

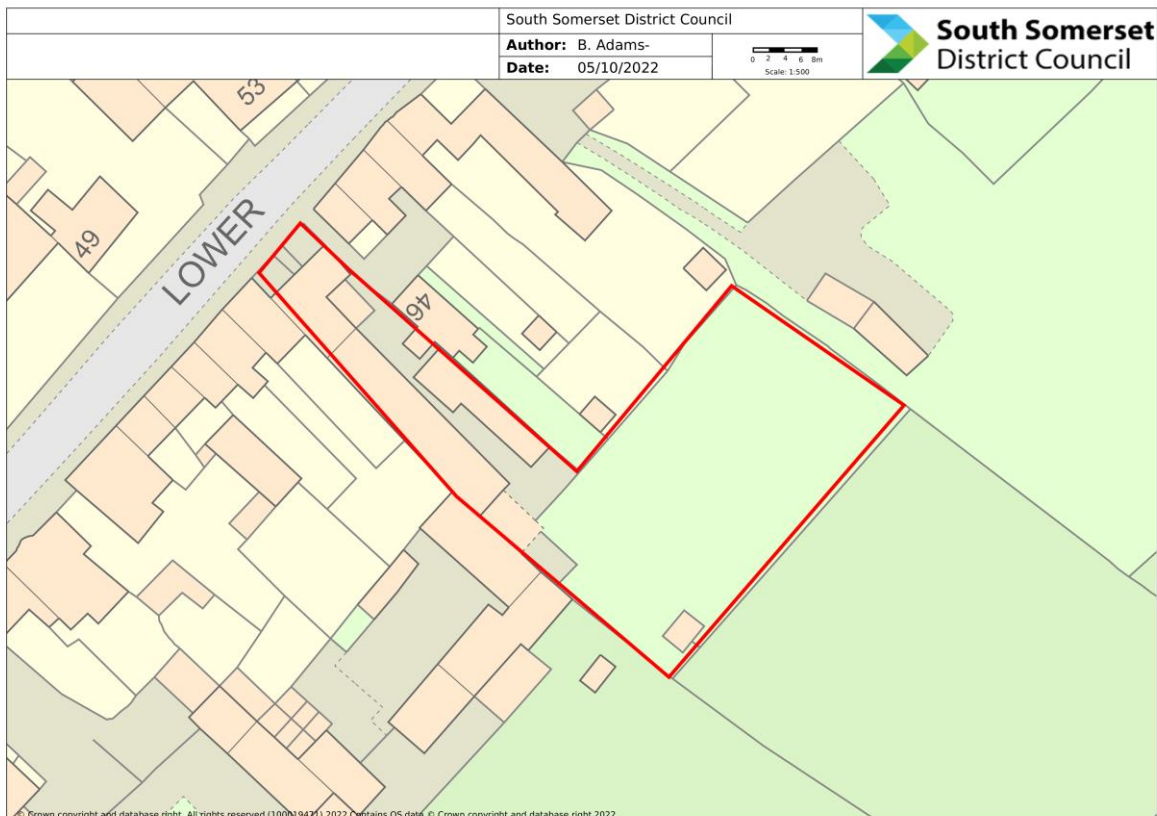
Officer Report On Planning Application: 22/01623/FUL

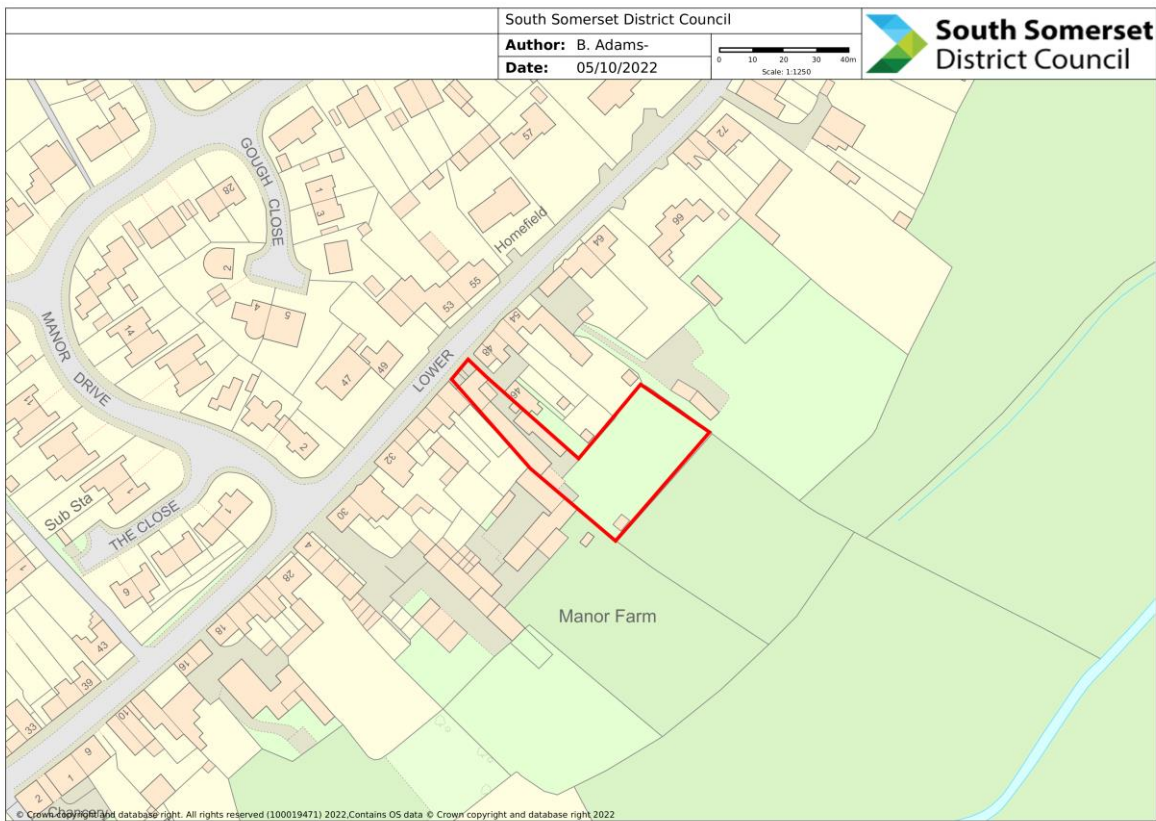
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|---------------------------------------|---|
| Proposal: | Change of use of public house (Sui Generis use) to dwelling (Use Class C3) |
| Site Address: | The Swan Inn, Lower Street, Merriott, Somerset, TA16 5NN |
| Parish: | Merriott |
| EGGWOOD Ward (SSDC Member) | Cllr P Maxwell |
| Recommending Case Officer: | Oliver Jones (Specialist) Tel: 01935 462350 Email: oliver.jones@southsomerset.gov.uk |
| Target date: | 22nd August 2022 |
| Applicant: | Twose |
| Agent: (no agent if blank) | Mrs Lydia Dunne The Hollies Cabbage Lane, Horsington, Templecombe, BA8 0DA |
| Application Type : | Other Change Of Use |

REASON FOR REFERRAL TO COMMITTEE

The application has been referred to the Committee at the request of the Ward Member, and the subsequent agreement of the Chair, as it was felt that the change of use would mean a loss of a cherished local facility and as such this does not accord with the following policies of this Council EP15, EQ4 and EQ5.

SITE DESCRIPTION





The application site relates to the Swan Inn, a Grade-II listed public house located on the western side of Lower Street, within the village of Merriott and its Conservation Area. The Swan Inn has been closed since 2016. The public house lies between two other dwellings and occupies a narrow burgage plot extending to the rear which includes a beer garden and a skittle-alley with annexed living accommodation above. Living accommodation is provided at the first floor of the main building itself. There is no formal dedicated parking serving the public house; a small concrete area lies to the front of the building, slightly set back from Lower Street and the neighbouring dwellings.

PROPOSAL

This 'full' application seeks planning permission for the change of use of the public house (sui-generis) to a C3 private dwelling. No external alterations or other operational development is proposed.

PLANNING HISTORY

17/02607/DPO - Application to discharge a Section 52 agreement between Yeovil District Council and Jeffrey Nelson Kilborn and Catherine Kilborn dates 25th March 1985 providing ancillary accommodation to the Public House. Refused.

11/04742/FUL - External alterations including new stairwell extension to rear, change of use of part of first floor to 3 bed and breakfast rooms, and the change of use of function room to landlord's accommodation. Approved.

11/04743/LBC - Internal and external alterations including new stairwell extension to rear, change. Approved.

92/01456/FUL - The carrying out of alterations and the erection of a single storey extension. Refused.

POLICY

South Somerset Local Plan 2006 - 2028

SD1 Sustainable development

SS1 Settlement strategy

SS2 Development in rural settlements

SS4 District wide housing provision

SS5 Delivering new housing growth

EP15 Protection and provision of local shops, community facilities and services

TA1 Low carbon travel

TA5 Transport impact of new development

EQ1 Addressing climate change in South Somerset

EQ2 General development

EQ3 Historic environment

EQ4 Biodiversity

EQ5 Green infrastructure

National Planning Policy Framework (2021)

Chapter 2 Achieving sustainable development

Chapter 4 Decision-making

Chapter 5 Delivering a sufficient supply of homes

Chapter 6 Building a strong, competitive economy

Chapter 9 Promoting sustainable transport

Chapter 12 Achieving well designed places

Chapter 15 Conserving and enhancing the natural environment

Chapter 16 Conserving and enhancing the historic environment

Planning Practice Guidance

National Design Guide - 2021

CONSULTATIONS

Merriott Parish Council - No objection

Subject to the assumption that Planning Officers will complete due diligence regarding the redacted financial business viability statement and are able to conclude that the evidence provided demonstrates that the Applicant's position can be confirmed, then Merriott Parish Council offers No Objection to the application, in part due to the lack of objections from Merriott residents.

Highways Authority - Standing advice applies.

Highways Consultant - No objection

There can be no transport, traffic or access issues with this development scheme as the proposed use (a single family dwelling house) would generate less traffic and demand for off-road parking than the extant use as a public inn. I have assumed that the front concrete area would NOT be used for the parking of vehicles.

CAMRA - No response.

Ecology - No response

Neighbour Comments - 14 letters of objection, 10 letters of support and 1 general comment have been received. The comments can be summarised as follows; -

Object;

- The historic pub has previously been successful
- Would be a great loss to the community to which it means a lot.
- The village is growing (150 new homes expected) and therefore has potential to serve as a business/social hub going forward.
- Village is of a sufficient size for all establishments to be sustainable.
- Noise should not be an issue as provided it is well-managed, a degree of noise should be expected within close proximity to a public house.
- Noise complaint was the only issue for the pub closing, not a lack of business.
- Loss of shops and public houses has detrimental impact on local communities
- Sale price of pub in 2016 considered totally unrealistic
- Clear intention that the public house would never re-open
- The site should be re-valued and noting that the current owners have struggle with the up-keep, may attract interest at a more realistic price.
- The loss of the public house would be at the detriment to (older) residents who can access on foot - it is the only public house which is within walking distance to many local residents.
- Parking and traffic issues have been any worse than the arrangement at the Co-op next to the roundabout.
- Poor management and inexperience led to the closure of the public house.
- Skittle alley and letting rooms have not been offered for use since the public house has been closed - these also provide other revenue streams
- Poor business model - being closed for a period of time does not render it never viable again (it was closed during periods in the 1990s and thereafter thriving)
- The Kings Arms and the Feed Station (licensed café) are very busy.
- Owner upset many people.

Support;

- Parking is restricted when used as a pub / no off-street parking.
- The Kings Head is a thriving public house which serves the village.
- The Social Club also serves a social facility for Merriott
- Noise from the public house was horrendous

- It's small size renders it impractical as a viable business in the context of changed habits and culture
- Re-opening would be impractical
- South Somerset District Council have viewed the Swan Inn as the 'lesser' public house within the village.
- 'Save our Swan' campaign in 2016 was met with dissent and apathy by local community
- Other, larger facilities (Kings Head and Social Club) offer expanded facilities including car-parking and have still had to operate reduced opening hours, indicative of the lack of business locally. The opening of the Swan could further detriment the existing community assets.
- Rising energy costs poses too much uncertainty with respect to re-opening a viable public house.
- Pub was only viable through holding special events
- Notice served on the owners with respect to noise was not correctly investigated by the Council and led to the opening of the public house being unviable at the risk of being in breach of the notice.
- Impact of the Coronavirus pandemic - behavioural changes means people are going out less/drinking at home.
- General comments;
- Ambiguity relating to what 'estimated building line' and 'annex' infers on submitted plans.

ASSESSMENT

PRICIPLE

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

In this instance the adopted development plan is the South Somerset Local Plan (2006 - 2028). The National Planning Policy Framework (NPPF) is also a significant material consideration.

Policy SD1 of the South Somerset Local Plan sets out that the Council will take a proactive approach which reflects the presumption in favour of sustainable development as set out within the NPPF. It goes on to confirm that proposals which accord with the policies of the Local Plan will be approved, unless material considerations indicate otherwise

The presumption in favour of sustainable development and how this should be applied to planning decisions is discussed in more detail at paragraph 11 of the NPPF. At 11 (d), the framework states that where the policies most important for determining the application are 'out-of-date' planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or the application of the policies in the framework provides a clear reason for refusing the proposal. At footnote 7, it is confirmed that a failure to demonstrate a five-year supply of housing and requisite buffer in accordance with paragraph 73 will render policies relevant to delivering housing out-of-date.

The matter of housing land supply has been the subject of scrutiny and it has been consistently concluded that the Council is not able to demonstrate a 5-year supply of housing land. The most recent confirmation is that the supply position in South Somerset stands at 4.4 years. The presumption in favour of sustainable development as set out at Paragraph 11 d) of the Framework is therefore fully engaged.

In this case, Merriott is considered a broadly sustainable settlement when having regard to the requirements of policy SS2 of the South Somerset Local Plan, by virtue of the level of services and amenities it benefits from. Nevertheless, on this occasion the proposal seeks planning permission for the change of use of an existing, established, and lawful public house.

As a starting point, therefore, the NPPF sets out a strong presumption against the loss of community facilities. Most relevant, paragraph 84(d) states that planning decisions should enable the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship. Paragraph 93(c) also seeks to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

With respect to the adopted development plan, policy EP15 of the South Somerset Local Plan sets out that the loss of a public house that contributes towards the sustainability of a local settlement will not be permitted except where the either or both of the following are satisfied;

- alternative provision of equivalent or better quality, that is accessible to that local community is available within the settlement or will be provided and made available prior to commencement of redevelopment;
- there is no reasonable prospect of retention of the existing use as it is unviable as demonstrated by a viability assessment, and all reasonable efforts to secure suitable alternative business or community re-use or social enterprise have been made for a maximum of 18 months or a period agreed by the Local Planning Authority prior to application submission.

In this case, officers have given regard to the Kings Head, an existing lawful and well-established public house which is located ½ mile to the north and within the village. It is indisputably the principal public house within the settlement by virtue of its scale, commensurate level of car-parking provision and outdoor area. It is therefore considered that this constitutes alternative provision which is of better quality. Although it is noted that the Kings Arms is the opposite side of the village, Merriott does not have a typical nucleated centre where services and facilities are focussed. It is still within reasonable (15 - 20mins) walking distance of the entirety of the village. Although some representation has been made with respect to anticipated growth of the village and therefore no justification for the loss of the 'second' public-house within the village, there is no guarantee that any housing growth will be delivered and, that it would secure increased trade. Likewise, there is no policy requirement for a specific level of public-house provision per population/housing. Housing in Merriott can be supported as the settlement is broadly sustainable by virtue of the existing level of service provision. Given equivalent provision would remain should the Swan Inn be subject to a change of use to a dwelling, the overall sustainability of the settlement should not be compromised.

With regards to the second requirement of the above policy, it appears that a series of unfortunate incidents relating to noise complaints led to the eventual closure of the business in 2016. Officers have reviewed the supporting financial information but in the absence of up-to-date marketing details undertaken by a reputable commercial enterprise, it is not strictly possible to conclude that the public house is no longer in the longer-term. It is not possible to insist on the re-marketing of the property to view this application favourably in cases where the first criteria of policy EP15 is considered to be satisfied. Nevertheless, some weight is attached to the logistical restrictions which may impede its longer-term viability, i.e size, lack of parking etc, and the comments from letters of support with respect to changed consumer habits following the Coronavirus pandemic and cost of living crisis are noted.

Additionally, it is felt that some weight can be given to:

- the desirability of keeping the listed buildings in viable long-term use consistent with their conservation; and
- Local need for smaller and therefore more affordable housing

Policy EP15 does not require both criteria to be met to demonstrate overall policy accord. Therefore, on balance, given that there is existing provision which is indisputably of better overall quality, in the round, the application is considered to accord with the requirements of policy EP15 of the South Somerset Local Plan, along with the principles as set out within the NPPF. The principle of the change of use is therefore considered acceptable.

SITING, DESIGN AND VISUAL IMPACT

The application site lies within the Merriott Conservation Area and therefore notwithstanding the policy requirements of South Somerset Local Plan policies EQ2 and EQ3, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Similar duties are placed on the LPA through Section 66 of the same Act based on the building being Grade II-listed.

In this case, no operational development proposed. It is purely the change of the use of the building in which planning permission is sought. With this in mind, an informative is recommended advising such, and the potential requirement for further planning and/or listed building consent applications should internal or external works or development be proposed in connection with the re-use of the building as a C3 dwelling.

With the above in mind, the proposal is not considered to be such which would detract from the character and appearance of the Merriott Conservation Area or cause harm to the listed building. Therefore, the proposal is considered to accord with the requirements of policy EQ2 and EQ3 of the South Somerset Local Plan, the principles of the NPPF and the statutory duties placed upon the LPA by Section 66 & 72 of the Act is therefore discharged.

LANDSCAPE IMPACT

Similarly to the above, because of the absence of any proposed operational development,

officers do not identify any conflict with policy EQ2 of the South Somerset Local Plan.

IMPACT ON RESIDENTIAL AMENITY

Policy EQ2 of the South Somerset Local Plan seeks to ensure that the proposal does not cause harm to the amenity of neighbouring properties through overlooking, loss of light / overshadowing, or any overbearing effect.

It is noted that No. 79 Lower Street which sits immediately north of the site lies perpendicular to the road and its principal elevation faces south and therefore, addressing the northern boundary of the application site. Concerns have been raised by this neighbour relating to overlooking through the introduction of additional windows and specifically, a dormer window.

With no operational development / external changes proposed such as introduction of windows, consideration must be given to what impact the use of the site for a residential (C3) use would have, compared to the existing lawful use of the site as a public house.

It is noted that many comments in support of the application are predicated on concerns of the Swan Inn re-opening, and potentially re-introducing previous amenity issues with respect to noise. Officers do not have the specific details of previous complaints which are an Environmental Health and/or licensing matter, rather than a planning/land-use material consideration, where it does not breach an extant permission, i.e conditions controlling level/hours of use. Therefore, given the existing lawful use of the site, officers cannot attribute such concerns to weigh against the proposal as it could re-open without any recourse with the LPA.

Notwithstanding the above, it is considered that the use of the site to form one single residential dwelling, would not result in any harmful residential amenity issues, given the context of the area. Furthermore, the upper levels of the building(s) are already purposed for living accommodation in associated with the public house use of the site. With no operational development or internal works indicated, any adverse change in the existing relationship is not envisaged.

Therefore, overall, it is not considered that there would be any unacceptable residential relationship created between the site and the neighbouring residential properties. It is therefore considered to accord with policy EQ2 of the South Somerset Local Plan.

ACCESS AND HIGHWAYS SAFETY

Policy TA5 of the South Somerset Local Plan seeks to ensure safe access and highway safety and that the local highway network can absorb the traffic impacts of developments. Chapter 9 of the NPPF at paragraph 111 explains that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Similar to above, although comments have been received raising concerns about the re-use of the public house and the impact on the local highway network through parking on-street given there being no dedicated off-site parking, the premises could re-open without recourse with the LPA and therefore such concerns in their own right do not substantiate approval of this

application.

With the above notwithstanding, as indicated by the Council's Highways Consultant, the proposal would lead to a notable reduction vehicle trips and therefore a betterment effect is likely. The proposal, therefore, would not have any adverse impact on the local highway network.

As such, the proposal is not considered to result in any conflict with the requirements of policy TA5 and TA6 of the South Somerset Local Plan, or the principles as set out within the NPPF, namely paragraph 111.

ECOLOGY AND HABITAT REGULATIONS

Policy EQ4 of the South Somerset Local Plan sets out that all proposals should protect the biodiversity value of land and minimise the fragmentation of habitats, promoting coherent ecological networks. It goes onto state that proposals should maximise opportunities for restoration and enhancement and incorporate biodiversity conservation features where it is considered appropriate.

The application is supported by an up-to-date Ecology Survey which appears relevant and appropriate to the site and the proposed development. Appropriate biodiversity net-gain measures are secured by way of suitably worded planning conditions, and the applicant is reminded of their own legal duty of care towards protected species in the United Kingdom.

The applications site is situated within the hydrological catchment of the Somerset Levels and Moors Ramsar site, a Special Protection Area (SPA) under the Habitats Regulations, (The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations')).

At present the levels of phosphates in the Somerset Levels and Moors exceed the water quality objectives and the designated site is therefore in unfavourable condition. Where a European designated site is considered to be 'failing' its conservation objectives there is limited scope for the approval of development which may have additional damaging effects. The competent authority (in this case the Local Planning Authority) is required to consider all potential effects (either alone or in combination with other development) of the proposal upon the European site through the Habitat Regulations Assessment (HRA) process.

The HRA process must be based on a demonstration of legal and scientific and be undertaken with a 'precautionary' approach. In this case, the existing foul connection to the mains would be maintained, as required by Building Regulations in any case.

The proposal is the replacing of an existing public-house within one open-market dwelling. In this case, the existing public house benefits from living accommodation above. Natural England's advice recommends that as a starting point in determining expected nutrient output for a plan or project, LPAs should consider using the average national occupancy rate of 2.4 persons per dwelling. Therefore, given the existing arrangement indicates the living accommodation having capacity for greater than 2.4 persons per dwelling (noting additional overnight accommodation was provided through the letting rooms and flows from these occupiers cannot likely be considered being already accommodated within catchment by nature

of it being holiday accommodation) together with the additional non-residential phosphate flows of the use of the site as a public-house, the application can be screened-out from having any likely significant effect on the integrity of the Ramsar site.

CONCLUSION

Despite some possibility of the business proving more successful under new management and claims that it should have been re-marketed at a lower price, the loss of the existing pub and accommodation is considered acceptable on balance as it should not significantly affect the village's vitality and viability, or community vibrancy. The proposed new residential use is also acceptable in principle given the location adjacent to established housing within the village of Merriott, a sustainable settlement. The scheme would not harm the intrinsic significance of the listed buildings or the character and appearance of the conservation area, and there are no undue concerns regarding residential amenity, highway safety, ecology or designated sites. Overall, therefore, the application is judged to accord with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions.

RECOMMENDATION

APPROVE

01. The proposal, would not have any adverse affect on the village's vitality and viability, or community vibrancy. No adverse impact on visual amenity, the historic environment, residential amenity, highway safety, along with designated ecological sites is identified. As such, the proposal accord with policy SD1, SS1, TA5, EQ1, EQ2, EQ3 and EP15 of the South Somerset Local Plan and the National Planning Policy Framework (2021).

SUBJECT TO THE FOLLOWING:

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

02. The development shall be carried out in strict accordance with the approved drawings (unnumbered site location plan, P100, unnumbered floorplans identifying existing use, unnumbered floorplans identifying proposed use - received 27 June 2022) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To define the consent and ensure a satisfactory development in accordance with Policies EQ2 and EP15 of the South Somerset Local Plan and the National Planning Policy Framework.

03. Notwithstanding the provisions of Schedule 2, Parts 1 and 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order modifying, revoking or re-enacting that Order), no external alterations, extension, garage, car port, other building/structure, fence, wall, gate or hardstanding shall be erected, installed or

provided on or around the site without a further express planning permission having first been obtained from the Local Planning Authority.

Reason: To help safeguard the settings of the listed buildings and the character and appearance of the Merriott Conservation Area, in accordance with Policies EQ2 and EQ3 of the South Somerset Local Plan and the National Planning Policy Framework.

Informatives:

01. This planning permission is for the change of use of the building to one residential dwelling. It does not authorise any external works or development (operational development) or internal works to the building. Separate planning permission or listed building consent may be required to facilitate any forthcoming residential use of the site. You are advised to discuss any future proposals or submissions with the Local Planning Authority.