

53/21/0006

MS WIDE

**Change of use of live/work unit to ancillary accommodation at 6 Luscombe Road, Cotford St Luke (retention of works already undertaken)**

Location: 6 LUSCOMBE ROAD, COTFORD ST LUKE, TAUNTON, TA4 1EB

Grid Reference: 317226.127475 Retention of Building/Works etc.

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## **Recommendation**

**Recommended decision: Conditional Approval**

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

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

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

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

(A2) DrNo 05 Proposed Plans & Elevations  
(A4) DrNo 01 Location Plan  
(A4) DrNo 02 Block Plan

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

3. The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling currently known as 6 Luscombe Road.

Reason: To prevent the building being occupied separately to the main dwelling.

### **Notes to Applicant**

1. In accordance with paragraph 38 of the National Planning Policy Framework

the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

## Proposal

Outline permission was granted in 2018 for the erection of 30 No. dwellings with 3 No. live/work units, details of which were approved under reserved matters application 53/18/0005.

6 Luscombe Road is one of the 3 properties with a live/work unit and retrospective planning permission is sought to change the use of a live work unit to ancillary accommodation. There are no proposals to change the building either externally or internally.

## Site Description

6 Luscombe Road is a large detached property on the corner of Luscombe Road facing the highway. The property straddles the settlement limits of Cotford St Luke. To the south of the main dwelling is the detached 2 storey garage/live/work building. On the ground floor is a double garage with parking in front. An entrance door at the front provides access to internal stairs leading to the open plan live/ work unit above which has a kitchenette, shower room and toilet, all installed by the housing developer before the owner bought the property.

## Relevant Planning History

53/16/0012 - Outline planning application with all matters reserved, except for access, for a residential development of up to 30 No. dwellings, 3 No. live/work units, public open space, landscaping and associated highways, engineering and infrastructure works. Conditionally approved June 2018.

53/18/0005 - approval of reserved matters for outline application 53/16/0012 - Conditionally approved October 2018.

## Consultation Responses

*COTFORD ST LUKE* - No comments received.

*SCC - ECOLOGY* - No comments received.

*SCC - TRANSPORT DEVELOPMENT GROUP* - No observations to make.

*ECONOMIC DEVELOPMENT* - No comments received.

*STRATEGY* - In my view there are no policy grounds/defendable justification for refusing the application.

Policy CP2 states:

“Proposals which lead to the loss of existing or identified business, industrial or warehousing land to other uses, including retail, will not be permitted unless the overall benefit of the proposal outweighs the disadvantages of the loss of employment or potential employment on the site.”

In this case the employment floorspace is a live/work unit ancillary to 6 Luscombe Road. The nature and intention of a live/work unit is that it is used by the occupier of the residential unit (potentially with limited employer/visitors) so for the floorspace to ever be used as employment floorspace is entirely dependent on the occupation of the residential occupier. This is in contrast to an employment unit, such as one that may be located on a business/industrial estate, which would offer an opportunity to a much wider range of businesses due to access for deliveries, parking and co-location with other businesses. A live/work unit therefore offers fewer employment opportunities than a purpose-built employment unit.

When balanced against the benefits of additional living accommodation and potentially fewer car movements, the loss of the live/work unit is not considered to cause unacceptable harm. Furthermore, the additional living accommodation could easily be utilised as an office in a 'working from home' scenario maintaining the nature of a B1 use.

Policy SP1 states:

"Minor Rural Centres are identified as Cotford St Luke, Creech St Michael, Milverton, North Curry and Churchinford. New housing development at these locations will include an appropriate balance of market and affordable housing together with some live-work units and will be small scale allocations, sites within the development boundary (primarily on previously developed land) and sites fulfilling affordable housing exceptions criteria outside of development boundaries."

This policy was used as a justification in the decision to allow live/work units in place of the Policy MIN1 requirement for small scale Class B units on the original development site (application 53/16/0012). I note that there is no target number of live/work units in Policy SP1, nor was there a condition ensuring the live/work unit would remain in perpetuity. For these reasons there is not a defensible justification for retaining this live/work unit.

## **Habitats Regulations Assessment**

The live /work unit has a kitchenette and wc and can be used by the family that reside at No. 6 for running a business. In changing this workspace to ancillary accommodation, the same family will use the space so there will be no change in terms of phosphate generation. A condition will be used to ensure that the accommodation remains ancillary to the main dwelling.

## **Representations Received**

30 letters of representation have been received.

27 writers are in full support of the application. They state that a business use in a residential area is not appropriate as it would bring more vehicle movements and parking congestion resulting in a negative impact on the area. Some writers believe this is a common sense approach to become residential.

1 writer states that renting out the premises to a lodger could require more parking and will increase vehicle movements but still wishes to remain impartial.

2 writers object for the following reasons:

- the deeds do not allow this change,
- it would set a precedent to the other live/work units,
- Luscombe Road already has a high residential density and the live/work unit was not intended as a permanent dwelling,
- Luscombe road would resemble a badly designed NCP,
- the current owners are in breach of the planning permission
- live/work units are excellent ideas and should continue to be used for their intended purpose.
- Windows of the unit look towards the master bedroom of the objector resulting in loss of privacy.

Cllr Hassall comments that under the terms of the deeds this change is not permitted. There are 6 clauses in the Deeds put in by Larkfields. Another live/work owner is minded to do the same.

## **Planning Policy Context**

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

The development plan for Taunton Deane comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015), and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below.

CP8 - Environment,  
A1 - Parking Requirements,  
D6 - Ancillary accommodation,  
MIN1 - East of Dene Barton, Cotford St Luke,  
DM2 - Development in the countryside,  
SB1 - Settlement Boundaries,  
CP2 - Economy,  
SP1 - Sustainable development locations,

## **Local finance considerations**

### **Community Infrastructure Levy**

Work element of Live/Work Unit being used as residential floor space in breach of planning approval.  
Approx. 50sqm.

The application is for residential development outside the settlement limits of

Taunton and Wellington where the Community Infrastructure Levy (CIL) is £125 per square metre. Based on current rates, the CIL receipt for this development is approximately £6,250.00. With index linking this increases to approximately £9,000.00.

## Determining issues and considerations

The housing development of Luscombe Road was part of the MIN1 allocation in the Site Allocations and Development Management Plan (SADMP) for 60 dwellings and small-scale B1 employment units on approximately 0.25ha of the site. 30 dwellings were permitted to the southern part of the allocation, to include affordable housing, 3 live/ work units and funding for allotments and a further 30 dwellings with affordable housing and 3 no. live/work units to the northern half now Luscombe Road. Policy SP1 of the Core Strategy set out that new development in the Minor Rural Centres (which include Cotford St. Luke) should include an appropriate balance of market and affordable housing together with some live-work units. The development at Luscombe Road therefore was policy compliant providing both open market dwellings, affordable housing and 3 live/work units. A s106 required the provision of the 3 live/work units.

Condition 8 of the outline permission 53/16/0012 required the submission of details to identify the residential floorspace and the business floorspace of the live/work units and that the residential floor space was to be limited to a person solely or mainly employed within the business space, their spouse (or partner) and to any resident dependants or relatives living together as a family unit. The business floor space was limited to any use falling within use class B1 of D1 (now Class E). The reason this condition was imposed was to ensure that the operation of the live/work unit was not detrimental to the neighbouring property.

The approved drawing for the live/work unit shows the ground floor as a double garage with internal stairs leading to a 1st floor with a kitchenette and wc in the corner. The remaining space was allocated as workspace.

Live/work units are units of living accommodation which are specifically designed to accommodate work facilities for those residing therein. They are a concept that emerged in the UK in the 1990's but has since dwindled but with Covid this may again see a rise in popularity as people look to run their business from home ( beyond normal homeworking).

Comments has been made that the proposal will conflict with the s106 agreement to the reserved matters permission.

Schedule 2 of the S106 states:

*'1.4 - to provide 3 units of live /work, the location of which shall be previously agreed with the LPA before the development is commenced'.*

The 3 live/work units were provided as per the s106 but there is nothing in the s106 that says these have to be provided for the perpetuity of the development and therefore there would be no breach of the s106 were this workspace to become ancillary accommodation. The workspace above the garage at No. 6 has in fact

never been used for its permitted purpose. Furthermore there are currently no policies in the local plan that prevent the loss of the live/work space as such.

SADMP policy D6 'Ancillary accommodation' supports the conversion of an appropriate building within the curtilage of a dwelling for ancillary accommodation. There would be no external alterations to the building that would affect the street scene and thus the proposal conforms with Core Strategy Policy DM1 'General requirements'.

In terms of highways, the use of the building as ancillary accommodation could actually reduce the no. of highway movements compared to that associated with a B1/ D1. This is recognised by the large number of neighbours in support of the application who express concern that a business use is not appropriate in a residential area. There would be no change to the parking requirements and in fact the proposal is likely to result in less demand for parking than the permitted B1/D1 use (office use/ creche / health centre / clinic, day nursery) which would need parking for deliveries, collection and visitors.

In addition there are no hours of control for the use of the live/work unit therefore the occupant of No. 6 could run their business at any times which could cause disturbance in this quiet residential area. Use as ancillary accommodation for the family residing at no. 6 would offer clear benefits to the residential amenity of the surrounding area.

Comments regarding the creation of a new dwelling and associated parking are not relevant as the proposal is to use the premises as ancillary accommodation to provide extra living space in particular for the applicant's daughter as she grows older. The unit will be lived in by the same family and a planning condition would be imposed to ensure this.

In terms of loss of privacy, although there are two windows to the front of the unit that look towards the facing property, this would be the same under the use of the premises as a live/work unit. Although the objector states the hours of use of the live/work unit are controlled, there is no planning condition imposed controlling such use. Regardless, the two properties are a significant distance apart and separated by Luscombe Road. The siting of the properties were fully assessed under the reserved matters application.

As the Strategy Specialist confirms, Core Strategy Policy C2 'Economy' protects the loss of business space however this is not entirely relevant to a live/work unit which offers very limited employment opportunity. Even so, Policy CP2 still enables the loss of employment workspace providing the overall benefit outweighs the disadvantages of the loss of employment on the site. Given the clear improvements to residential amenity from less vehicle movements and disturbance from uncontrolled hours of use and the overall support from residents to this change, it is considered acceptable to see the loss of this workspace.

In terms of phosphate generation there is no increase in occupancy as the premises would be occupied by the same family residing in 6 Luscombe Road.

Other matters

With regards to comments that the Deeds do not allow this change, this is outside of the planning process and whether the applicant will ultimately be able to implement the permission will be for them to decide.

Should another live/work unit owner also seek to change its use, this would be subject to a separate planning application that would be judged on its own merits at that time.

Any concerns regarding the retrospective nature of this proposal are not relevant to the consideration of the application.

### Conclusion

The live/work unit was originally provided to satisfy policies MIMI of the SADMP and SP1 of the Core Strategy to provide employment opportunity in the village and to increase the sustainability of the village. The village is now well served by public transport and over time Cotford has become a prime residential area for those that commute to work whether by bus, bike or private car. The Parish Council have not commented on the application and expressed any concern at the loss of this workspace. Luscombe Road is on the eastern outskirts of the village and is a quiet residential area. The proposal would result in a more appropriate use in this residential area. Subject to a condition restricting the use of the premises to ancillary accommodation, it is recommended that permission is granted.

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

**Contact Officer: Mrs K Wray**