

| Application Details | |
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| Application Reference Number: | 06/22/0027 |
| Application Type: | Full Planning Permission |
| Earliest decision date: | 16 September 2022 |
| Expiry Date | 14 October 2022 |
| Extension of time | N/A |
| Decision Level | Planning Committee |
| Description: | Formation of five car parking spaces on part of green space at Quantock View, Bishops Lydeard |
| Site Address: | QUANTOCK VIEW, BISHOPS LYDEARD, TAUNTON |
| Parish: | 06 |
| Conservation Area: | No |
| Somerset Levels and Moors RAMSAR Catchment Area: | Yes |
| AONB: | No |
| Case Officer: | Anthony Pick |
| Agent: | N/A |
| Applicant: | BISHOPS LYDEARD & COTHELSTONE PARISH COUNCIL |
| Committee Date: | 20 June 2023 |
| Reason for reporting application to Committee | At the discretion of the director in the public interest. |

1. Recommendation

1.1 That planning permission be REFUSED.

2. Executive Summary of key reasons for recommendation

2.1 It is considered that the proposed car parking area and loss of green space would adversely impact on the character and appearance of the area. The proposed development would therefore be contrary to the Council's policies, which seek to ensure that development does not unacceptably harm the character and appearance of the area and of any affected street scene. The proposed parking bays may also increase parking demand in Quantock View by enhancing the parking provision available and encourage non sustainable modes of travel.

3. Planning Obligations and conditions and informatives

Not applicable.

4. Proposed development, site and surroundings

4.1 Details of proposal

Planning permission is sought for the provision of a new car parking area for 5 vehicles on part of the green space at Quantock View, Bishops Lydeard. Access is proposed off Quantock View, which is an unadopted highway.

The proposed bays would be oversized, measuring 5.0m x 2.8m, in order to accommodate safe manoeuvring into the carriageway. The parking area would be constructed of permeable block paving and the bays delineated by white paving blocks. The existing grassed area would be re-profiled around the proposed kerb line. The area between the existing and proposed parking area would be identified as a clear zone, connecting with the existing footpath.

4.2 Sites and surroundings

The site is under the ownership of Somerset Council and comprises a grassed area to the west of the Quantock View. There are two large mature trees on site, a Pine located in the northeast corner of the green and a Birch located in the southeast corner. The trees are the subject of a Tree Preservation Order (SWT70). There is an existing asphalt parking area to the north of the site, with vehicles parked perpendicular to the road.

There is an existing pedestrian path that traverses the west and north boundary of the green and provides access to the residential properties, whilst another path splits off and dissects the park. The green space is delineated by a shin rail fence which runs parallel to the road. The land is generally flat, and the site is located within the settlement boundary of Bishops Lydeard.

5. Planning (and enforcement) history

The site has no relevant planning history.

The green space is the subject of a Village Green application (reference VG26) which has been registered and undergone public advertising. The Village Green application is determined under a different legislative system (the Commons Act 2006 (as amended by the Growth and Infrastructure Act 2013)).

6. Consultation and Representations

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

6.1 Date of consultation: 22 August 2022

6.2 Site Notice Date: 31.08.2022

6.3 The following Statutory Consultees were consulted:

| Consultee | Comment | Officer Comment |
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| BISHOPS LYDEARD & COTHELSTONE PARISH COUNCIL | The Parish Council supports the granting of permission | Noted |
| SCC - ECOLOGY | No comments received | N/A |
| SCC - TRANSPORT DEVELOPMENT GROUP | No observations | Noted |
| RIGHTS OF WAY OFFICER | <p>On 8 March 2022, Somerset County Council received an application to register land known as The Green in Quantock View, Bishops Lydeard as a village green.</p> <p>The proposed parking spaces are on part of the land covered by the village green application.</p> <p>Without prejudice to the assessment of the application, if the land does become registered as a village green then it will be protected by both</p> | Noted |

section 12 of the Inclosure Act 1847 and section 29 of the Commons Act 1876. Amongst other things the 1847 Act makes it an offence to cause injury to the green, while it is a public nuisance under the 1876 Act to disturb or interfere with the soil of a green.

Recommend that the Council seeks legal advice as to the consequences of independent legal advice as to the consequences of granting planning permission in this case, given that it may facilitate an offence and/or a public nuisance.

Advice note recommended to draw attention to the applicant of the VG application.

UPDATE 06.04.2023

The village green application has been accepted as duly made and consultation was carried out between 19 January and 2 March 2023. In accordance with The Commons (Registration of Town and Village Greens) (Interim Arrangements) (England) Regulations 2007 the applicant is provided an opportunity to comment on the consultation responses. Those comments have now been received.

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| | <p>UPDATE 12.05.2023</p> <p>The next step is for the Council to give careful consideration to all of the evidence supplied for and against registration. While we would endeavour to make a decision as soon as possible, there are many other village green cases which are currently awaiting determination. It may therefore be several years before we are in a position to take further action in relation to this case.</p> | |
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6.4 The following Internal Consultees were consulted:

| Consultee | Comment | Officer comment |
|-------------------|---|------------------------|
| SWT Arboriculture | <p>Prior to determining the application an Arboriculture Method Statement is required to ensure the location of the parking is acceptable, as well as the construction of the new footway section which is close to the pine tree.</p> <p>Initial estimate following a site visit is that there will be slight incursions into the Roof Protection Areas.</p> <p>Possible solutions could be a no-dig e.g., Cellweb or similar, or the end parking space is omitted from the parking area.</p> <p>UPDATED 2.06.2023</p> | Noted. |

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| | <p>There are some inaccuracies with the documents provided. On the 'tree survey' and 'tree protection plans' the birch tree is shown in a different location from the 'Topo' and site plan. According to the latter two drawings and my recollection of the site, the birch is about 6 metres from the edge of the proposed parking area, whereas on the tree survey it is further south. The Arb Method Statement states that no works will be carried out within the RPAs of either tree, but the survey states that the birch has a RPA radius of 7.6 metres, so this seems incorrect. Also, the pine has a RPA radius of 7.1 metres. The footpath is to be re-laid so it does seem that there will be some works in this area of the RPA. These details need to be checked and the AMS revised to give more detail about how these works will be carried out without damaging the trees.</p> | |
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6.5 Local representations

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

8 members of the public have made submissions (7 objections; 1 support) providing the following comments (summarised):

| Material Planning Considerations | |
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| Objections | Officer comment |
| Private (unadopted road) – Residents do not consent to providing access rights for the proposed development. | <p>The question of whether residents and members of the general public have the right to use Quantock View to gain access to the application site to park vehicles, is not a material planning consideration. The matter is a civil matter between the users, the owners of the parking area (Somerset Council) and the owners of the road.</p> <p>Notwithstanding, the former Council acquired the land for housing in 1962, so it is likely that residents and members of the public have used Quantock View as a highway for many decades.</p> |
| Loss of Green Space and impact on amenity | Considered within the report. |
| Damage / Loss of Trees | Were trees to be damaged (notably those now the subject to Tree Preservation Order (SWT70 - T1 - Pine; T2 - Birch)) then redress against an offender could be sought via the Town and Country Planning (Tree Preservation) (England) Regulations 2012). The applicant has submitted an Arboriculture Method Statement to demonstrate that the works would not adversely affect the protected trees subject to mitigation measures. |
| Increase / Encourage Traffic along narrow road | Considered in the report. |
| Impact on highway safety. The previous concerns of parking on the green have been addressed by the rail fence. | Noted. The shin rail fence was installed by the Council to prevent haphazard parking on the green and reduce instances of mud and debris being |

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| | washed into and blocking the nearby gully. |
| Drainage (exacerbate a problem) | The development, to be finished with a permeable surface material, would not in itself result in an exacerbation of drainage issues. |
| Contrary to Council's declaration of a climate emergency and aim to be carbon neutral by 2030 | Noted – As acknowledged in the Highway Technical Note, there is a concern that enhancing the availability of parking may increase demand rather than promoting walking / cycling. |
| Pending application for Village Green status | Noted. However, the material weight attributed to the VG application is considered to be limited at this juncture. See report for further commentary. |
| Support | Officer comment |
| Alleviate Parking Congestion | Noted. |

7. 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 new unitary authority for Somerset (Somerset Council) was formed on 1 April 2023 and as part of this reorganisation a Structural Change Order was agreed.

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:

Core Strategy

SD1 - Presumption in favour of sustainable development

CP6 - Transport and Accessibility

CP8 - Environment

DM1 - General requirements

DM4 - Design

Site Allocations and Development Management Plan

ENV1 - Protection of trees, woodland, orchards and hedgerows

D7 - Design quality

A1 - Parking Requirements

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)

Neighbourhood plans:

The Bishops Lydeard and Cothelstone Neighbourhood Plan is part of the development plan and a material consideration in the assessment of the planning application.

Relevant sections include:

Policy 5.1 Housing

Policy 5.3 Transport Infrastructure

National Planning Policy Framework

The revised National Planning Policy Framework (NPPF), last updated in July 2021, sets the Government's planning policies for England and how these are expected to be applied.

Relevant Chapters of the NPPF include:

2. Achieving sustainable development

12. Achieving well-designed places

8. Material Planning Considerations

8.1 Status of Village Green application

There have been submissions made that the planning application should not be determined on the basis that there is a current Village Green (VG) application for the same piece of land. Pursuant to the Commons Act 2006 (as amended) the submission of a planning application on land is identified as a 'trigger event'. In such circumstances, were land to be subject to a 'trigger event', the right of an individual or group to make a VG application is excluded, and the relevant authority must not accept any VG application for the land in question until a corresponding terminating event has occurred.

However, in this instance, the application to register the land as a VG was made before the receipt and validation of the planning application. The VG application does not, therefore, preclude the Local Planning Authority from determining the planning application before it.

It should be noted that, if the land identified in the VG application is formally registered as such, any subsequent development could be deemed a criminal offence. If the development is implemented and completed prior to the formal registration of the land as a VG, then that may be acceptable and not a criminal offence.

Irrespective of the future possible outcomes, determination of the current planning application, in accordance with the Town and Country Planning Act 1990 (as amended) is not prohibited by the fact that there is a concurrent application to register the same piece of land as a VG. The fact of an application to register the land as a VG application would carry only limited weight at this stage in proceedings. The Rights of Way officer has advised that the application has undergone a six-week consultation period, there is a further period for responses, followed by further deliberation / determination (which is likely to include a Public Inquiry). It has been suggested the timescale for issue of a decision on the VG application may take several years.

8.2 Parking, Sustainability and Climate Change

The rationale provided in the application for the proposed car parking area is to alleviate perceived parking issues in Quantock View – summary below:

- parked cars along the road edge adjacent to the green particularly during school drop off and pick up causing issues.
- safety issues - particularly for school children walking to Bishops Lydeard Primary School, the back entrance for which is located on Quantock View. Visibility for children crossing the road is reduced as a result of the parked vehicles.
- restricted access for the remainder of Quantock View; larger vehicles struggle to navigate Quantock View when vehicles park alongside the green particularly refuse trucks, delivery vehicles and emergency service vehicles.
- vehicles parking wholly or partially on the grassed area along the edge of Quantock view damage the grass and deposit mud on the highway causing blockage of road gullies leading to standing water on the road surface.

The application is accompanied by a Transport Note (TN) which states that it would be disproportionate to provide new permanent parking spaces to satisfy a temporary demand. The TN also acknowledges that the provision of additional parking spaces could encourage further pick up and drop off use by creating an attractive parking area. As such, this approach could ultimately be counterproductive in easing the pressure on Quantock View by focusing on the effect rather than the cause.

The Bishops Lydeard & Cothelstone Neighbourhood Plan at section 5.3.11 provides commentary on the issue of transport concerns, including car parking. The Plan states:

‘Although there is widespread concern about parking and many individual comments suggesting a need for more parking provision in the centre of the village, there is unlikely to be much chance of change in this area as there is physically no space of a reasonable size that could be dedicated to parking. Furthermore, it could be that the more parking that is provided the more people will make use of it and thus it just increases traffic, leading to a demand for more parking, in a downward spiral.’

It is considered that the provision of an attractive parking area on the existing green space would not support the Health and Wellbeing aims of the Neighbourhood Plan which seek the promotion of walking and cycling as an alternative to car use.

The TN does identify a range of alternative drop off locations and safety measures (e.g., preventing parking near the corner of Quantock View/Hamber Lea Pedestrian Link to improve visibility). The TN recommends that consultation with the Bishops Lydeard Church School takes place to determine a range of active travel initiatives that could be implemented, as part of a School Travel Plan.

One of the reasons presented in support of the proposal is that vehicles were causing damage to the grassed area resulting in drainage issues from loose mud / debris entering the drainage network. However, the Council has subsequently constructed a shin rail fence which has prevented vehicles parking on the grassed area.

8.3 Character and appearance of the area

In considering the need for car parking Policy A1 – Parking Requirements, states that in order to promote sustainable travel and to make efficient use of development land, the need for car parking will be assessed against a number of criteria including (A) the impact on urban design and the historic environment.

The proposed parking bays would impact on the existing open green space, which has been identified by the local community as an important part of village life and has resulted in an application for a village green. The green space is considered to provide amenity value / informal play area and reflects the rural character of the village.

The TN also acknowledges that the provision of car parking bays would detract from the use of Quantock View Green, in terms of amenity value.

During the site visit parents were observed to be chatting on The Green. Confirming this space, as identified on Drawing SK01 attached as Appendix A, as a meeting area with appropriate landscaping and seating could provide a valuable community space, rather than car parking to satisfy a temporary demand.'

The proposed parking would reduce the openness of the grassed area and it is considered would harm the general character and appearance of the area.

8.4 Trees

There is a mature Pine and Birch tree located on the site and the subject of a Tree Preservation Order (SWT70). The Council's Arboricultural Officer has identified inaccuracies within the accompanying reports and that it is likely there are proposed works within the Root Protection Area.

8.5 Drainage

The proposed parking bays would comprise permeable paving and subject to final detailed plans, would not adversely impact on the existing drainage system.

9 Planning balance and conclusion

9.1 The proposed parking area would provide a more attractive area for users to park their vehicles, which would be likely to have a detrimental effect on achieving a modal shift and the use of sustainable modes of travel. Moreover, any benefits arising from the proposal are considered to be limited, and would not outweigh the demonstrable harm to the openness of the green space and the character and appearance of the area. The green space has been identified by local residents to be of amenity value and the proposed parking would start to erode the open space and its setting.

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 for refusal

1. The proposed parking area would be attractive to parents using the bays for school drop off and pick up and would likely lead to an increased demand for parking by private cars and promote unsustainable modes of travel. The development would conflict with the provisions of policies DM1, DM4, CP6, CP8 of the adopted Core Strategy, and Policy A1 of the Taunton Deane Adopted Site Allocations and Development Management Plan, and guidance contained within The Bishops Lydeard and Cothelstone Neighbourhood Plan.
2. The proposed parking area would erode the existing openness of the green space and would harm the character and appearance of the area. It has not been demonstrated that the proposed parking area can be constructed without adversely affecting the root protection area of an existing tree on site, which is the subject of a TPO. The development would conflict with the provisions of policies DM1, DM4, CP6, CP8 of the adopted Core Strategy, and Policy ENV1 and A1 of the Taunton Deane Adopted Site Allocations and Development Management Plan, and guidance contained within The Bishops Lydeard and Cothelstone Neighbourhood Plan.