

Application Details	
Application Reference Number:	38/22/0344
Application Type:	Full Planning Permission
Earliest decision date:	01 December 2022
Expiry Date	26 December 2022
Extension of time	3 March 2023
Decision Level	Committee
Description:	Demolition of outbuilding and erection of a 1 No. detached dwelling at Weir Lodge, Staplegrove Road, Taunton
Site Address:	WEIR LODGE, 83 STAPLEGROVE ROAD, TAUNTON, TA1 1DN
Parish:	38
Conservation Area:	Staplegrove Road, Taunton
Somerset Levels and Moors RAMSAR Catchment Area:	Yes
AONB:	No
Case Officer:	Mr G Clifford
Agent:	
Applicant:	MR S VEN
Committee Date:	
Reason for reporting application to Committee	Call in by Chair

1. Recommendation

1.1 That permission be REFUSED.

2. Executive Summary of key reasons for recommendation

2.1 This application was deferred from the Council Planning West Committee meeting in October 2023 to seek a phosphate solution. The Committee resolved that if planning permission had not been granted by the date of the February 2024 meeting of the Committee that the application be brought back to the Committee for further consideration and determination.

While the applicant has put forward the intention to seek a phosphate credit solution this is through a third party that does not have recognised legal agreement with the Council Phosphate Team that would enable the matter to be subject to a Grampian condition. This option is the favoured one that is still being pursued and a legal agreement has to be in place before credits can be assigned to this scheme. The potential alternative solution would require the shadow HRA to be approved by Natural England and then a legal agreement sought between all the relevant parties. The report as previously presented to Members is set out below.

2.2 The application was originally considered by the former Somerset West & Taunton Planning Committee at its meeting held on 30 March 2023. At that meeting it was resolved on a casting vote that the Committee was minded to grant planning permission. The Committee proposed to give delegated authority to officers to approve the application, subject to the resolution of the phosphates issue and the imposition of necessary conditions. Following the Committee complaints were lodged by some councillors against other members of the committee. The complaints were investigated by the Council's Solicitor and Deputy Monitoring Officer and were subsequently closed with no further action necessary.

2.3 In view of complaint and that a suitable phosphate mitigation solution has not been forthcoming the application was brought back to Committee in October 2023 for redetermination. As stated above the Committee deferred determination of the application. The associated listed building consent application is also included on this agenda.

2.4 The proposed dwelling is recommended for refusal as it would detract from the setting of the listed building and the character of the conservation area; that it lies in a flood risk zone; and there is no phosphate mitigation solution. Therefore, it is contrary to Development Plan policies and the benefits of a single dwelling do not outweigh the harm. Furthermore, the absence of phosphate mitigation means the Council is unable to fulfil its statutory duty under Regulation 63 the Conservation of Habitats and Species Regulations 2017.

3. Reasons for refusal and informatives

3.1 (As stated in full text in appendix 1)

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 is to erect a two storey 3 bedroomed detached dwelling and form associated rear gardens to the rear of the listed building and attached conversions at Weir Lodge. The works would also involve the removal of an outbuilding to facilitate the works, although this already has consent for removal. The new dwelling would be set into the boundary wall to the rear of the listed building.

4.2 Sites and surroundings

The site forms part of the rear garden of Weir Lodge, a grade II listed building set within the Staplegrove Road conservation area. The main road lies to the east,

Weirfield Green to the north and beyond that 87 Staplegrove Road, also a listed building. More modern housing lie to the west on the new estate.

5. Relevant Planning (and enforcement) history

Reference	Description	Decision	Date
38/08/0524	DEMOLITION OF MODERN EXTENSION, CONVERSION AND EXTENSION OF BUILDING INTO 7 RESIDENTIAL DWELLINGS AT WEIR LODGE, 83 STAPLEGROVE ROAD, TAUNTON AS AMENDED BY LETTER DATED 7 JANUARY AND PLANS 5592/LO1C & PD02D	CA	22/1/2009
38/10/0268	CONVERSION AND RESTORATION TO SINGLE DWELLING, 2 NO STABLE COTTAGES AND INTERNAL SELF CONTAINED APARTMENT INCLUDING INSTALLATION OF EXTERNAL STAIR AND DEMOLITION OF OUTBUILDINGS AT WEIR LODGE, 83 STAPLEGROVE ROAD, TAUNTON AS AMENDED	CA	18/10/2010
38/16/0258	Replacement garage, erection of extension and alterations to harness building and western boundary wall, construction of access to northern boundary, erection of fencing and restoration of verandah at Weirfield Lodge, 83 Staplegrove Road, Taunton	CA	26/1/2017
38/22/0345LB	Demolition of outbuilding and erection of a 1 No. detached dwelling at Weir Lodge, Staplegrove Road, Taunton	RF	24/2/2023

38/19/0205ENQ - A pre-app for a new dwelling in the current location was enquired about and it was advised it would be unacceptable due to the impact on the listed building and the character of the conservation area.

6. Environmental Impact Assessment

Not required

7. Habitats Regulations Assessment

Required as this would entail a new dwelling that would add to the phosphate load draining to the Somerset Levels and Moors catchment.

8. Consultation and Representations

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

8.1 Date of consultation: 31 October 2022

8.2 Date of revised consultation (if applicable):

8.3 Press Date: 10 November 2022

8.4 Site Notice Date: 14 November 2022

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

Consultee	Comment	Officer Comment
SCC - ECOLOGY	Survey is out of date - otherwise would need bat and bird informatives and a biodiversity enhancement condition.	10.1.8
SOMERSET WILDLIFE TRUST	We support the findings and recommendation in the Assessment report.	10.1.8
SCC - TRANSPORT DEVELOPMENT GROUP	Refer to standing advice.	10.1.4
WESSEX WATER	There must be no surface water connections into the combined sewer where a public surface water sewer is available. Surface water must be disposed of via the SuDS hierarchy.	10.1.9
ENVIRONMENT AGENCY	Provided the sequential test is passed the EA withdraws its earlier objection and recommends a condition.	10.1.9

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

Consultee	Comment	Officer comment
HERITAGE	Recommend refusal as will harm the setting of listed buildings and character of the conservation area.	10.1.5 and 10.2

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):

Material Planning Considerations	
Objections	Officer Comment
Support	Officer comment
Great idea	10.1.1
Will be an improvement to current eyesore and beneficial to neighbourhood	10.1.5
Would give more garden space	10.1.8
Would enhance the conservation area.	10.1.5 and 10.2

Ward Cllr Sully - The building in question to be demolished is out of character in a conservation area and would not gain planning permission in today's planning environment (eye sore of a building). The proposed application seeks to address this issue with a well designed 3 bedroom property which is much needed in the area, an improvement to the current street scene, and a positive enhancement to the conservation area and setting of the listed building adjacent.

Cllr Perry - To my mind, the building which is proposed for development contributes nothing to the character of the area which the conservation status is designed to preserve and protect. The building is poor quality mid twentieth century building of utilitarian design and low architectural value which, if anything, diminishes the character of the area in which it is located. To my mind, to remove this building and to replace it with much needed residential accommodation of a design which is sensitive to the character of the conservation area would represent an obvious net gain in terms of conservation objectives while providing housing without loss of green space.

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).

Both the Taunton Deane Core Strategy and the West Somerset Local Plan to 2032 were subject to review and the Council undertook public consultation in January 2020 on the Council's issues and options for a new Local Plan covering the whole District.

Since then the Government has agreed proposals for local government reorganisation and a Structural Change Order agreed with a new unitary authority for Somerset to be created from 1 April 2023. The Structural Change Order requires the new Somerset authority to prepare a local plan within 5 years of vesting day

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

CP1 - Climate change,
CP4 - Housing,
CP6 - Transport and accessibility,
CP8 - Environment,
DM1 - General requirements,
DM4 - Design,
DM5 - Use of resources and sustainable design,
SP1 - Sustainable development locations,
SD1 - Presumption in favour of sustainable development,
A1 - Parking Requirements,
D2 - Approach routes to Taunton and Wellington,
D7 - Design quality,
D8 - Safety,
D10 - Dwelling Sizes,
D12 - Amenity space,
ENV1 - Protection of trees, woodland, orchards and hedgerows,
ENV2 - Tree planting within new developments,
I4 - Water infrastructure,

Supplementary Planning Documents

District Wide Design Guide, December 2021

Other relevant policy documents:

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

Staplegrave Road Conservation Area Appraisal, Adopted April 2007

Neighbourhood plans:

None

9.1 National Planning Policy Framework

Sections 2, 4, 5, 12, 14, 15 and 16

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 site lies within the built up area of the town where development is normally acceptable in principle subject to material considerations. Thus while the site would be appropriate under policies CP4 and SP1 of the Core Strategy, it however lies within a conservation area, within the curtilage of a listed building and within a flood risk zone.

10.1.2 Design of the proposal

The proposal is for a two storey narrow designed property, set into the existing boundary wall to the rear of the listed building adjacent to the road. It would have a pitched roof, shallower than the surrounding vernacular and is designed with openings east and west to avoid overlooking and has a stepped access from the road to avoid flooding. The latter issues increases the height above the current site level by 0.62m. It would be constructed in brick with a slate roof and measure approximately 5.6m x 10.6m. A vehicular access is proposed off Weirfield Green and while this will provide a single parking space it will add to the loss of boundary wall in this location further impacting on the setting of the listed building. The design is considered an alien feature in the rear of a listed building that does not respect the character of the conservation area or the setting of adjacent heritage assets. The building to be removed does not add to the character of the area and this could be removed at any time. However provision of a new build into the garden wall on the roadside does nothing to enhance the conservation area or the setting of the listed building and is considered harmful.

10.1.3 Quality of Accommodation

The accommodation meets the space and amenity requirements of policies D10 and D12 of the Site Allocations and Development Management Plan (SADMP).

10.1.4 Access, Highway Safety and Parking Provision

The proposal utilises a new access off Weirfield Green to serve a single parking space. Given the central location the provision of a single space is considered acceptable in light of policy A1, as, on balance, is the lack of turning space given the road it adjoins and the permission previously granted for an access to the main building.

10.1.5 The impact on the character and appearance of the locality

The proposal would result in a detached dwelling right on the corner up to the back of the footway and this is considered out of keeping with the character of development within the conservation area contrary to policy CP8. The host property is a grade II listed building and is a large property with attached outbuildings in a substantial curtilage. The current property already has an outbuilding to the west as well as the former stable and coach house that have been converted to residential. It is not accepted that the proposal reflects the type of built form characteristic of a building of this time. Certainly there are no other such prominent outbuildings within the conservation area. The proposal would reduce the historic space around the building and the removal of an existing detached single storey structure which the owner has failed to remove under the previous permission, does not compensate for

the harm created by the new build two storey dwelling. The dwelling would be constructed into the boundary wall on the corner of the plot and would be highly visible from the main road and detract from the setting of the main house and the listed cottages at No. 87 Staplegrove Road. It would also constitute an alien design in the street scene set into the boundary wall of the listed building that would detract from the approach road into town contrary to policies DM1d of the Core Strategy and D2 of the SADMP.

10.1.6 The impact on neighbouring residential amenity

While the design of the new dwelling has windows facing east and west to avoid overlooking, the new dwelling would create a blank gable facing the converted outbuildings of the existing property and would be overbearing to the garden of the existing properties. While the impact of removing the unsympathetic outbuilding would be a benefit, this was shown as removed on the plans of the 2010 permission and technically is in breach of these, although this work can still be carried out. It is not considered appropriate to use this as justification for the erection of a further dwelling within this listed curtilage.

10.1.7 The impact on trees and landscaping

The proposal indicates the minor loss of trees and shrubs to the roadside of the property, however replacements could be conditioned if other aspects of the development were considered acceptable.

10.1.8 The impact on ecology and biodiversity and the Somerset Levels and Moors Ramsar Site.

The applicant has submitted a Preliminary Bat Roost Assessment, although this is now out of date. On the basis of this there would probably be a need for bat and bird informatives and a condition with regard to biodiversity enhancement. The proposal would give more garden space than at present which would be beneficial for wildlife. It is not considered appropriate to seek a renewed survey in light of other matters being unacceptable.

The site lies within the Somerset Levels and Moors Catchment where an individual dwelling will increase the phosphate load and Natural England has issued a letter preventing worsening of the habitat.

Somerset Council, as the competent authority under The Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations') must be certain beyond a reasonable scientific doubt that any new residential development will not have an adverse impact upon the Somerset Levels and Moors Ramsar Site. To do this, the proposed development must be 'nutrient neutral', demonstrated through an HRA, before planning permission can be granted.

The applicant has completed the Phosphate calculator, however it is not demonstrated that the scheme would adequately mitigate the phosphates produced to ensure nutrient neutrality in perpetuity and not harm the Somerset Levels and Moors Ramsar site. Therefore, planning permission should not be granted.

10.1.9 Flood risk and energy efficiency

The site lies within flood risk zone 3a where both the sequential and exception tests would apply. The initial FRA carried out a Sequential Test, however it failed to recognise a site further up Staplegrove Road where new housing has been granted that is not in a flood risk zone. The current proposal is for a single additional dwelling and it is considered that as there are other potential sites within the town that could provide such a unit not within flood risk zone 3, then the development would fail the sequential test and be unacceptable. To try and address flood risk the design incorporates over 0.6m increase in floor level over the existing site level. It is argued removal of an existing building will create flood storage to offset the new build. The EA has withdrawn its initial objection subject to the sequential test being met. The surface water is designed to be dealt with via permeable paving and an underground attenuation storage tank with hydrobrake to restrict drainage to 1l/s. The proposed dwelling is intended to be zero carbon and adopts a fabric first approach, limiting the surface area of the building and providing no window openings on the northern elevation. However there is no indication of any renewable technologies being utilised.

10.2 Heritage impact

Applications for planning permission affecting a listed building or its setting must be determined in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires that “In considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority...shall have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses”. Also applications for development in a conservation area must be considered with regard to the general duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires that “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”.

The conservation area is characterised by uniform streets of high-class Victorian houses with garden plots, the former school site and the designed square providing a verdant element to the character. Individual dwellings are the exception, with only a few on the corner of Staplegrove Road. These properties are distinctive in their large plots and the listing description for Weir Lodge mentions its own grounds. The previous 2008 scheme did not provide a new detached dwelling but altered and converted the main house and outbuildings. As the roof of the existing outbuilding has a low pitch, this corner contributes to the verdant and open character of the conservation area. Therefore, the construction of a dwelling in this location would alter the character of this part of the conservation area and the setting of the adjacent listed and locally listed buildings contrary to policy CP8 and DM1d. In light of the duties quoted above this has significant weight and while it may be considered less than substantial harm, the benefit of a single dwelling here, even if it were carbon zero, together with the outbuilding removal is not considered to outweigh that harm.

11 Local Finance Considerations

11.1 Community Infrastructure Levy

Creation of a dwelling is CIL liable regardless of size.

This proposed development measures approximately 100 sqm.

The application is for residential development in Taunton where the Community Infrastructure Levy (CIL) is £70 per square metre. Based on current rates, the CIL receipt for this development is approximately £7,000.00. With index linking this increases to approximately £10,000.00.

12 Planning balance and conclusion

12.1 The proposed dwelling is considered to be detrimental to the setting of heritage assets and to be detrimental to the character of the street scene contrary to Core Strategy policies CP8 and DM1d. It would also build on land at the risk of flooding and no adequate phosphate solution has been proposed. The public benefit of a single detached dwelling, enhanced garden and the limited construction jobs this would bring is not considered to outweigh the harm to heritage assets as required in the NPPF.

Furthermore, the applicant has not demonstrated that the scheme would adequately mitigate the phosphates produced to ensure nutrient neutrality in perpetuity and not harm the Somerset Levels and Moors Ramsar site. Somerset Council, as the competent authority under The Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations') cannot be certain beyond a reasonable scientific doubt that the new residential development will not have an adverse impact upon the Somerset Levels and Moors Ramsar Site. Therefore, planning permission should not be granted.

12.2 For the reasons set out above, having regard to all the matters raised, it is therefore 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 dwelling is considered to be an alien design in the street scene adversely impacting on the character and setting of the existing listed building and the character of the conservation area contrary to policies CP8 and DM1d of the Core Strategy and policy D2 of the Site Allocations and Development Management Plan and it is not considered that the harm is outweighed by the benefits.

- 2 The proposed development has the potential to adversely affect the integrity of the Somerset Levels and Moors Ramsar site by adding to the concentration of phosphates in an area where they are already excessive. In the absence of technical information evidencing the level of phosphates generated by the development, and mitigation measures to demonstrate that phosphate neutrality can be achieved, the Local Planning Authority is unable to conclude beyond all reasonable scientific doubt that the proposed development would not have an adverse effect on the integrity of the Ramsar site. It is therefore not possible for the Local Planning Authority to conclude a favourable Habitat Regulations Assessment and fulfil its statutory duty under Regulation 63 the Conservation of Habitats and Species Regulations 2017.

As such the proposal is contrary to Policies CP8 (Environment) and DM1c (General requirements) of the adopted Taunton Deane Core Strategy and Paras. 180-182 of the NPPF.

- 3 The proposed development falls within flood risk zone 3a where government advice in the NPPF is to direct development away from areas of high risk and this is reflected in policy CP8 of the Core Strategy. The development is for a dwelling within the property of an existing dwelling within the flood risk zone when there is an alternative site not within the flood risk zone on land to the north off Staplegrove Road and so the proposal is considered to fail the Sequential Test and to be inappropriate development in this location.

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 the applicant and entered into pre-application discussions 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.