

<b>Application Details</b>	
Application Reference Number:	20/23/0020
Application Type:	Removal or Variation of Condition(s)
Earliest decision date:	26 May 2023
Expiry Date	27 June 2023
Extension of time	
Decision Level	Committee
Description:	Removal of Condition No. 01 (holiday occupancy) of appeal decision of application 20/06/0039 at Plots 19 and 20 Mill Meadow, Parsonage Lane, Kingston St Mary
Site Address:	PLOTS 19 AND 20 MILL MEADOW, PARSONAGE LANE, KINGSTON ST MARY, TAUNTON, TA2 8HL
Parish:	20
Conservation Area:	NA
Somerset Levels and Moors RAMSAR Catchment Area:	Within the catchment area
AONB:	NA
Case Officer:	Briony Waterman
Agent:	CarneySweeny
Applicant:	MR T HEAYNS
Committee Date:	18/07/2023
Reason for reporting application to Committee	Representations contrary to Officer recommendation

## **1. Recommendation**

1.1 That permission be REFUSED

## **2. Executive Summary of key reasons for recommendation**

2.1 The proposal is to remove of Condition No. 01 of application 20/06/0039, which states:

*“The chalets shall be occupied for tourism purposes only and shall not be occupied as a person’s sole or main residence. The site operator and owners shall maintain an up-to-date register of the names of all owners/occupiers, including their guests, of individual chalets on the site and their main home addresses, and shall make this information available at all reasonable times to the local planning authority.”*

This condition was imposed at appeal after the applicant sought to amend the

wording of the condition imposed under application 20/06/0026 which stated:

*“The occupation of the holiday accommodation shall be restricted to bona fide holidaymakers for individual periods not exceeding 4 weeks in total in any period of 12 weeks. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.”*

It is considered that removing the condition restricting the site to use as holiday accommodation is contrary to policies SP1 and SB1 of the Site Allocations and Development Management Plan and policies CP1, SP4 and DM2 of the Taunton Deane Core Strategy. as the site falls outside of the defined settlement limits of Kingston St Mary.

### **3. Planning Obligations, reasons for refusal and informatives**

#### 3.1 Reasons for refusal (full text in appendix 1)

3.1.1 Outside settlement limits

#### 3.2 Informatives (bullet point only)

3.2.1 Proactive Statement

#### 3.3 Obligations

N/A

### **4. Proposed development, site and surroundings**

#### 4.1 Details of proposal

The proposal seeks the removal of Condition No. 01 (holiday occupancy) attached to the appeal decision of application 20/06/0039 at Plots 19 and 20 Mill Meadow, which are currently occupied as holiday lets. The condition states: *“The chalets shall be occupied for tourism purposes only and shall not be occupied as a person's sole or main residence. The site operator and owners shall maintain an up-to-date register of the names of all owners/occupiers, including their guests, of individual chalets on the site and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.”*

## 4.2 Sites and surroundings

The site is located within the Mill Meadow Eco-holiday lodges to the north of the site. The site is located to the south of Kingston St Mary, outside of the settlement limits. The site is accessed via an existing access from Parsonage Lane.

## 5. Planning (and enforcement) history

Reference	Description	Decision	Date
20/07/0010	Conversion of building into two units for Holiday Lets (revision to 20/06/0026)	Conditional Approval	24/05/2007
20/06/0039	Amendment to wording of condition 3 of permission 20/06/0026	Allowed at appeal	29/03/2007
20/06/0038	Amendment to wording of condition 6 of permission 20/05/0022	Allowed at appeal	29/03/2007
20/06/0037	Amendment to wording of condition 05 of permission 20/2005/05	Refusal, allowed at appeal	29/03/2007
20/06/0026	Conversion of building into two units for holiday lets and removal of conditions 5 and 6 of planning permission 20/00/0025	Conditional approval	02/11/2006
20/06/0017	Removal of conditions 5 and 6 of planning approval 20/00/0025 to permit the use of the building for warden accommodation, reception, office and storage in connection with holiday cabin development	Withdrawn	
20/06/0010	Removal of condition 5 and 6 of planning approval 20/00/0025 to permit the use of the building for general office use	Refusal	15/06/2006
20/05/0005	Erection of 5no. log cabins for tourism/education	Conditional approval	26/04/2005
20/00/0025	Erection of building to provide additional staff room, kitchen, and toilet facilities	Conditional approval	13/11/2000

## **6. Environmental Impact Assessment**

N/A

## **7. Habitats Regulations Assessment**

The two units are currently being used for holiday lets. Under the phosphate guidance, Section 73 applications can benefit from a 'fallback position' allowing them to be screened out from requiring a HRA to demonstrate nutrient neutrality if the original permission has been lawfully commenced.

The site lies within the catchment area for the Somerset Moors and Levels Ramsar site. As competent authority it has been determined that a project level appropriate assessment under the Conservation of Habitats and Species Regulations 2017 is not required as the Council is satisfied that as the proposed development seeks removal of the holiday condition it does not increase the number of units on the site or amend drainage details and will not therefore increase nutrient loadings at the catchment's wastewater treatment works. The Council is satisfied that there will be no additional impact on the Ramsar site (either alone or in combination with other plans or projects) pursuant to Regulation 63 (1) of the Habitats Regulations.

## **8. Consultation and Representations**

Statutory consultees (the submitted comments are available in full on the Council's website).

8.1 Date of consultation: 04 May 2023

8.2 Date of revised consultation (if applicable): NA

8.3 Press Date: NA

8.4 Site Notice Date: A site notice was posted to the applicant on the 5th May 2023. Whilst the LPA has not had confirmation that it was displayed. However, it is considered that the statutory duty to advertise has been met as the application was advertised in the local paper and neighbour letters were sent out.

8.5 **Statutory Consultees** the following were consulted:

<b>Consultee</b>	<b>Comment</b>	<b>Officer Comment</b>
KINGSTON ST MARY PARISH COUNCIL	<p>Support based on the following:</p> <ul style="list-style-type: none"> <li>• Meets the additional housing need as identified in the housing needs survey</li> <li>• Provision of additional residential accommodation is considered to be a social benefit, to meet the need for more affordable housing, complies with Paragraph 78 of the NPPF</li> <li>• Mill meadows is not located in open countryside, surrounded by existing properties</li> <li>• Serviced by a regular bus service to Taunton and within a safe walking route (via the Spinney and Church path) to the village</li> <li>• Policy DM2-6 allows for affordable housing</li> <li>• Mill Meadows plots 15-18 already have planning permission and the Parish council would rather they were full time than holiday homes</li> <li>• In line with Cornwall and Devon who have taken action to reduce the number of holiday homes</li> </ul> <p>Draft of the neighbourhood plan states "modest development will be welcome"</p>	See section 10
WESSEX WATER	No comments received	
SCC - TRANSPORT DEVELOPMENT GROUP	<p>Standing advice the LPA should also take into consideration the following points:</p> <ol style="list-style-type: none"> <li>1. Residential parking standards vehicular and cycle</li> <li>2. EV charging points in line with the relevant strategy</li> </ol>	Noted

8.6 **Internal Consultees** the following were consulted:

<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
Economic Development	No comments received	

### 8.7 **Local representations**

Neighbour notification letters were sent in accordance with the Councils Adopted Statement of Community Involvement.

Nine letters have been received making the following comments (summarised):

<b>Support</b>	<b>Officer comment</b>
Village needs more permanent housing with full time occupancy	Noted
Village needs 2&3 bedroom homes	Noted
Perfect infil in the village	Noted
Need more family homes	Noted
Demand outstrips supply	Noted
Removes the problem of needing to build on green belt land	Noted
Airbnb reducing demand for purpose built holiday accommodation	Noted
Unrestricted residential would satisfy local demand and provide council tax for local council	Noted
Location is not within the open countryside	See para 10.1.1
Location would be within the Neighbourhood Plan	not a material consideration at the time of writing.
Provide homes for local people and should be approved	Noted.

## 9. **Relevant planning policies and Guidance**

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act), requires that in determining any planning applications regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The site lies in the former Taunton Deane

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

Section 73 of the 1990 Act provides for applications for planning permission to develop land without complying with previously imposed planning conditions. The local planning authority can grant permission unconditionally or subject to different conditions, or they can refuse the application if they decide the original condition(s) should be kept. The planning permission granted will be a new planning permission. The application must be considered against the current development plan and material considerations and the conditions attached to the existing permission.

As a result of local government reorganisation Somerset Council was established from the 1 April 2023. The Structural Change Order agreeing the reorganisation of local government requires the Council to prepare a local plan within 5 years of the 1 April 2023 and the Council will be bringing forward a Local Development Scheme to agree the timetable for the preparation of the local plan and scope in due course.

Relevant policies of the development plan in the assessment of this application are listed below:

- DM1 - General requirements,
- DM2 - Development in the countryside,
- SP1 - Sustainable development locations,
- SD1 - Presumption in favour of sustainable development,
- A5 - Accessibility of development,
- CP1 - Climate change,
- SP4 - Realising the vision for rural areas,
- SB1 - Settlement Boundaries,
- CP8 - Environment,

#### Supplementary Planning Documents

N/A

#### Other relevant policy documents:

Somerset West and Taunton Council's Climate Positive Planning: Interim Guidance Statement on Planning for the Climate Emergency (March 2022).

### Neighbourhood plans:

A Kingston St Mary Neighbourhood Plan is, at the time of writing, out for consultation under Regulation 14, which is consultation with the community, and at this stage can carry only; little weight as a material consideration.

### 9.1 National Planning Policy Framework

Paragraph 80 of the NPPF states that planning decisions should avoid the development of isolated homes in the countryside unless:

- (a) There is an essential need for a rural worker
- (b) The development would represent the optimal viable use of a heritage asset or would be appropriate enabling development
- (c) The development would re-use redundant or disused buildings and enhance the immediate setting
- (d) The development would involve the subdivision of an existing residential building; or
- (e) The design is of exceptional quality in that it:
  - Is truly outstanding, reflecting the highest standards in architecture and would help to raise the standards of design more generally in rural areas; and
  - Would significantly enhance its immediate setting , and be sensitive to the defining characteristics of the local area.

The proposal to remove the tourism condition and to allow open market residential occupancy is considered contrary to the above paragraph and the general sustainability principles of the NPPF.

## **10. Material Planning Considerations**

The main planning issues relevant in the assessment of this application are as follows:

### 10.1.1 The principle of development

The application site lies outside the defined settlement limits and is therefore considered to be within the open countryside as identified by Policy SP1 of the Site Allocations and Development Management Plan (SADMP). As such policies CP1, CP8, SP4 and DM2 of the Taunton Deane Core Strategy are considered relevant.



Core Strategy Policy SP1 establishes the desire to provide sustainable development, which focuses development in the most sustainable and accessible locations. This policy states that outside of the settlement boundaries, development will be treated as within the open countryside and therefore Policy DM2 shall be applied. This identifies the type of development considered as acceptable. The location of this proposal is not identified within SP1 as a major or minor rural centre, it is one of the villages listed that retain settlement boundaries and have no further allocations made through the SADMP but does allow for small scale proposals within the settlement limits. The proposed development is therefore considered contrary to Policy SP1, outside of a defined settlement boundary for Kingston St Mary and not within a sustainable location.

Policy SB1 states that to *"maintain the quality of the rural environment and ensure a sustainable approach to development, proposals outside of the boundaries of settlements identified in the Core Strategy policy SP1 will be treated as being within the open countryside and assessed against Core Strategy policies CP1, CP8 and DM2 unless:*

*A: It accords with a specific development plan policy or proposal: or*

*B: Is necessary to meet a requirement of environmental or other legislation: and in all cases, is designed and sited to minimise landscape and other impacts"*

The proposed open market dwellings do not accord with Criteria A or B outlined above as it does not meet a specific development plan policy and is not necessary to meet a requirement of environmental or other legislation. Furthermore, the location within an established tourist site raises concerns regarding conflict between holiday makers and residents. The different uses on the site would lead to conflict with traffic movements, noise and disturbance. The introduction of permanent residential properties would increase the domestic paraphernalia associated with full time occupation such as washing lines, deliveries etc which would result in an adverse impact upon the visual amenity of the site.

Policy SP1 re-enforces the need to shape *"patterns of development to reduce the need to travel, reducing pollution and CO2 emissions"*. By having defined settlement boundaries, the Local Planning Authority is seeking to apply strict control over sustainability. It is noted that there is a footpath from the site to the centre of the village, however it is likely that the occupiers of the proposed development would be reliant on the private car rather than walking along an unlit footpath, for things other than basic day to day needs.

The applicant has made reference to appeal APP/G1630/W/14/3001706 (Bagley Road), dated July 2015 which was for a residential development of up to 58 dwellings,

the current proposal is for the removal of a holiday occupancy condition of two holiday lets be given consent as open market dwellings. Each application is determined upon its own merits, and it is considered that a proposal for two open market dwellings with no wider community benefit is not a fair comparison when assessed against the Bagley Road decision. The aforementioned is contiguous to Wellington with a wide range of facilities being accessible by walking along lit footpaths, which differs from the proposed site which would be wholly reliant on the private car. The view of the LPA is that the proposed development does not comply with policy SP1 due to its countryside location.

Policy DM2 is positively worded and sets out what type of development will be supported in the open countryside of which open market residential is not one. In the case of residential dwellings, the policy is specifically related to replacement dwellings, dwellings linked to agriculture and forestry employment and affordable housing where it can be demonstrated that this cannot be accommodated within the nearest Rural Centre. Whilst DM2 does not specify what types of development should be resisted comments received from the Council's Policy Officer have stated that this *"should logically be read into the policy, and it does not mean that other development would thereby be considered acceptable"*.

Within the justification for Policy DM2 it states that *"Tourism is a key element of the local economy, providing around 1500 jobs and generating an estimated £129 million in 2007. The Somerset Delivery Plan recognises the need for sustainability so as not to undermine the local environmental quality."* The use of these units as dwellings would result in a loss of tourist income for the site and a reduction in the tourist spend in the area. No justification has been submitted to show that there is no longer a need for holiday lets in the area.

Policy CP1 requires that *"development proposals should result in a sustainable environment and will be required to demonstrate that the issues of climate change have been addressed by:*

*a: Reducing the need to travel through locational decisions and where appropriate, providing a mix of uses: and/or*

*h: impact on the local community, economy, nature conservation or historical interests does not outweigh the economic and wider environmental benefits of the proposal."*

The developments "eco" credentials are noted as is the care taken to promote biodiversity and sustainable practices such as electric charging points. However, given the location of the proposal, approximately 2.6 miles from the nearest railway station in Taunton, along an unlit road with no cycle path and an irregular bus route,

with no safe lit pedestrian route to the village, occupiers of the dwellings would have to travel for everyday activities such as work, school, shops etc. The limited local services, facilities and amenities would increase both the use and reliance on the private car which is contrary to policy.

Policy A5 relates to accessibility, the policy states that residential development should be within walking distance of, or should have access by public transport to, a wide range of services and facilities. The proposed dwellings would be outside the settlement boundary, although not isolated from other dwellings, there is no safe walking route to facilities and an irregular bus service. The proposal is therefore considered contrary to both policies CP1 and A5.

Policy CP8 states that *"Development outside of settlement boundaries will be permitted in a limited number of circumstances and are subject to a number of criteria including "be appropriate in terms of scale, siting and design: and protect, conserve or enhance the landscape and town scape character whilst maintaining green wedges and open breaks between settlements. and provide for any necessary mitigation measures"*. The removal of the holiday occupancy condition on of the 2 holiday lets would not change the appearance of the buildings and the proposal is considered to comply with policy CP8 of the Taunton Deane Core Strategy.

Policy SP4 states that *"Growth in the rest of the borough will be limited, respecting and reflecting the rural character and sustainability considerations"*. The policy goes on to state that *"it is vital that any development respects the integrity of the countryside"*. The proposed removal of the condition to allow for residential occupancy would be in conflict with Policy SP4 in that it is outside settlement limits which would not respect the rural character or sustainability considerations. and would be detrimental to the visual amenity of the area.

Given the above it is considered that the proposal would be in conflict with policies SP1, SB1, SP4, CP1, DM2 and A5 and is unacceptable in terms of policy, given the location of the proposals.

#### 10.1.2 SHLAA and Five Year Housing Land Supply:

The latest housing land supply position is published in the 2023 SHLAA for Somerset West Area (formerly Somerset West and Taunton). For the former Taunton Deane LPA the Housing Land Supply is 5.16. Therefore, the 'tiled balance' in Paragraph 11(d) of the NPPF is not applicable.

### 10.1.3 Kingston St Mary Neighbourhood Plan

A number of responses mention the emerging Kingston St Mary Neighbourhood Development Plan for the Parish of Kingston St Mary. This plan is currently in the public consultation stage on the draft Neighbourhood Plan (Regulation 14) which closes on the 14th July 2023. At this stage of the Neighbourhood Plan process, the plan sets out the intentions of the Parish but as the plan may change following the consultation and its evidence base has not yet been submitted to the LPA or subject to independent examination, the draft Neighbourhood Plan can carry only little weight in the determination of planning applications.

The emerging Kingston St Mary Neighbourhood Plan (KSMNP) proposes a change to the settlement limit, and have produced a supporting document. However, the Regulation 14 Neighbourhood Plan makes clear that this is unlikely to be adopted until the new unitary authority has a new Local Plan, as stated on page 67 of the KSMNP:

*“Alterations to Settlement Boundary It is also worth noting that submissions have been made by the Parish Council in respect of the Settlement boundary. In relation to the settlement boundary the Parish Council requested in 2021 for Kingston St Mary village’s settlement boundary to be extended (see the Settlement Boundary report in Supporting Guidance). However, this change, if accepted, is unlikely to be adopted until the new Unitary authority creates a new Local Plan”*

### 10.1.4 History

The building subject to this application was constructed as office accommodation by application 20/00/0025. Application 20/06/0026 permitted the change of the use of the building into two holiday let units. Section 73 Application 20/06/0039, allowed on appeal, sought to relax the holiday occupancy condition to allow second home ownership. The appeal decision deleted the tourism occupancy Condition 3 of application 20/06/0026 and imposed a new, more relaxed tourism occupancy Condition 1. The current occupancy condition states:

*"The chalets shall be occupied for tourism purposes only and shall not be occupied as a person's sole or main residence. The site operator and owners shall maintain an up-to-date register of the names of all owners/occupiers, including their guests, of individual chalets on the site and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority."*

### 10.1.5 Highways

The current use of the units 19 and 20 are holiday let, whilst there may be a small rise in traffic movements with deliveries etc, this is not considered significant.

### 10.1.6 Visual impact

The proposed lifting of the condition would not alter the appearance of the buildings and is not considered to result in a significant impact on the visual amenity of the area. It is noted that there could be an increase in domestic paraphernalia. However the site is well screened from the highway and it is considered that there would not be a significant impact upon the visual amenity of the area.

### 10.1.7 Residential impact

It is considered that the proposed development would not have a significant impact upon the residential amenity of the surrounding properties. However, it is considered that there is the potential for conflict between the uses of the site in relation to traffic movements and potential noise and disturbance. However, given that the proposal is for two units this is not considered to be significant.

### 10.1.8 Additional comments

Many of the comments received state that the removal of the occupancy condition would allow local people to be able to afford houses, including the response from the Parish Council regarding the development being for "affordable homes". It should be noted that if the holiday condition is removed these units will become open market dwellings, with no guarantees that they will fill the local housing need. It is noted that infill development may be required and indeed encouraged within the settlement boundaries of Kingston St Mary. However as noted above the site is outside of the settlement limits.

The Planning Statement submitted as part of the application mentions the housing needs survey, The Kingston St Mary Housing Needs Survey published in 2021 showed that 58% of respondents wanted more affordable housing for people with a local connection, and 54% of respondents wanted more homes to downsize to. dwellings however as already stated this proposal is not for affordable housing but for open market dwellings with no guarantees that the proposal would be ring-fenced for those in the village. Nor does the application as it is currently submitted comply with the NPPF definition of affordable housing.

## **11 Local Finance Considerations**

### 11.1 Community Infrastructure Levy

N/A

## **12 Planning balance and conclusion**

12.1 For the reasons set out above, having regard to all the matters raised, it is recommended that planning permission is refused.

In preparing this report the planning officer has considered fully the implications and requirements of the Human Rights Act 1998 and the Equality Act 2010.

## **Appendix 1 – Reason/s for refusal**

- 1 The proposed development is outside any defined settlement limits and therefore falls within open countryside. The site is located in an unsustainable location where future occupiers would be heavily reliant on the private car to access facilities and amenities that are not available within close proximity to the site. The proposed is therefore contrary to policies SP1, SD1 and CP1 of the Taunton Deane Core Strategy and policies A5 and SB1 of the Taunton Deane Site Allocations and Development Management Plan.

### Notes to applicant.

1. In accordance with paragraph 38 of the National Planning Policy Framework 2021 the Council has worked in a positive and creative way with applicants and looks for solutions to enable the grant of planning permission. However in this case the applicant was unable to satisfy the key policy test and as such the application has been refused.