

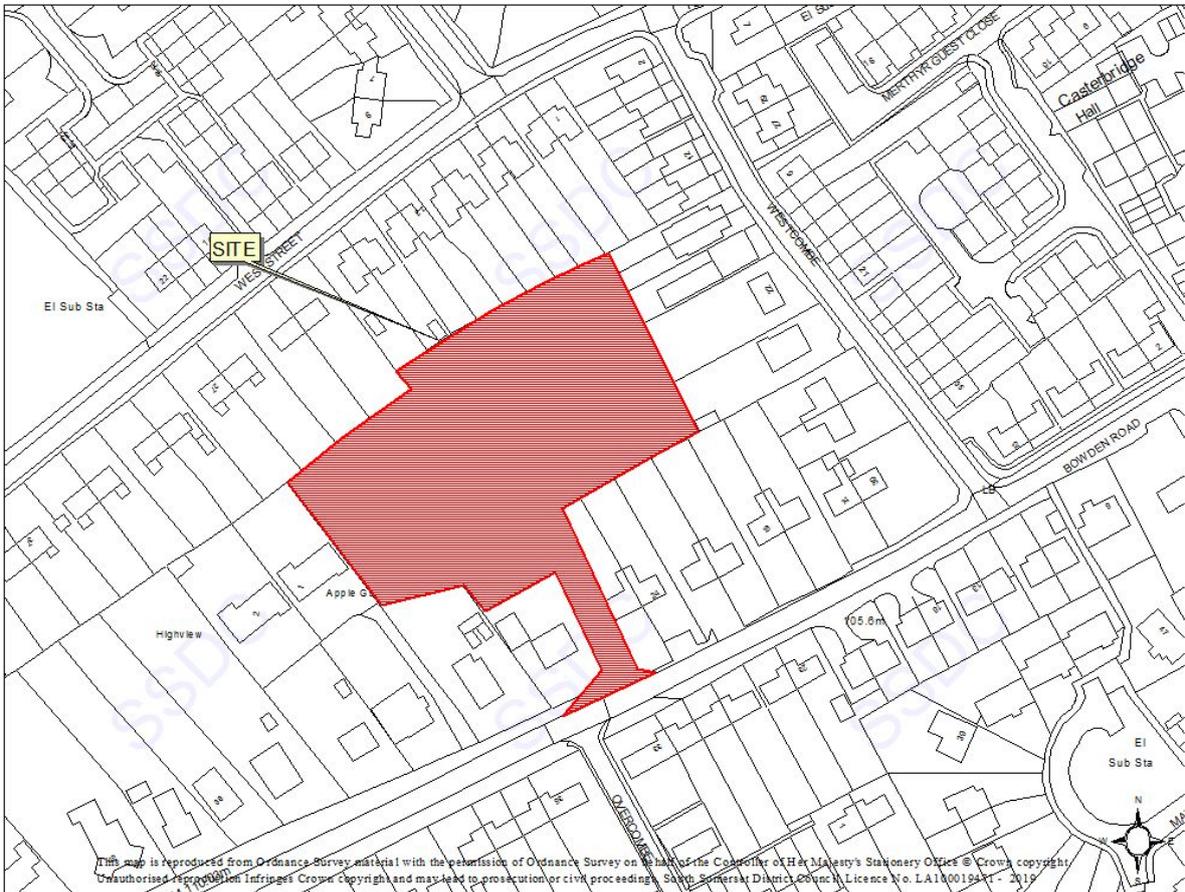
## Officer Report On Planning Application: 19/00184/S73A

<b>Proposal :</b>	Section 73A application to vary condition 1 (approved plans) of planning application 17/04047/S73A to amend Plot 1 from a single-storey bungalow to a 2-storey dwelling.
<b>Site Address:</b>	Land Rear Of 18 To 24 Westcombe Templecombe
<b>Parish:</b>	Abbas/Templecombe
<b>BLACKMOOR VALE Ward (SSDC Member)</b>	Cllr William Wallace Cllr Hayward Burt
<b>Recommending Case Officer:</b>	Alex Skidmore Tel: 01935 462430 Email: alex.skidmore@southsomerset.gov.uk
<b>Target date :</b>	29th April 2019
<b>Applicant :</b>	Mr R. Thorner
<b>Agent: (no agent if blank)</b>	Mr Peter Clark Lake View Charlton Estate Shepton Mallet Somerset BA4 5QE
<b>Application Type :</b>	Major Dwlg's 10 or more or site 0.5ha+

### REASON FOR REFERRAL

The following report sets out the position that the Council is recommended to take in responding to an appeal that has been lodged in respect of this application on the grounds of non-determination. The application has been brought Committee to seek the Committee's endorsement of this recommendation, in light of the history of the site, the local objections raised and following discussions with the Ward Members.

### SITE DESCRIPTION AND PROPOSAL



This application is a Section 73 application that seeks to amend planning consent 17/04047/S73A, a mixed residential development scheme comprising a total of 16 houses and bungalows. This current application is seeking to amend condition 1 of application 17/04047/S73A, which is the approved plans condition, in order to amend Plot 1 from a single storey bungalow to a two-storey dwellinghouse.

The works to the development are now at an advanced stage with a number of the approved dwellings now complete and occupied. The application site is former garden land that belonged to several neighbouring properties. The site is relatively flat and level with adjacent development and is surrounded by residential properties to all sides including bungalows to the west (known as Collingham Close and which now forms part of the wider site). Plot 1 sits immediately adjacent to the rear gardens of 28 and 30 Bowden Road. An access road to serve the development runs between 26 and 28 Bowden Road. Plot 1 is the first plot on the left hand side of the access road as you enter the development.

## **HISTORY**

18/01071/S73A: Section 73a application to vary condition 2 (approved plans) of planning approval 17/04047/S73A to amend Plot 1 from a single storey bungalow to a two-storey dwelling. Permitted.

17/04047/S73a: Application to vary condition 2 (approved plans) of planning approval 09/03037/FUL, 11/02147/S73 and 16/03330/S73a to substitute with revised plans. Refused at Committee but subsequently allowed at appeal.

16/03330/S73a: Section 73a application to amend conditions 2 (approved plans) and 9 (finished floor levels) of planning approval 09/03037/FUL following level changes arising from final road and drainage designs. Permitted.

11/02147/S73: Application to vary condition 2 of planning approval 09/03037/FUL (revised site plan). Permitted.

10/02561/FUL: Erection of six bungalows with garages on former garden land (revised application). Pending consideration.

09/03037/FUL: The erection of thirteen dwellings. Permitted April 2010.

08/04307/FUL: Erection of six dwellings on former garden land. Application withdrawn 2008.

06/01540/FUL: Erection of a bungalow with detached garage. Permitted 2006.

05/02627/FUL: Alterations to garages for plots 9 and 10. Permitted 2005.

03/01480/FUL: Erection of twelve dwellings and access road. Permitted 2003.

01/00341/OUT: Erection of fourteen dwellings. Refused 2001.

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, and 12 of the NPPF indicate it is a matter of law that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

For the purposes of determining current applications the local planning authority considers that the adopted development plan comprises the policies of the South Somerset Local Plan 2006-2028 (adopted March 2015).

### Policies of the South Somerset Local Plan (2006-2028)

SD1 - Sustainable Development

SS2 - Rural Settlements

SS6 - Infrastructure Delivery

HG4 - Provision of Affordable Housing - Sites of 1-5 Dwellings

TA5 - Transport Impact of New Development

TA6 - Parking Standards

HW1 - Provision open space, outdoor playing space, sports, cultural and community facilities in new development

EQ2 - General Development

EQ4 - Biodiversity

### National Planning Policy Framework

Part 2 – Achieving sustainable development

Part 5 – Delivering a sufficient supply of homes

Part 8 – Promoting healthy and safe communities

Part 9 – Promoting sustainable transport

Part 11 – Making effective use of land

Part 12 – Achieving well-designed places

Part 14 – Meeting the challenge of climate change, flooding and coastal change

### Planning Practice Guidance (PPG)

#### Other

Somerset County Council Parking Strategy (September 2013)

Somerset County Council Highways Development Control - Standing Advice (June 2017)

### **CONSULTATIONS**

Templecombe Parish Council: Object and made the following comments:

- Although this is considered as a paper exercise the Members strongly object to the replacement of a single storey bungalow with a two storey dwelling as it is felt this is out of proportion. Members are also discontented with the way the planning has been dealt with by the Developers

County Highways: Referred to their standing advice.

SSDC Highway Consultant: The only highway issues that may arise from this development scheme is the provision of car parking. Provided the proposed level of car parking still accords with the optimum standard as set out in the Somerset Parking Strategy, there is no highway objection.

### **REPRESENTATIONS**

Written representations have been received from three local households raising the following objections and concerns:

- The originally approved plans for bungalows should be adhered to as this makes for a balanced development providing much needed bungalows and it was on this basis that we purchased our properties.
- Increased overlooking of existing properties.
- Proximity to our garden, the plot is drawn firmly within our boundary by up to 1.6m.
- Our driveway has been omitted from the plans, yet these are a requirement.
- This will block morning sunshine from reaching Plots 5, 6 and 7.

- Loss of light to plots 2 and 3 and an even larger shadow across plot 7.
- The seller and purchaser of this development land agreed that only single storey properties would be built to the north / west of 28 Bowden Road. The advertising placard and estate agent's publicity pictures have illustrated that agreement through much of January 2019 thereby confirming the situation.
- There is a discrepancy between the architect's drawing F1325/217 showing the positions of Plots 1, 2 and 3 and the northwest boundary of 28 Bowden Road. I have measured the position of the boundary fence, which is now accepted by the developer, and find that it should be shown a little more than 1 metre to the northwest. The impact of this is that Plot 1 has less space for the footpath between the boundary fence and the building (dwelling). If the developer chooses to move the dwelling at Plot 1 to the northwest by the required amount then similarly Plot 1's garage has to be moved by the same amount which will have a knock on effect for Plots 2 and 3 and may need adjustments.
- Car parking space is at a minimum and larger properties require more space for even more cars.
- The road is still not completed to level and as such water is draining away along Bowden Road and carrying mud and stones with it. I believe there is a condition requiring the completion of this road prior to any houses being occupied but there have been living on site for over 2 years now with no proper drainage, street lighting or road. These poor conditions and cramped layout are contributing to their non-saleable nature.
- We sold our bungalow in Kent in order to be within sight of our son and his family as we grow older and need more assistance. This will not be the case if Plots 1, 2 and 3 are allowed to become two-storey properties. If this does happen then we will have been miss-sold Plot 7.
- There is no financial benefit in building houses instead, indeed the opposite is true, this is evidenced by the fact that buyers have not been found for three properties now constructed. Bungalows are in short supply everywhere. Houses will not attract a higher price.

## CONSIDERATIONS

This application is a Section 73 application that seeks to amend planning consent 17/04047/S73A, a mixed residential development scheme comprising a total of 16 houses and bungalows. This current application is seeking to amend condition 1 of application 17/04047/S73A, which is the approved plans condition, in order to amend Plot 1 from a single storey bungalow to a two-storey dwellinghouse.

This application follows a number of previous applications relating to the development of this site, of particular relevance to the current application are the last two applications submitted for the site, applications 17/04047/S73A and 18/01071/S73A, which permitted Plots 1, 2 and 3 to be altered from single storey bungalows to two-storey houses. Both of these applications were Section 73 applications, which are a type of application used to seek amendments to an approved planning consent through the variation or removal of conditions. In this instance, the amendments were sought to amend the approved plans condition in order to alter the various plots from bungalows to houses.

Unfortunately, the latest permission, application 18/01071/S73A which dealt with Plot 1, did not seek to amend the latest consent which permitted Plots 2 and 3 to be amended to houses and instead sought to amend an earlier consent for the site. This is important because each Section 73 application is effectively a replacement permission of the previous consent granted and so where there is a succession of Section 73 applications, as is the case for this site, each subsequent application needs to include all previously agreed amendments as well as the amendments proposed under the latest application so that they are all encapsulated under a single replacement permission and can be incorporated into the finished build. What a developer cannot do is 'cherry-pick' different elements from different planning consents, they should only build out from a single consent.

Due to the manner in which the amendments to Plots 1, 2 and 3 have been sought, it means that they are not all encompassed by a single permission and technically the developer should only build out one or the other of these permissions, i.e. either Plots 2 and 3 can be amended to two-storey dwellings as

approved under application 17/04047/S73A, or Plot 1 can be amended to a two-storey dwellings as approved under application 18/01071/S73A. This issue was raised with the applicant during the course of the last application however they chose not to amend the application at that time to address this matter and instead decided just to establish the acceptability of amending Plot 1 to a two-storey dwelling. The purpose of the current application is to encapsulate all of the previously agreed amendments to Plots 1, 2 and 3 under a single over-arching consent.

It is noted that the Parish Council and several neighbours have objected to this application for various reasons. The impact of this proposal and their concerns however have already been fully considered under the earlier applications and the various amendments found to be acceptable. There have been no significant changes to either planning policy or physically to the site and its immediate environs since these applications were determined which might otherwise put a different light on the outcome of the previous applications and it is not considered that the cumulative impact of the proposals raise any new substantive concerns.

To conclude, the acceptability of the proposed amendments have already been considered and agreed through the previous applications, albeit in a piecemeal manner. It is not considered that the building out of all three plots as two-storey dwellings, as detailed on the submitted plans (and which is identical to that previously approved), will give rise to any new demonstrable harm over and above what has already been approved. As the scheme does not give rise to any new demonstrable harm there can be no basis for objecting to the current application.

Accordingly it is the officer's recommendation that the Council raises no objection to this proposal.

#### **RECOMMENDATION**

That the planning appeal be allowed for the following reason:

The proposed development, by reason of its context, density, scale, layout, design and materials, respects the character of the area, causes no demonstrable harm to visual amenity, residential amenity or highway safety and is considered to constitute an appropriate sustainable form of development that accords with the aims and objectives of policies SS2, SS6, TA5, TA6, HW1, EQ2, EQ4 and EQ5 of the South Somerset Local Plan and the provisions of the National Planning Policy Framework.

#### **SUBJECT TO THE FOLLOWING:**

01. The development hereby permitted shall be carried out in accordance with the following approved plans numbered F1325/217X, F1325/205F, F1325/214F, F1325/209A, F1325/203B, F1325/200B, F1325/215, F1325/206C, F1325/207C, F1325/208C, F1325/210C, F1325/212C and F1325/216H.

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

02. The external wall, roof and chimney materials, the materials and external finish for all external windows and doors, internal and external boundary treatments and surfacing materials for the access drive, paths, turning and parking areas shall accord with those agreed under discharge of condition application 13/00878/DOC, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the character and appearance of the area to accord with policy EQ2 of the South Somerset Local Plan.

03. Prior to any other works commencing in respect of the development hereby permitted the visibility splays shown on drawing no. F1325/217D shall be provided in full and shall thereafter be permanently maintained in this fashion.

Reason: In the interests of highway safety to accord with policy TA5 of the South Somerset Local Plan.

04. The proposed roads, including footpaths and turning spaces where applicable shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

Reason: In the interests of highway safety to accord with policy TA5 of the South Somerset Local Plan.

05. At the proposed access there shall be no obstruction to visibility greater than 300mm above adjoining road level within the visibility splays shown on the submitted plan F1325/217D, such visibility splays shall be permanently retained and maintained thereafter.

Reason: In the interests of highway safety to accord with policy TA5 of the South Somerset Local Plan.

06. The foul and surface water drainage details to serve the development shall accord with the details set out on drawing number F1325/225B received 29/07/2016, unless otherwise agreed in writing by the local planning authority. Such approved drainage details shall be completed and become fully operational before the development hereby permitted is first brought into use. Following its installation such approved scheme shall be permanently retained and maintained thereafter.

Reason: To ensure the site is adequately drained to accord with policy EQ7 of the South Somerset Local Plan.

07. The development shall be carried out in accordance with the internal ground floor levels set out on drawing number F1325/217 X, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential and visual amenity to accord with policy EQ2 of the South Somerset Local Plan.

08. The development shall be carried out in accordance with the landscaping scheme detailed on drawing number J46-01A received 31/01/2013. All changes to existing ground levels and all planting, seeding / turfing comprised in the approved details shall be carried out in the first planting and seeding season following the first occupation of the dwellings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To safeguard the character and appearance of the area and to protect the trees on the site subject to a Tree Preservation Order to accord with policy EQ2 of the South Somerset Local Plan.

09. The tree protection measures detailed on drawing number J46/-01A received 31/01/2013 shall be implemented and kept in place until the approved development is completed, unless otherwise agreed in writing by the local planning authority.

Reason: To protect the trees on the site subject to a Tree Preservation Order to accord with policy EQ2 of the South Somerset Local Plan.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a road.

Reason: To safeguard the character and appearance of the area to accord with policy EQ2 of the South Somerset Local Plan.

11. Prior to plot 16 being first brought into use the first floor window in the south elevation shall be fitted with obscure glass (and fixed closed) and shall be permanently retained and maintained in this fashion thereafter.

Reason: In the interest of residential amenity to accord with policy EQ2 of the South Somerset Local Plan.

12. Prior to plot 3 being first brought into use the first floor window in the north elevation shall be fitted with obscure glass and shall be permanently retained and maintained in this fashion thereafter.

Reason: In the interest of residential amenity to accord with policy EQ2 of the South Somerset Local Plan.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), there shall be no openings within the south elevation of Plot 1 without the prior express grant of planning permission.

Reason: In the interest of residential amenity to accord with policy EQ2 of the South Somerset Local Plan.

**Informatives:**

01. The applicant is reminded that no consent is hereby granted for the installation of Air Source Heat Pumps (ASHPs). If the applicant wishes to install such equipment without the need for planning permission it will need to comply with the requirements of Class G, Part 14, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
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