grown is because of continual breaches of planning conditions on the site
- Permission for the level of vehicles as requested will relieve SSDC of their obligation to enforce
- No reference is made in the application as to how many of the vehicles will be HGVs
- Highways have consistently stated the road is unsuitable for an increase in such traffic
- Roads are not suitable and road safety will be compromised
- Appeal Inspector already found that he did not want to see any growth on this site
- Business would be better located on a trading estate
- Application is retrospective
- How many vehicles will be articulated? Application should not be determined until applicant has clarified the breakdown of types of vehicle movement

CONSIDERATIONS

In determining a section 73A application the local planning authority is not confined to consideration the changes to conditions proposed, but can seek to impose all necessary and reasonable amendments to conditions, provided no new and more onerous restrictions are imposed. The resulting decision is in effect a replacement permission, however the original permission stands and the applicant can, if they disagree with a S73A approval simply continue to operate under their original permission. This application is therefore an opportunity to 'refresh' the extant permission and re-impose up-to-date conditions.

Condition 11 of the 2006 application is not considered to be appropriate as the invitation to submit an OMP does not give any indication as to what level of traffic is likely to be acceptable and lacks clarity as to what is approved. The judgement in *Midcounties Co-Operative Ltd v Wyre Forrest District Council* [2009] found that a condition which included a clause that allowed details of the proposal to be varied by condition to be inappropriate. In paragraph 66 of his judgement, Ouseley J said, *'It makes hopelessly uncertain what is permitted. It enables development not applied for, assessed or permitted to occur. It side steps the whole of the statutory process for the grant of permission and the variation of conditions'*.

It is considered that the current wording of condition 11 introduces an unacceptable degree of ambiguity as it is unclear what level of traffic movements are deemed acceptable and will subsequently be agreed. If retained, it would be preferable for this condition to clearly state the level of traffic movements permitted and it is therefore considered that this S73A application could now address this lack of clarity.

However it must be acknowledged that the 2006 application granted permission for the use of the land and buildings as a depot for the agricultural contracting business and a base for the maintenance and sale of classic, vintage and compact tractors. When

permission was granted for this site, the fact that the business could expand to the full capacity of the red line site was accepted, subject to appropriate restrictions on the nature of the use and the hours of operation. Indeed the Inspector considering the refusal of 10/01915/COU noted that the potential traffic generation is determined by the land available for the storage and display of the approved goods. Accordingly the Council's refusal of the extended storage area was upheld at appeal. The area of the site therefore remains as approved under the 2006 application.

This application in effect, now seeks to allow the business to develop to the capacity of the site by relaxing the restriction on the number of vehicle movements. The local planning authority must therefore consider the conditions that should reasonably be imposed. There are considered to be three options open to the Council:-

Option 1 – re-draft condition 11 to specify the number of vehicle movements, as set out in the application, retaining other conditions as necessary.

Option 2 – delete condition 11 and rely on a re-imposed conditions in relation to hours of work, goods to be sold and approved redline area to naturally constrain the vehicular movements.

Option 3 – decline this application, in which case the applicant would have to continue to operate to within the terms of the 2006 permission

Option 1

Whilst it would be possible to clearly state the permitted number of vehicle movements to and from a site, broken down into various vehicle types, in practice it is very difficult to monitor and enforce traffic movements, particularly when expressed as an annual total. Whilst the District Council might be able to monitor a daily or even weekly total, it is considered that this would introduce an unreasonable degree of inflexibility to a small business such as this that will inevitably have 'quiet' weeks and 'busy' weeks.

On this basis concern is raised that a redrafted condition 11 referring to an annual total would not accord with the advice of Circular 11-95, alternatively a weekly or daily total may not be acceptable to the applicant, and this option is not considered reasonable or practical.

Option 2

Whilst the applicant has suggested that he could operate within a maximum of 342 movements per year, the need to rely on a stated annual total is questioned given that the level of activity at the site is also defined by:-

- The land available for the approved activities as approved by application 06/02183/COU
- The nature of the permission as defined by condition 08 of 06/02183/COU, as varied by the Inspector at the appeal against the refusal of 10/01915/COU
- The hours of operation as set out in condition 10 of 06/02183/COU.

On the basis that the business operates within these constraints it is considered that stating the number of vehicular movements would serve no reasonable planning purpose, and, as stated above, be potentially unenforceable. It is accepted that the highways authority has made reference to their previous objections due to the substandard nature of the highway network, however the fact remains that permission for

the business already exists on the site, and the potential for the business to develop to its full capacity, has been accepted.

Option 3

Whilst there are local highways concerns about the impact of increased traffic, there are two important factors that weigh against declining this s73A application. Firstly the current OMP agreed under condition 11 allows for:-

- 6 x artic movements per year
- 74 x movements per year from either Palletline (7.5 tonne lorry) or land rover and trailer
- 12 x delivery movements per year with land rover and trailer
- Occasional deliveries by other commercial vehicles (no limit set on this)

This annual total of 92, plus an unspecified number of 'other commercial movements', makes enforcement very difficult.

Secondly it is considered that, in light the extant permission and the stance adopted by the Inspector, it would be unreasonable to now reject changes to the permitted traffic movements given that there is no increase in site area, no change in hours of operation and no change in the nature of the business. The applicant simply wants to operate to the natural capacity of the approved site. Clearly the current limits on traffic movements, if enforced, would undermine the viability of a successful rural business that benefits from the grant of planning permission.

On this basis no support can be offered to this option.

Conclusions

As set out above, Options 1 and 3 are not considered to be reasonable proposals, and therefore Option 2 is considered the most appropriate and reasonable approach.

It is accepted that the planning history of this site is difficult and contentious; nevertheless the local planning authority is now faced with an application that effectively seeks a 'fresh permission' under which the site will operate in the future. It is an opportunity to reconsider all conditions in light of the current situation and the recent planning history. Whilst the operation of this business has clearly given rise to local concerns the fact remains that it benefits from permission and the local planning authority must now consider carefully whether conditions meet the requirements of circular 11/95.

It is not considered that a condition to setting out an annual total number of vehicular movements would be enforceable and should be avoided. There are however restrictions on the use (condition 8 of 06/02183/COU, as varied) remain relevant and reasonable, as are the hours of operation as stated by condition 10 of 06/02183/COU. Similarly the approved plans as specified by condition 15 to define the area approved for the agreed use need to be set out on any approval.

It is not necessary to repeat all other conditions from the 2006 application that have already been discharged or are already deemed acceptable. The submitted layout plan shows the access arrangements which have been deemed acceptable under the terms of condition 07 of 06/02183/COU and retains the northern boundary hedge with is a

requirement of condition 03 of 06/02183/COU. Therefore, conditioning the submitted plan as the approved plan will secure the access and hedge requirements of the previous application.

Conditions that were attached to permission 02/02423/FUL still apply to the residential plot of the site and do not need to be reproduced with this application.

RECOMMENDATION

Permission be granted

Justification

The proposed variation of conditions attached to 06/02183/COU, would allow the approved re-use of these buildings and site to operate within reasonable restrictions on site area, goods to be trade and hours of operation without detriment to residential or visual amenity or highways safety. As such the proposal complies with Policies ST3, ST5 and of the South Somerset Local Plan and Policies 19 and 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.

SUBJECT TO THE FOLLOWING:

01. The existing roadside hedge along the northern boundary of the site and the access arrangements/visibility splays, as shown on submitted site plan drawing received 8th February 2012, shall be retained at all times.

Reason: In the interests of highways safety and to safeguard the character of the area, in accordance with Policies ST5 and ST6 of the South Somerset Local Plan.

02. No manufacturing, fabrication or other industrial process shall take place outside the confines of the buildings on the site.

Reason: To safeguard local residents from noise and disturbance, in accordance with Policy ST6 of the South Somerset Local Plan.

03. The uses hereby permitted shall only be carried out by the occupier(s) of the dwelling within the application site, or those employed by the occupier(s) of said dwelling.

Reason: In the interests of local amenities in accordance with Policy ST6 of the South Somerset Local Plan.

04. The subject land including the buildings thereon shall be used for a depot for agricultural contracting business and for the maintenance and sale of classic, vintage and compact tractors and spare and replacement parts and accessories for these, including tools and implements to be attached to compact tractors, and for no other purpose (including any other purpose in Class B1, B8 and A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: In the interests of clarifying the scale and nature of the business, in the interests of local amenities, in accordance with Policy ST6 of the South Somerset Local Plan.

05. No work in connection with the use defined in condition 4 shall take place at the site, and no deliveries shall be taken at or despatched from the site outside the hours of 8.00 a.m. to 6.00 p.m. Mondays to Fridays, 8.00 a.m. to 1.00 p.m. on Saturdays, nor at any time on Sundays, Bank or Public Holidays.

Reason: To safeguard local residents from noise and disturbance in accordance with Policy ST6 of the South Somerset Local Plan.

07. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) no garages, sheds, greenhouses or other structures shall be erected on the application site without the express grant of planning permission in respect thereof.

Reason: To safeguard the character and appearance of the area in accordance with Policy ST6 of the South Somerset Local Plan.

08. The development hereby permitted shall be carried out in accordance with the site plan received 8th February 2012.

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

Informatives:

01. The conditions attached to 02/02323/FUL also still subsist and have effect with regard to the conversion and residential occupation of the former barn.

Area North Committee – 23 May 2012

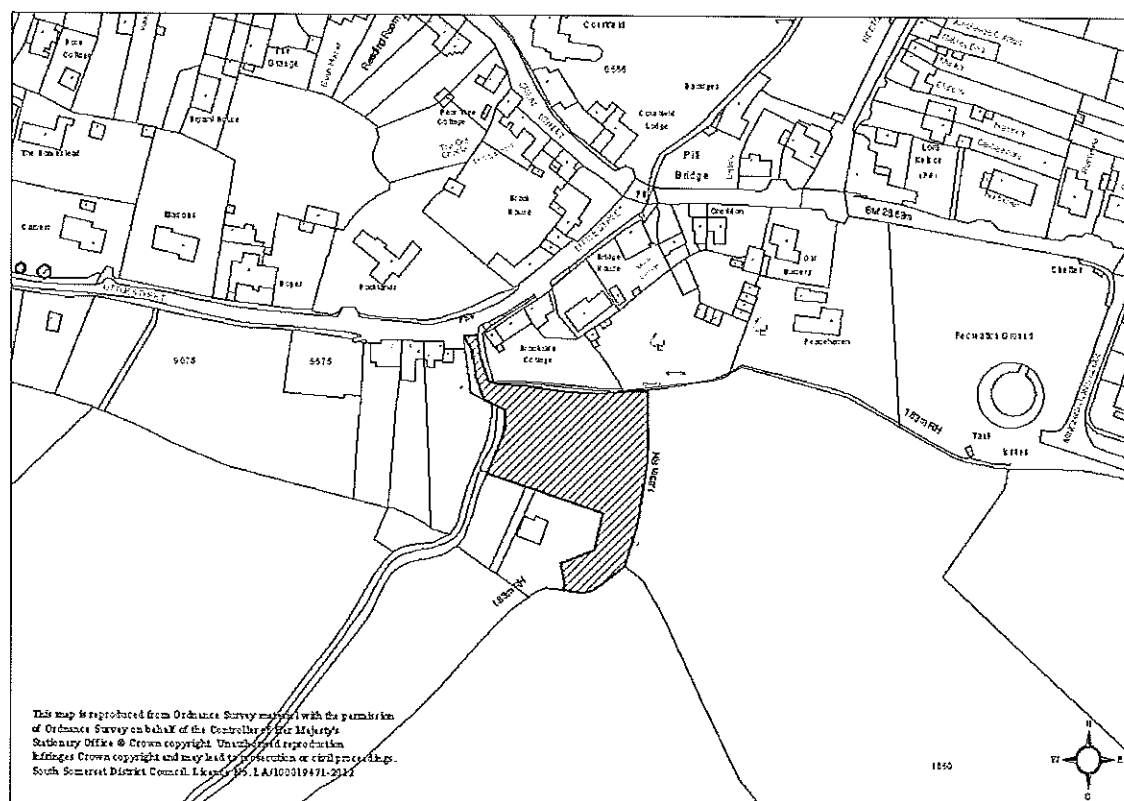
Officer Report On Planning Application: 12/00692/FUL

Proposal :	The erection of an eco-dwelling and replacement stables (GR: 347051/115738)
Site Address:	Land Off Little Street, Norton Sub Hamdon
Parish:	Norton Sub Hamdon
HAMDON Ward (SSDC Member)	Cllr Sylvia Seal
Recommending Case Officer:	Claire Alers-Hankey Tel: 01935 462295 Email: claire.alers-hankey@southsomerset.gov.uk
Target date :	26th April 2012
Applicant :	Mr A Holm
Agent: (no agent if blank)	Mr Matt Frost Motivo, Alvington, Yeovil, Somerset BA20 2FG
Application Type :	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL TO COMMITTEE

This application is referred to the Area North Committee at the request of the Area North Chair and Ward Member so that the Ward Member and Parish Council concerns can be considered further.

SITE DESCRIPTION AND PROPOSAL



The site is located to the south of Norton sub Hamdon, outside of the defined development boundary and directly adjacent to the local conservation area, and adjacent to listed buildings on Little Street. The application site measures 0.24 hectares and is currently used as a paddock. The applicants own the adjacent paddock to the south of the application site which runs south-westwards direction as well as 5 Little Street which is the nearest property to the west of the application site. An existing stable block is located in the adjacent paddock to the site.

The site is accessed off an existing access from Little Street. Two public right of ways (PROWs) run across the application site. The western side of the application site falls within a Flood Zone 3.

This application seeks planning permission for the erection of a large detached eco-dwelling in the northeast corner of the site and the erection of a stable block in the southeast corner of the paddock. The proposed dwelling is formed from two blocks with a two storey section with a hipped roof and a single storey section with a pitched roof and integral canopy. The proposed materials for the dwelling are hamstone walling and a natural slate and solar tiles roof with painted timber windows and stone mullions and cills. The proposed stable block comprises a linear arrangement of three stables and a store with a pitched roof and the proposed materials are horizontal timber cladding and a slate roof.

Various supporting reports have been submitted with the application, including a flood risk assessment and a report that provides an assessment of the proposal against PassivHaus design and the Code for Sustainable Homes Level 6, which is the highest eco-rating a dwelling can currently achieve.

HISTORY

11/01454/FUL - The erection of an eco-dwelling, carport and replacement stables. Application withdrawn on 27/09/2011.

922366 - The erection of a stone barn. Application refused on 23/12/1992.

861946 - The erection of an agricultural workers dwellinghouse and garage. Application refused on 28/11/1986.

POLICY

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

Saved policies of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011:

Policy STR1 - Sustainable Development

Policy STR6 - Development Outside Towns, Rural Centres and Villages

Policy 5 - Landscape Character

Policy 9 - The Built Historic Environment

Policy 33 - Provision of Housing

Policy 49 - Transport Requirements of New Development

Saved policies of the South Somerset Local Plan:

Policy ST3 - Development Areas

Policy ST5 - General Principles of Development

Policy ST6 - The Quality of Development

Policy EC3 - Landscape Character

Policy EH1 - Conservation Areas

Policy EH5 - Development Proposals Affecting the Setting of Listed Buildings

Policy TP7 - Residential Parking Provision

Policy HG1 - Provision for New Housing Development

Policy CR6 - Horses and Development

Policy CR9 - Public Rights of Way and Recreation Routes

National Guidance

National Planning Policy Framework - March 2012

Chapter 4 - Promoting Sustainable Transport

Chapter 6 - Delivering a Wide Choice of High Quality Homes

Chapter 7 - Requiring Good Design

Chapter 10 - Climate Change and Flooding

Chapter 11 - Conserving and Enhancing the Natural Environment

Chapter 12 - Conserving and Enhancing Historic Environment

South Somerset Sustainable Community Strategy

Goal 7 - Distinctiveness

Goal 8 - Quality Development

Goal 9 - Homes

Goal 10 - Energy

CONSULTATIONS

PARISH COUNCIL - Support the application and make the following comments:

- Improvement on last application
- Proposed planting and hedging is improved from last application
- Only reason they support this site which is outside the development area is because it would be an improvement of the site
- The design would benefit the area and is a natural addition to the village
- The plot is flat with a driveway already in existence
- The PC is concerned that no precedent is set by the approval of this application, as it is only supported as it is a level site and the design will match with other buildings currently there. It is also the highest level of eco-build available.
- Future applications will be considered purely on their own merits
- Councillors have raised previous concerns regarding the small roads/lanes in the village which are extremely narrow with no pedestrian path/pavement for a large part of it. There are already problems with existing traffic, and access for emergency services. Extra vehicles on any of these lanes would be strongly discouraged.

COUNTY HIGHWAY AUTHORITY - Notes that the site lies within a small village with few services and amenities and outside development boundary limits, and therefore future residents of the development would be reliant on their cars for many daily needs, which is contrary to Policies STR1 and STR6 of the Structure Plan, which seek to limit development in unsustainable locations. Comments that the supporting documents state there is a precedent for this development within the village but that does not alter the opinion of the Highway Authority that the location is unsustainable. There is a primary

school and small shop in the village but these are not connected by a well lit footway which means the private car is the most likely choice to access these and all other services and amenities. Recommends refusal.

AREA ENGINEER - Surface water disposal via soakaways

LANDSCAPE ARCHITECT - Considers there are clear in-principle issues that tell against this application. Also notes that an earlier consent for an eco-dwelling in the village is cited as creating a precedent for the approach taken here, however does not see the earlier consent as establishing a precedent here as the earlier Mill Land application was viewed as being a one-off eco-dwelling exemplar, and it was sited in a location that was already domesticated in character, lay outside the conservation area and was surrounded on three sides by development. This proposal is not well related to the settlement pattern of Little Street. A major characteristic of the adjacent Little Street properties is that they face onto the street and back onto undeveloped land. This historic correspondence is a defining characteristic of the conservation area, as is the relationship with the open fields to the immediate south, a number of which also lay within the conservation area. Its considered to develop the land to the back of these properties is contrary to the settlement pattern of the conservation area; its character; and impacts upon the setting of the conservation area in terms of its spatial arrangement and the historic spatial associations. Additionally the location is clearly countryside, characterised by pasture and separated from settlement by the hedgerow to the north and west, which demarcates the settlement edge. In displacing pasture; introducing built form into an agricultural field; creating a double-depth of development in relation to the street pattern; and projecting development form further south in this part of the conservation area, Landscape Architect considers the proposal erodes the countryside and is at variance with local character. The close correspondence of the house with the listed cottages to the north is also viewed as an adverse correspondence. Concludes that there are clear landscape conservation grounds upon which to resist this application.

CONSERVATION MANAGER - Comments that while support should be given to attempts to erect greener, low impact dwellings, planning policy still has to be applied and eco-credentials are not a means to override this. States that the proposal is not well-related to the settlement pattern of Little Street and the immediately adjacent conservation area. A major characteristic of the adjacent buildings is that they face onto the street, and back into developed land, and this historic relationship is a defining characteristic with the open fields to the immediate south which are in the conservation area. Development here would be contrary to this settlement pattern, contrary to the character of the conservation area and have a harmful impact upon its setting. This application is for a partly two storey building on the most elevated part of the site, which would have a significantly intrusive affect upon the setting of the listed houses adjacent in Little Street and beyond. Indeed the view back to the settlement from the PROW, with the church tower prominent, would be severely affected to its detriment. Refers to the comments made by the Landscape Architect as being relevant.

PLANNING POLICY - Refers to policy response on previous application, which noted that the site is located outside of the defined development area boundary. Comments that no supporting evidence to demonstrate any economic benefit of the proposal is submitted. In terms of whether the dwelling is exceptional in regard of sustainable construction, the proposal is for Passivhaus and Code for Sustainable Homes Level 6 to be achieved, however the proposal does not significantly enhance the setting of the adjacent listed cottages, nor is it sensitive to the defining characteristics of this countryside location, which is a requirement of planning policy. Notes that inhabitants of proposed dwelling would need to travel to access most facilities including education (except primary schooling), shopping and health. Although there are bus services to

Yeovil and Couth Petherton, they run only hourly from 8am to 6pm and not at all on Sundays. Does not consider the benefits of the proposed eco-dwelling are sufficient to outweigh the need to control development in the countryside, nor are the merits of the proposal sufficient to satisfy the criteria for exceptional quality or enhancement of its setting. Concludes that there is a policy objection to this proposal.

CLIMATE CHANGE OFFICER - Confirms the dwelling would achieve the requirements of Code Level 6. The design includes passivhaus, photovoltaics, biomass boiler, whole house mechanical ventilation with heat recovery, and should be encouraged. One other Code Level 6 house is being constructed in the South West and therefore could be described as an exceptional house in the countryside. Raises no objection subject to conditions to ensure the high standards proposed are achieved.

ECOLOGIST - Is satisfied with the submitted survey and agrees with its findings that the proposal is unlikely to give rise to any significant ecological issues.

COUNTY RIGHTS OF WAY OFFICER - Confirms there are two public rights of way (PROWs) which cross the development site at the present time. No objection raised subject to the developer being informed that the grant of planning permission does not entitle developers to obstruct a PROW. Development that affects a PROW should not be started, and the PROW should be kept open for public use until the necessary Diversion Order has come into effect.

ENVIRONMENT AGENCY - Notes that part of the site falls within Flood Zone 3, but all built development is situated within Flood Zone 1 (low flood risk). Accordingly no objection raised subject to recommended conditions.

MINISTRY OF DEFENCE - No objection

REPRESENTATIONS

FOUR LETTERS OF SUPPORT - Have been received, raising the following points:

- Previous work carried out by the applicants on Little Street have improved the aesthetic of the area
- Build would have a positive effect on the street and will compliment the village
- Proposal would not be visible to neighbouring property due to existing boundary treatments

CONSIDERATIONS

Principle

The site is outside of the defined development area, where new residential development is strictly controlled to that which benefits economic activity, maintains or enhances the environment, and does not foster growth in the need to travel. Given that the dwelling cannot be considered to have met these criteria, the principle of the dwelling is unacceptable. However, the proposed dwelling is intended to be exceptional in that it would be of Passivhaus design and meet Sustainable Homes Code Level 6, which is the highest energy efficiency rating a property can achieve. This argument has been offered by the agent as a justification for an exemption from the restrictive planning policy that would normally apply.

The agent has also referred to another site within the parish of Norton sub Hamdon, where an eco-dwelling meeting Sustainable Homes Code Level 5 was approved outside

of the defined development area. The agent refers to this application as being a 'precedent scheme' and thereby providing a benchmark for this scheme, where a higher level of eco can be achieved.

Highways

The Highway Authority has objected to the proposal on the basis that Norton sub Hamdon is served by few services and amenities, and is outside of the defined development area. This means that future occupiers of the proposed dwelling would be solely reliant on their cars for many of their daily needs, which is contrary to planning policy that is aimed at limiting development in unsustainable locations.

Particular reference is made within the highway response to the primary school and small village shop within Norton sub Hamdon. While these are local facilities that are available locally, they are not connected to the site by a well lit footway, which means that the private car is likely to be the travel mode resorted to, to access these facilities.

Impact upon Landscape Character/Visual Amenity

The Council's Landscape Architect has lodged a strong objection to the proposal. The location of the proposed dwelling is considered to be at variance with the local settlement character along Little Street and conservation area. Little Street is currently characterised by properties that face the road in a linear fashion, and back onto open fields. This is considered to be a defining feature of the conservation area that the properties along Little Street possess. To develop the site to the rear of these properties would harm the settlement pattern of the conservation area, the local character, the setting of the conservation area and the historic pattern of development along Little Street. Furthermore the Landscape Architect has raised objection to the fact that the introduction of a dwelling in this location would erode the countryside where there is currently a clear demarcation between the built form of the village and the open countryside, by breaching this currently clearly defined boundary, to provide a double-depth of development in relation to street, which is not found elsewhere along Little Street.

The Landscape Architect has also commented that the eco-dwelling approved on Mill Lane in Norton sub Hamdon does not set a precedent for such development, as the application was viewed as being a one-off eco-dwelling exemplar, and in it's favour, was sited in a location that was already domesticated in character, was well away from the conservation area and was surrounded on three sides by development. This site off Little Street could not be said to benefit from these factors.

Impact upon Historic Environment

The proposal is not well-related to the settlement pattern of Little Street and the immediately adjacent conservation area. A major characteristic of the buildings along Little Street is that they face the street and back onto undeveloped land, which is also included within the conservation area in places. This historic relationship is a defining characteristic of the conservation area. Development as proposed would be contrary to this settlement pattern and contrary to the character of the conservation area, and have a harmful impact upon its setting.

In terms of the detail of the application, the proposal is now for a two storey dwelling on the most elevation part of the site, which would have a visually intrusive affect upon the setting of the listed houses adjacent in Little Street and beyond. Particularly, the view from the PROW across the application site to the rear of the settlement, with the church tower prominent, would be severely affected to its detriment.

Eco-dwelling credentials

The proposed dwelling has been designed with consideration to Passivhaus design and Sustainable Homes Code Level 6, which is the highest eco-rating a dwelling can achieve, with carbon output set at zero. The Council's Climate Change Officer has confirmed that the supporting documentation submitted with the application complies with the requirements of a Code Level 6 dwelling. It is noted that the design of the building includes the use of photovoltaics, biomass boiler and whole house mechanical ventilation with heat recovery, which are exactly the sustainable construction techniques that should be encouraged. The Climate Change Officer notes due to the limited amount of other Code Level 6 house being constructed in the South West and therefore the proposal can be described as an exceptional house in the countryside.

Other Issues

While the site is located partially within a Flood Zone 3, the Environment Agency has not raised an objection to the proposal as the built development is situated within Flood Zone 1, and therefore no objection is raised in relation to flood risk issues.

Two PROWs cross the application site, and the proposal as submitted would encroach onto the footpaths. Should the development be approved, then a Diversion Order would be needed to divert the PROWs along the routes that are shown within the submitted plans. However the ROW officers have confirmed there is no objection in principle to this.

Conclusion

While attempts to erect greener, low impact dwellings are supported, planning policy still needs to be applied, and eco-dwelling credentials are not a means to over-ride these. The Council's Climate Change Officer has commented that as the dwelling proposed is to be Code Level 6, the application is an exceptional house and thereby over-rides planning policy that resists development in the open countryside. However, paragraph 55 of the National Planning Policy Framework (NPPF) states that for dwellings to be considered as exceptional, the design needs to be truly outstanding or innovative, reflect the highest standards in architecture, significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. In terms of the submitted design, while the dwelling would meet Code Level 6, several houses across the country have already been constructed to meet Code Level 6, and the Government has set a target whereby all new homes should be built to meet Code Level 6 by 2016. Given that several houses in the country already meet Code Level 6, it is not considered that the proposal can be considered as truly exceptional or innovative. In terms of the actual design of the dwelling, the proposed roof on the two-storey part of the building is a hipped roof which is tall on a prominent part of the site, which is not characteristic of the area and therefore the proposal is not considered to meet the highest standards in architecture insofar as the design is out of keeping with the character of the area. As can be seen from the comments of the Landscape Architect and the Conservation Manager, it is not considered the proposal would significantly enhance its immediate setting and would not be sensitive to the defining characteristics of the local area. Therefore it is not considered the proposal meets the requirements of the NPPF in terms of being an exceptional dwelling in the countryside, and there is no justification to over-ride planning policy that resists development outside of the defined development area (Policy ST3 of the South Somerset Local Plan and Policy STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review).

The location of the proposed dwelling is not well related to the existing settlement pattern along Little Street and a dwelling in such a location would be contrary to this established pattern, harmful to the character and setting of the conservation and the setting of the adjacent listed buildings. Accordingly it is considered the proposal is contrary to policies ST5, ST6, EC3, EH1 and EH5 of the South Somerset Local Plan, Policy 9 of the

Somerset and Exmoor National Park Joint Structure Plan Review and Chapter 12 of the NPPF.

The proposed stable block is not well related the existing built form and is therefore has a heightened impact upon the visual amenity of the area and is contrary to Policies ST5, ST6 and CR6 of the South Somerset Local Plan.

RECOMMENDATION

Permission be refused

DUE TO THE FOLLOWING:

01. The site is located outside of the defined development area, where new residential development is strictly controlled to that which benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel, unless there is an over-riding policy justification. This proposal for a Sustainable Homes Code Level 6 eco-dwelling does not provide any exceptional circumstances, as detailed in paragraph 55 of the National Planning Policy Framework, sufficient to over-ride the restrictive planning policy that apply to the site and accordingly the proposal is considered to be contrary to Policy ST3 of the South Somerset Local Plan, Policy STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review and Chapter 6 of the National Planning policy Framework.
 02. The proposed dwelling would adversely affect the settlement pattern of Little Street, the character and setting of the adjacent conservation area and the setting of nearby listed buildings, which is contrary to Policies ST5, ST6, EC3, EH1, and EH5 of the South Somerset Local Plan, Policy 9 of the Somerset and Exmoor National Park Joint Structure Plan Review and Chapter 12 of the National Planning Policy Framework.
 03. The proposed stable block is detached from the settlement edge and any nearby built form, and therefore would have an adverse effect on the countryside, contrary to policies ST5, ST6 and CR6 of the South Somerset Local Plan.
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