

**APPEAL DECISIONS**

**PLANNING COMMITTEE WEST**

**TUESDAY 20 AUGUST 2024**

**Application No:** 3/05/22/002

**Address:** Blue Anchor Bay Caravan Park, Blue Anchor Road,  
Carhampton, TA24 6JT

**Description:** Application for a Lawful Development Certificate for the proposed change of use of touring caravans to 34 No. holiday caravan pitches

**Appeal Decision:** Approved



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## Appeal Decision

Hearing held on 10 July 2024 Site visit made on 22 January 2024 **by James Blackwell**

**LLB (Hons) PGDip, Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 10<sup>th</sup> July 2024**

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## Appeal Ref: APP/W3330/X/23/3320927 Blue Anchor Bay Caravan Park, Carhampton, Somerset TA24 6JT

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Hoburne Ltd against the decision of Somerset Council (formerly Somerset West and Taunton Council).
- The application ref 3/05/22/002, dated 8 February 2022, was refused by notice dated 1 June 2022.
- The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended (1990 Act).

- The use for which a certificate of lawful use or development is sought is the siting of 34 no. holiday caravan pitches.

**Summary decision: The appeal is allowed and a certificate of lawful use or development is issued, in the terms set out below in the Formal Decision.**

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## Background and Preliminary Matters

1. Whilst the appeal application was determined by Somerset West and Taunton Council, Somerset West and Taunton Council has since become part of Somerset Council, a newly formed unitary authority. Somerset Council is therefore the local planning authority for the area in which the appeal site is located, which is reflected in the banner heading above.
2. During the hearing, a revised description of development was agreed, which simplifies the proposed use and makes it clear that the use sought is the siting of 34 holiday caravans (or static caravans, as they are also commonly referred). I have used this updated description for the purpose of the appeal.
3. The appeal site comprises part of a caravan site which is located approximately 5 miles east of Minehead. Whilst the caravan site is long established, the planning history for the site is somewhat unclear, and includes a number of gaps. Nonetheless, the appellant says that the lawfulness of the proposed use can reasonably be deduced from the planning consents which do exist in connection with the wider caravan site.
4. As an application for an LDC, the burden is on the appellant to demonstrate their case, on the balance of probability. Planning merits are not relevant. I have considered the appellant's evidence in accordance with the principle established in *Gabbitas*<sup>1</sup>. This says that where there is no evidence to contradict an appellant's version of events or make it less than probable, and

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<sup>1</sup> *Gabbitas v SSE & Newham BC* [1985] JPL 630

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their evidence is sufficiently precise and unambiguous, then it should be accepted.

## Main Issue

5. In this context, the main issue is whether the lawfulness of the appeal site as a caravan site can be deduced from historic permissions, and if it can, whether there are any restrictions on the type of caravan which may be sited there.

## Reasons

6. The appeal site is located within the north-eastern part of the caravan site. Its northern boundary runs alongside Blue Anchor Bay Road, which leads to the access into the caravan site. Its eastern boundary follows the path of the Pill River, and its southern and western sides are flanked by rows of static holiday caravans. A copse of trees, known as Pill Copse, also bounds the appeal site to the south-west. The site is currently occupied by a series of touring caravan pitches, and it also houses a toilet/shower block towards its centre. Given its enclosure on all sides, the appeal site is visually and physically integrated with the caravan site as a whole.

7. Planning permission was granted in 1957 (reference 36113) for "*use of land at Blue Anchor as a caravan site, together with the erection of an associated toilet block*" (1957 Permission). The parties have not been able to locate any plans which were approved under the 1957 Permission. However, the permission clearly references Plot 47 on its cover sheet, which corresponds accurately to an Ordnance Survey plot within the south-eastern part of the caravan park. Plot 47 does not include the appeal site. This suggests the appeal site is not comprised within the 1957 Permission, and the conditions attached to that consent would therefore not apply.
8. Whilst the 1957 Permission does not appear to relate to the appeal site, it is still helpful in determining the lawful use of the wider caravan site. Condition 8 of the 1957 Permission requires a landscaping scheme to be approved by the local authority "*before any of the additional caravans approved are placed on the land*". Given the reference to "*additional caravans*", it can be inferred that a caravan park already existed at the time of this consent.
9. Other records are consistent with this position, as they show planning permission was granted in 1955 for "*the erection of a recreation room at the caravan camping site*" (1955 Permission). It is implicit within this description that a caravan camping site already existed at the time of application. The location plan attached to the 1955 Permission clearly includes the appeal site within an area labelled "*caravan site*". The permission also references Plot 25, which corresponds to the Ordnance Survey reference for the same plot. As above, this suggests a caravan site, which encompassed the appeal site, lawfully existed at the time of this permission.
10. Planning permission was also granted in 1959 for the "*change of use of recreation hall to shop premises at Blue Anchor Bay Holiday Camp*" (1959 Permission). The plan attached to this permission is similar to the plan attached to the 1955 Permission, and again includes the appeal site within the denoted caravan site. The 1959 Permission is therefore also consistent with the appeal site forming part of the lawful caravan park at this time. The Council did not dispute this during the Hearing.
11. The site licence (ref C2/CHN/1) issued in 1986 lends further credence to the overall lawfulness of the caravan site. Under Part 1 of the Caravan Sites and Control of Development Act 1960 (1960 Act), a local authority can only issue a site licence if the land is lawfully permitted to be used in this way. It follows that a site licence would not be issued unless it had permission to be used as a caravan site.
12. The site licence only refers to the 1957 Permission. However, I do not consider this to be detrimental to the appellant's case, as the Council's own internal planning records made no reference to the permissions granted in the 1950s (which were instead retrieved by the appellant following a comprehensive search of archive records). In turn, it is entirely possible that the site licence would have referenced additional permissions relating to the caravan park, had they been known. In any event, the 1986 licence is the only known site licence in respect of the caravan park, and both parties have worked on the assumption that the whole of the site is governed by its terms and conditions. This is indicative of the whole of the caravan site being consented for such use, and the Council treating it as such.
13. None of the known permissions relating to the appeal site include any restriction on the type of caravan which may be sited there. The same is true of the site licence. Whilst the appeal site has been used to site touring caravans, this means there is nothing to preclude the appeal site being used to site holiday caravans instead, noting that both

touring caravans and holiday caravans would meet the definition of caravan prescribed by s29(1) of the 1960 Act.

14. With the exception of the limit on caravans within the south-eastern part of the caravan park (which is governed by the 1957 Permission), there are no other known restrictions on the capacity of caravans within the remainder of the caravan park in any other planning consent. Notwithstanding this, the site licence does limit the overall density of caravans within the caravan park to 60 caravans per hectare of usable space.
15. When this limit on density is applied to the useable space within the appeal site, which is estimated to be 1.2ha, the appeal site could accommodate 72 caravan pitches without breaching the conditions of the site licence. This means the siting of 34 holiday caravans would fall comfortably within this threshold. Once again, the Council did not dispute this assessment.
16. Bringing these points together, the three permissions granted in the 1950s all evidence the lawfulness of the appeal site being used as a caravan site, a position which the Council accepts. There are no known restrictions on the type of caravan which may be sited within this part of the caravan park, which means the siting of holiday caravans in place of touring caravans would not impact on the site's lawfulness. The proposed number of holiday caravans would also be comfortably within the density thresholds prescribed by the site licence.
17. In turn, I consider that the appellant's evidence is sufficiently precise and unambiguous to demonstrate, on the balance of probability, that use of the appeal site for the siting of 34 no. holiday caravan pitches would be lawful, and the Council has presented little evidence to contradict this position, nor make it less than probable.

## Conclusion

18. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant an LDC in respect of the siting of 34 no. holiday caravan pitches was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act (as amended).

## Formal Decision

19. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is found to be lawful.

*James Blackwell*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT**

Edward Grant, Cornerstone Barristers (Counsel)  
Jeremy Lambe, Lambe Planning and Design (Agent)

### **FOR THE COUNCIL**

Lewis Jukes, Magdalen Chambers (Counsel)  
Paul Sherman (Council)

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# Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

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**IT IS HEREBY CERTIFIED** that on 8 February 2022 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The lawful use of the land as a caravan site can be inferred from historic planning permissions, and these permissions place no restriction on the type of caravan which may be sited there.

Signed

*Mr James Blackwell*

Inspector

Date: 10<sup>th</sup> July 2024

Reference: APP/W3330/X/23/3320927

## **First Schedule**

The siting of 34 no. holiday caravan pitches.

## **Second Schedule**

Blue Anchor Bay Caravan Park, Blue Anchor Road, Carhampton, Somerset TA24 6JT

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

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

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

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

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# Plan

This is the plan referred to in the Lawful Development Certificate dated: 10<sup>th</sup> July 2024 **by Mr**

**James Blackwell LLB (Hons) PGDip, Solicitor**

**Land at: Blue Anchor Bay Caravan Park, Blue Anchor Road, Carhampton, Somerset TA24 6JT**

**Reference: APP/W3330/X/23/3320927**

Scale: Not to Scale

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**Application No:** 36/23/0008

**Address:** UPHAMS BARN, GRIGGS HILL, STOKE ROAD, STOKE ST GREGORY, TAUNTON

**Description:** Variation of a Condition No. 18 of application 36/07/0015 as the dwellings are no longer required for persons employed at the Willow and Wetlands Centre at Griggs Hill, Uphams Barn, Stoke Road, Stoke St Gregory

**Appeal Decision:** Approved



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## Appeal Decision

Site visit made on 17 July 2024 by Alison Fish BA (Hons) DipTP

MRTPI

**an Inspector appointed by the Secretary of State**

**Decision date: 29 July 2024**

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Appeal Ref: APP/E3335/W/23/3330979 1-3 Uphams Barn, Griggs Hill, Stoke Road, Stoke St Gregory, Taunton, Somerset TA3 6JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Jonathan Coate against Somerset Council.
- The application Ref is 36/23/0008.
- The application sought planning permission for change of use and conversion of building to 3 key workers homes without complying with a condition attached to planning permission Ref 36/2007/015, dated 15 November 2007.

- The condition in dispute is No 18 which states that: The occupation of the units shall be limited to persons solely or mainly employed in The Willows and Wetlands Centre.
  - The reason given for the condition is: The proposal is considered in line with Taunton Deane Local Plan Policy H7 because of its connection to a local rural business.
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## Decision

1. The appeal is allowed and planning permission is granted for change of use and conversion of building to 3 key workers homes at 1-3 Uphams Barn, Griggs Hill, Stoke Road, Stoke St Gregory, Taunton, Somerset TA3 6JG in accordance with the application Ref 36/23/0008 without compliance with condition number 18 previously imposed on planning permission Ref 36/2007/015, dated 15 November 2007 and subject to the conditions in the attached Schedule.

## Preliminary Matters

2. Following the submission of the appeal against non-determination, the Council has advised that if it had had the opportunity to make a decision, the application would have been refused for the following reason:

*'Insufficient evidence has been provided to demonstrate that there is no demand for the rural workers dwellings at the Willow and Wetlands Centre, by persons who could lawfully occupy the properties in the foreseeable future. Additionally, it has not been demonstrated that the proposal meets the sequential test of policy DM2 of the adopted Taunton Deane Core Strategy. The scheme would therefore result in unjustified open market dwellings outside of settlement limits, in an unsustainable location that could, if allowed, lead to unsustainable travel patterns and reliance on a private motor vehicle. As such, the proposal is contrary to Policies CP1(a) (Climate Change), SP1 (Sustainable Development Locations), DM2 (Development in the Open Countryside) of the adopted Taunton Deane Core Strategy and its associated criteria and Policy*

*H1a (Permanent housing for rural workers) of the Taunton Deane adopted Site Allocations and Development Management Plan.'*

## Background and Main Issue

3. Planning permission (LPA ref. 36/07/0015) was granted in 2007 for the change of use and conversion of the building the subject of the appeal to three dwellings with a condition restricting their occupancy. Condition 18 of the permission stipulates that the dwellings should only be occupied by persons solely or mainly employed at the Willows and Wetlands Centre ('the Centre'), a commercial basket weaving enterprise, with a visitor centre, tearoom, museum and shop. This appeal seeks the removal of that condition.

4. The main issue in this appeal therefore is whether the condition is necessary or reasonable having regard to the development plan.

### Reasons

5. Policy SP1 of the Taunton Deane Core Strategy 2011-2028, adopted September 2012 (CS) directs growth to the most sustainable and accessible locations, with Taunton being a focal point for development. It states that sites beyond identified settlements, are within the designated open countryside. The appeal site is located outside the settlement limit of Stoke St Gregory and is therefore treated as open countryside in respect of Policy SP1 of the CS.
6. Amongst other things, Policy CP1 of the CS seeks to reduce the need to travel through locational decisions. The appeal site is located to the north west of Stoke St Gregory which has a primary school, public house, shop and café, recreation fields, village hall and church. I also saw that there was a bus stop but I have not been provided with details of the services operating from Stoke St Gregory or their frequency. These facilities are all within half a mile of the appeal site and are accessed by walking along an unlit rural lane. However, the walk is relatively level and there are a number of areas offering safe pedestrian refuge from passing traffic. Therefore, although the site is located in the open countryside, there is reasonable access to shops and services required for day to day living such that there would be no conflict with Policy CP1 of the CS if the existing dwellings were to be occupied by persons not employed at the Centre.
7. Policy DM2 of the CS refers to development in the countryside. Subject to relevant criteria, it sets out a variety of uses which the Council would support in locations outside defined settlement limits. The Council refer to the sequential approach in subsection 7 of the policy relating to 'Conversion of existing buildings'. However, the proposal before me is not a conversion proposal. Works to convert the building were carried out pursuant to the 2007 planning permission referred to in the banner heading above. The building before me constitutes three dwellings and the proposal before me is the removal of a condition relating to its occupancy. Therefore, I do not find that Policy DM2 of the CS is relevant to the appeal proposal.
8. Policy H1a of the Taunton Deane adopted Site Allocations and Development Management Plan 2016 (SADMP) relates to permanent housing for rural workers. It permits the removal of occupancy conditions where: i) the dwelling is no longer needed on that unit for the purposes of agriculture or other rural based enterprises; ii) there is no current demand for dwellings for agriculture or other rural based industries in the locality; and, iii) the dwelling cannot be sold or let at a price which reflects its occupancy condition for a reasonable period to be agreed with the local planning authority.
9. The wording of the disputed condition is very specific – it permits only those persons who are solely or mainly employed at the Centre. The condition does not permit occupation by persons employed in agriculture or other rural based industry in the locality. As such, even if there was demand for dwellings for

agriculture or other rural based industries in the locality, the condition as worded would not permit them to occupy the dwellings. Therefore, no conflict with criteria ii) of Policy H1a of the SADMP arises.

10. Therefore, I turn to whether the dwellings are no longer needed for the rural based enterprise taking place at the Centre as set out in SADMP Policy H1a i).
11. I am advised that a number of skilled basket weavers were previously employed at the Centre from Poland and Hungary. The dwellings the subject of this appeal provided housing for them. However, as a result of Brexit, workers coming from overseas have not been employed at the Centre for some time so the need to provide them with accommodation on arrival into the country no longer arises.
12. The Council argue that the condition is not limited to those employed in the specific task of basket weaving or limited to employees coming from overseas. The condition would permit anyone employed at the Centre to occupy the dwellings and I agree. However, the appellant's letter dated 5 October 2023<sup>1</sup> ('the letter') advises that the units were offered to employees at the Centre rather than specifically to those employed in basket weaving. They also say that the business is now attracting a more local workforce that do not require accommodation on site.
13. It states in the letter that one of the dwellings has never been occupied by an employee of the Centre (unit 1), one was occupied until early 2023 but is now unoccupied (unit 2) and unit 3 has not been occupied in connection with the Centre since 2014 and has been rented out on the private market instead. In the letter, the appellant sets out that all three units were offered to employees at the Centre when they became vacant. Had there been an employee at the Centre requiring accommodation, it seems unlikely to me that unit 2 would have been left unoccupied.
14. The Centre has continued to operate in the 17 years since the grant of planning permission for the 3 dwellings and yet the evidence presented indicates that only one of the units has been occupied by a worker at the Centre in recent times. This does not indicate to me that there is functional need for workers accommodation to ensure the continued operation of the enterprise.
15. Taken together, and on the basis of the evidence before me I am satisfied that the dwellings are no longer needed for the rural based enterprise taking place at the Centre and that criteria i) of Policy H1a of the SADMP is satisfied.
16. I turn now to criteria iii) of Policy H1a and whether the dwelling cannot be sold or let at a price which reflects its occupancy condition for a reasonable period to be agreed with the local planning authority.

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<sup>1</sup> Appendix 7 of the Statement of Case

17. The properties have been rented in the past by employees at the Centre. I have not been presented with any evidence relating to the rental price of the units. However, units 2 and 3 were occupied for a number of years by persons employed at the Centre. The evidence before me indicates that existing tenants moved out when their employment at the centre ceased or they found accommodation elsewhere which was more suited to their needs. The letter indicates that all three units have been offered to employees at various times over the years.
18. There is no evidence before me that the properties have been marketed for sale. Conflict with criteria iii) of Policy H1a therefore arises. Notwithstanding this, the disputed condition limits the occupation of the three dwellings to employees at the Centre. It does not permit occupation of those dwellings by a widow or widower or surviving civil partner of such a person, and to any resident dependants. It also does not permit occupation more widely in connection with agriculture, forestry or other rural based enterprises. The occupancy condition is so tightly framed that the properties could only be sold and occupied by employees of the Centre. In my view this would significantly limit the marketability of the property. For these reasons, I give the conflict with criteria iii) of Policy H1a limited weight. Moreover, for the same reasons I do not consider that the condition meets the tests of reasonableness as set out in the Planning Practice Guidance.

#### Other Matters

19. The Council refer to Paragraph 84 of the National Planning Policy Framework (the Framework). This relates to the development of isolated homes in the countryside. However, the three dwellings the subject of this appeal are already in existence. In addition, I saw that the appeal site is located within a small cluster of dwellings and that it is a short walk from the facilities on offer in Stoke St Gregory. Accordingly, I do not find that the appeal site can be described as isolated in the context of Paragraph 84 of the Framework.
20. The Council have suggested that the disputed condition could be re-worded to allow occupation of the dwellings by those persons employed in rural businesses nearby or occasional holiday lets in addition to those employed at the Centre. However, I have found that the appeal proposal complies with the development plan as a whole and therefore amending the condition as the Council suggests would not be reasonable.

#### Conclusion

21. The appeal development is located in the countryside as identified in Policy SP1 of the CS. It is clear that the policy seeks to focus development in the most accessible locations. In this case, I have found that there is reasonable access to shops and services required for day to day living such that there would be no conflict with Policy CP1 of the CS and that Policy DM2 of the CS is not relevant to the proposal before me. I have found no conflict with Policy H1a in terms of criteria i) and ii) but some limited conflict with criteria iii).

Overall, I conclude that the appeal development complies with the development plan as a whole and therefore condition 18 is no longer necessary.

22. The guidance in the Planning Practice Guidance makes clear that decisions for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect. Notwithstanding the conditions suggested by the Council, I shall grant a new planning permission without the disputed condition but retaining those non-disputed conditions from the previous permission either in whole or in part, that still appear to be relevant. I have updated the conditions to refer to the latest version of the General Permitted Development Order.
23. Accordingly, for the reasons given above, I conclude that the appeal should succeed.

*Alison Fish*

INSPECTOR

## **Schedule of Conditions**

- 1) The area allocated for parking on the approved plan shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.
- 2) Any entrance gates erected shall be hung to open inwards and shall be set back a minimum distance of 6m from the carriageway edge.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no addition or extension to the dwelling(s) unless an application for planning permission in that behalf is first submitted to and approved by the local planning authority.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no further building, garages, structure or other enclosure constructed or placed on the site unless an application for planning permission in that behalf is first submitted to and approved by the local planning authority.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows (other than those expressly authorised by this planning permission) shall be constructed.

**End**

**Application No:** 38/23/0073

**Address:** LAND TO THE REAR OF 14 WYNDHAM ROAD,  
TAUNTON, TA2 6DX

**Description:** Demolition of dwelling and erection of a replacement one bed single storey dwelling on land to the rear of 14 Wyndham Road, Taunton

**Appeal Decision:** Dismissed



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## Appeal Decision

Site visit made on 16 July 2024 by **O Marigold BSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 02 August 2024**

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Appeal Ref: APP/E3335/W/24/3342895 Land to the rear of 14 Wyndham Road, Taunton, Somerset TA2 6DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs P Metherall against the decision of Somerset Council.
  - The application Ref is 38/23/0073.
  - The development proposed is described as demolition of dwelling and erection of a replacement one-bed single-storey dwelling on land to the rear of 14 Wyndham Road, Taunton.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have taken the description of the proposal from the Council's Decision Notice, which identifies it more clearly than the description used in the application form. This was agreed between the appellants and the Council during the course of the planning application and so I am satisfied that no prejudice would result.



## Main Issues

### 3. The main issues are:

- the effect of the proposal on the character and appearance of the area,
- whether the proposal would provide adequate living conditions for its future occupiers, with regard to privacy, light, outlook and outdoor space, and
- the effect of the proposal on the living conditions of the occupiers of 14 Wyndham Road (No. 14), with regard to privacy, light and outlook.

## Reasons

### Character and Appearance

4. Wyndham Road is a cul-de-sac consisting predominantly of two-storey detached dwellings in linear rows fronting the road. Most dwellings in the road have a reasonable degree of spaciousness between them, providing a low density suburban character. External facing materials are predominantly of brick and render, with clay tile roofs. The site consists of what was historically the reasonably-sized garden of No. 14, also a detached two-storey dwelling. To the rear of the host dwelling is a single-storey timber cabin, with a shallow roof.
5. Although used initially as an ancillary building to No. 14, a 2021 Certificate of Lawful use<sup>2</sup> (CLUED) confirmed that the cabin had an existing lawful use as a separate dwelling (the CLUED dwelling). The proposal seeks to demolish it and erect a larger, replacement dwelling on the opposite side of the rear garden. It would have a contemporary design with a steep gable roof, finished in material appearing as corrugated metal.
6. The backland location of the proposal, well behind the rear building line of the row including No. 14, means that it would not reflect the existing pattern of development. The proposal would cover a sizable part of the existing rear garden, largely filling the width of its plot, with a steep roof. These factors, together with the close proximity of No 14 and the boundary treatments necessary for privacy would result in a constrained, 'hemmed in' appearance.
7. The proposed external materials seek to acknowledge the cabin, whilst raising standards in the area, including in respect of energy efficiency. However, the roof material would conflict markedly with the local vernacular. Despite screening from hedging and fencing, and the site levels, the proposal would be visible in the street scene and from nearby dwellings.
8. Terminating views are already provided by existing dwellings in Wyndham Road and so the proposal would not be beneficial in this respect. Instead, it would appear cramped, overdeveloped and out-of-place, including in comparison with the low-key cabin appearance of the CLUED dwelling. As a result, a planning condition requiring different external materials would not overcome my concerns.

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<sup>2</sup> LPA reference 38/21/0023/LEW

For these reasons, I conclude that the proposal would harm the character and appearance of the area.

9. As such, the proposal would conflict with Policy DM1 of the Taunton Deane Core Strategy (TDCS), adopted September 2012, Policy D7 of the Taunton Deane Site Allocations and Development Management Plan (SADM), adopted December 2016, as well as the Council's Design Guide Supplementary Planning Document (SPD), adopted December 2021. These require a high standard of design that responds to site context and local distinctiveness, without causing harm to the street scene. It would similarly conflict with the aim of the National Planning Policy Framework (the Framework) for development to be sympathetic to its surroundings. I therefore give this conflict significant weight.

#### Living conditions – the proposed dwelling

10. SADM Policy D12 and its justification states that every dwelling should have the benefit of individual or communal private amenity space. It requires a private garden for houses of 2+ bedrooms and shared private garden for one-bedroom flats and bedsits. The proposal is described and shown on the plans as being for a one-bed unit and would have its own garden area.
11. However, the supporting text to SADM Policy D12 makes clear that the shape, size and practical usability of the space are also considerations. There is no dispute that the internal size of the proposal would be large enough to accommodate up to three bedrooms, based on the minimum sizes within SADM Policy D10. The accommodation is intended to be occupied by the appellants, a couple with no dependants. Nevertheless, it is common ground that dwellings should be adaptable to changing needs over time. Future occupiers of the proposal could well include, for example, a small family.
12. The proposal includes only narrow side and rear outdoor amenity areas. It would have a larger gravelled area to the front, but this would also be small and would have little privacy, being visible from Wyndham Road as well as from adjacent dwellings. As a result, the practical usability of these spaces would be limited. Accordingly, as a matter of planning judgement, they would provide a poor standard of outdoor space for future occupiers of the proposal, particularly given the size of its internal space.
13. The proposed dwelling would have windows on all four elevations. However, the tight nature of the plot means that the light and outlook available from the windows and amenity areas would be restricted by boundary treatments. Outlook to the front would also be dominated by the mass, close proximity and higher position of No. 14.
14. The closest ground-floor rear window of No. 14 has been blocked-up, avoiding overlooking from it into the outside spaces serving the proposed dwelling. Despite this, views down into these areas would be available from the rear decking of No. 14, with only the small rear patio area providing any privacy outdoors. For these reasons, the proposal would have a poor degree of light, outlook and privacy.

15. The proposal would provide a garden exclusively for No. 14 and the proposed dwelling, representing a benefit compared to the current arrangement. That said, the garden could instead be divided in an L-shape providing a similar benefit in this respect, using permitted development rights. This would retain a small private area to the end of the cabin for occupiers of the CLUED dwelling. Consequently, the existence of the CLUED dwelling does not provide sufficient reason to justify the proposal in respect of this issue.
16. For the reasons given above, I conclude that the proposal would not provide adequate living conditions for its future occupiers with regard to privacy, light, outlook or outdoor space. As a result, it would conflict with SADM Policy D12, as well as TDCS Policy DM1 which requires the amenity of individual dwellings to be not harmed. Similarly, it would conflict with the aim of the Framework for a high standard of amenity for future users. SADM Policy D7 relates to design quality and so I have found no breach of this policy in respect of this issue, and no specific conflict with the SPD has been identified. Nevertheless, I give significant weight to the conflict I have found.

#### Living Conditions – No. 14

17. The proposal would result in built form being located close to the rear elevation of No. 14 and its remaining garden. However, following the blocking-up of one window, only the northern end of its rear elevation has windows, which are away from the proposed dwelling. As such, the proposal would not result in a worsening of the light, outlook or privacy available to its occupiers from the remaining windows. The mass and height of the pitched roof of the proposal would not be so tall as to unacceptably overshadow the remaining rear garden area of No. 14.
18. The CLUED dwelling is prominent from the rear windows and decking of No. 14. Therefore, its removal would result in a modest benefit to the outlook of the occupiers of No. 14. It would also result in the creation of a separate outdoor area for the property. Nevertheless, these benefits could also be achieved by the appellants simply choosing to remove the cabin or, as I have already found, by sub-dividing the garden.
19. As such, the proposal would not have a harmful effect on the living conditions of the occupiers of No. 14, with regard to privacy, light or outlook. It would therefore comply with TDCS Policy DM1 in this respect. Similarly, it would not conflict with the aim of the Framework for a high standard of amenity for existing users. I have found no conflict with SADM Policy D7 or the SPD as already stated in respect of the second main issue. However, also for the reasons given above, the effect on the living conditions of the occupiers of No. 14 would be a neutral rather than a positive factor in the planning balance.

#### Other Considerations

20. Subsequent to the refusal of the appeal application, the Council granted planning permission<sup>3</sup> for the erection of a replacement dwelling in a similar location to the

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<sup>3</sup> 2 LPA reference 38/24/0027

proposal, but of a different size and design. I see no reason to doubt that this could be implemented and so it represents a realistic available fallback.

21. The fallback would be set back further from Wyndham Road compared with the proposal. As such, views into the front garden of the proposal from the rear windows of No. 14 would be slightly greater. Against that, the fallback would provide additional space to No. 14, resulting in a less cramped appearance. The proposal would have a marginally larger rear patio area than the fallback. However, the fallback would have a smaller internal floorspace and so it may well have fewer occupiers or less need for open space compared to the proposal.
22. The fallback would have a flat roof, intended to reflect adjacent garage buildings. They may be of little architectural merit, but the subservient height and appearance of the fallback would better reflect the backland location of the proposal, where smaller, ancillary structures are to be expected. The use of render for the external finish of the fallback would also be better than a corrugated metal appearance, having regard to the materials used in the locality. For these reasons, I conclude that the fallback would be preferable to the proposal, and so it does not provide a reason to grant permission.
23. Construction of the proposal would make a positive economic contribution, for instance to the local building industry. Its future occupiers would also make social and economic contributions. The proposal would result in more efficient use of land, close to services and facilities and could be delivered quickly. It would be built to high environmental standards and is for a self-build dwelling, thereby adding to their supply. However, as just a single replacement unit, I give these benefits only limited weight. In light of my findings in respect of the design, form and layout of the proposal, Framework Paragraph 139 does not provide support for it.
24. The site lies within the catchment area of the Somerset Levels and Moors Special Protection Area and Ramsar site (the SPA), protected pursuant to the Conservation of Habitats Regulations 2017 as amended. Had I found the proposal acceptable in other respects, as competent authority I would have carried out an Appropriate Assessment of the potential effects on the SPA. However, as I have found otherwise, this matter need not be considered any further in this case.

### Planning Balance and Conclusion

25. For the reasons given, I have found conflict with the Development Plan as a whole. The material considerations in this case, and the weight which I ascribe to them, do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

*O Marigold*

INSPECTOR

