

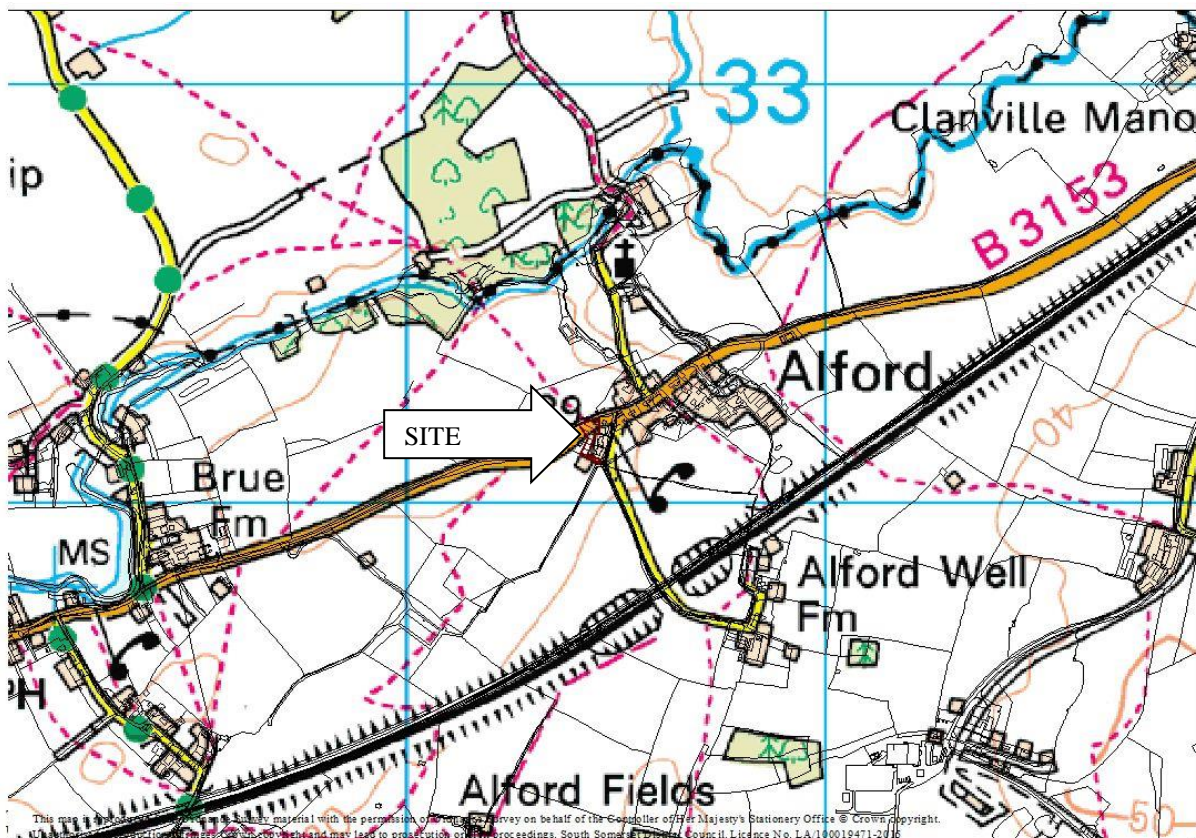
Officer Report on Planning Application: 15/00349/FUL

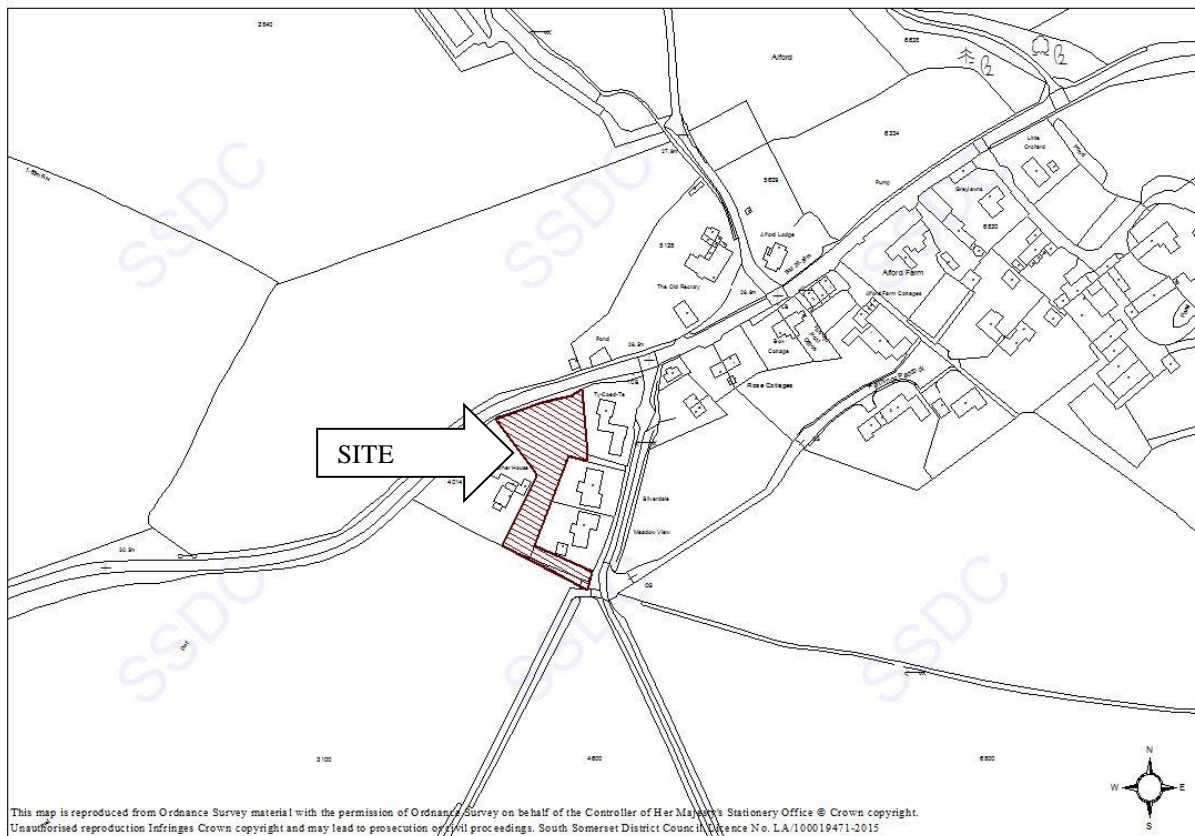
Proposal :	Erection of a dwellinghouse (GR:360433/132172)
Site Address:	Land Adjacent Heather House Lovington Castle Cary
Parish:	Alford
CARY Ward (SSDC Member)	Cllr N Weeks Cllr H Hobhouse
Recommending Case Officer:	Dominic Heath-Coleman Tel: 01935 462643 Email: dominic.heath-coleman@southsomerset.gov.uk
Target date :	2nd April 2015
Applicant :	Mrs Dawn Harley
Agent: (no agent if blank)	Mr Jeremy Smalley 18 Yeomans Lodge Frome Somerset BA11 4SA
Application Type :	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL TO COMMITTEE

The application is at the committee at the request of the Ward Members, and with the agreement of the Area Vice-Chair, to enable consideration of locally expressed support in light of the policies of the new Local Plan.

SITE DESCRIPTION AND PROPOSAL





The site is located outside of the defined development area at the western edge of the village of Alford, on the south side of the B3153. It is situated immediately north of the curtilage area of Heather House, a two-storey dwelling with direct access onto the B3153. The site has been used as ancillary garden area for some years, for which a certificate of lawfulness was granted in 2008. To the east of the site are three newer, single-storey dwellinghouses, fronting onto Alford Well Farm Lane. Heather House currently enjoys an additional means of vehicular access onto this same lane.

The South Somerset Strategic Flood Risk Assessment shows the site to fall within Flood Zone 3b, although the applicant contends that the site is within flood zone 3a.

Permission is sought for a new dwellinghouse and garage, taking access via the existing access onto Alford Well Farm Lane.

HISTORY

12/04730/FUL - Erection of a new house and garage - Application refused 17/07/2013

08/02810/COL - Certificate of lawfulness to apply for area of land used as garden to become residential curtilage - Application permitted 18/08/2008

05/01397/OUT - The erection of a single storey dwellinghouse with double garage (outline) - Application refused 19/10/2005

893073 - The erection of a bungalow (outline) - Refused 10/01/1990 - Appeal dismissed 14/11/1990

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the NPPF state that applications are to be 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)

Policy SD1 - Sustainable Development

Policy SS1 - Settlement Strategy

Policy SS2 - Development in Rural Settlements

Policy EQ1 -Addressing Climate Change in South Somerset

Policy EQ2 - General Development

National Planning Policy Framework

Chapter 6 - Delivering a Wide Choice of High Quality Homes

Chapter 7 - Requiring Good Design

Chapter 10 - Meeting the Challenge of Climate Change, Flooding and Coastal Change

National Planning Practice Guidance

Flood Risk and Coastal Change - Paragraphs 9 - 17

Other Material Considerations

None

CONSULTATIONS

Parish Council - Recommends approval. However they highlight a concern with the proposed access arrangements and suggest that the access onto Well Farm Lane should be restricted for the use of the new house only as considerably more traffic now uses the lane than when the access was formed. They also state that they are not aware that there has been identified or is identified a need for affordable housing in Alford.

SSDC Landscape Architect - Notes that the proposed plot is currently a garden area, and that lays within the village curtilage. He notes that there is no particular historic association of the garden with Heather House, to thus avoid a heritage value being placed upon it. He also states that the site does not have any particular prominence in the local landscape, and as such he does not consider it incongruous as a residential plot. As such, providing there is a level of enhancement built into the scheme, he has no substantive landscape issue to raise.

He suggests a landscape condition to secure:

- (a) A small-tree and shrub mix is planted adjacent the east boundary;
- (b) If there is no woody definition at present, the introduction of a native species hedge to divide this plot from Heather House, and;
- (c) Additional tree planting within the plot.

Environment Agency - No objection subject to below comments and the inclusion of several conditions and informatives on any permission issued. They note that it is for the LPA to determine whether or not the sequential test applies to the development and draw attention to the definition of minor development detailed in the guidance to the NPPF.

They also note that the applicant has put forwards a challenge to the Environment Agency Flood Map for Planning in the submitted flood risk assessment, but state that this cannot be

accepted as a formal flood map challenge. They therefore conclude that the Environment Agency flood zone designation remains unchanged.

County Highway Authority - Standing advice applies

REPRESENTATIONS

Two letters of support received from the occupiers of neighbouring properties. The first expresses support because the property is within the curtilage of the existing property and is not in open countryside. The second expresses support but raises a concern about the use of the access onto Well Farm Lane. It also states that should the application be accepted they would like confirmation that flood zone designation is changed from zone 3a to zone 1.

CONSIDERATIONS

History and Principle of Development

Permission for the erection of a bungalow on the site was sought and refused in 1990. An appeal against the refusal was dismissed at appeal. The policy context has shifted considerably since that time, and as such this refusal should not be given significant weight in determining the current application. However, an application very similar to the current scheme was applied for in 2012 and refused in 2013, and such a similar scheme, refused so recently, must be given great weight in determining the current scheme. This scheme must therefore be determined on the basis of whether any changes to the scheme or the policy environment address the previous reasons for refusal. The reasons for refusal were:

"01. The erection of a new dwelling in this rural location, remote from adequate services, employment, education and public transport, has not been justified on the basis of any exceptional circumstance or community benefit that would outweigh the longstanding policy presumption to protect the countryside from unwarranted and unsustainable development. As such the proposal is contrary to the aims and objectives of the NPPF (in particular paragraphs 14 and 55), and saved Policies ST2, ST3 and ST5 of the South Somerset Local Plan, 2006.

02. The proposed dwelling would be located within Flood Zone 3 where residential development that would result in people and property being at risk from flooding is only acceptable in exceptional circumstances. No such circumstances have been demonstrated and furthermore it has not been demonstrated that, sequentially, there are no other suitable sites available that would not be at risk of flooding. Accordingly the proposal is considered to fail the required Sequential Test and in these respects, the proposal is contrary to the aims and objectives of the NPPF (in particular paragraphs 14, 55, 100 and 101), and saved Policy ST5 of the South Somerset Local Plan, 2006.

03. With the loss of this open gap and the increase of built density adjacent to the public highway, the proposal would constitute an unacceptable intrusion in this countryside locality, contrary to the countryside protection aims of Policy STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review, 2000 and Policies ST3 and ST6 of the South Somerset Local Plan, 2006."

Reason for Refusal 01 - Sustainability

Since the previous application was refused the policy environment has changed significantly, as a new local plan has been adopted. The local plan policies referred to in the first reason for refusal are therefore no longer relevant. Instead, as highlighted by the applicant, the policy that is of most relevance is policy SS2 of the new local plan. Policy SS2 states:

"Development in Rural Settlements (not Market Towns or Rural Centres) will be strictly controlled and limited to that which:

- Provides employment opportunities appropriate to the scale of the settlement; and/or*
- Creates or enhances community facilities and services to serve the settlement; and/or*
- Meets identified housing need, particularly for affordable housing.*

Development will be permitted where it is commensurate with the scale and character of the settlement, provides for one or more of the types of development above, and increases the sustainability of a settlement in general.

Proposals should be consistent with relevant community led plans, and should generally have the support of the local community following robust engagement and consultation.

Proposals for housing development should only be permitted in Rural Settlements that have access to two or more key services listed at Paragraph 5.41."

The first factor that must be considered is whether the settlement of Alford has "...access to two or more key services listed at Paragraph 5.41.". These services are local convenience shops, post offices, pubs, children's play areas/sports pitches, village halls/community centres, health centres, faith facilities, and primary schools. Of these services Alford has access to a faith facility only, in the form of The Church of All Saints, which is a Church of England Church. The applicant has argued that within a cluster of local settlements, including Castle Cary, Lovington, Hornblotton and Lydford on the Fosse, there are a number of the specified services available and that there is a good bus service available to all of these settlements. However, it is unlikely that anybody would choose to access any of these settlements on foot, given the lack of pavements and street lighting and the distances involved. As such, they cannot properly be considered to be a 'cluster' of settlements as envisioned by the local plan. It must therefore be concluded that the proposal fails to satisfy policy SS2 of the local plan as the site is within a settlement that does not have access to two or more key services.

The second factor that must be considered in detail is whether the development "...provides employment opportunities appropriate to the scale of the settlement; and/or creates or enhances community facilities and services to serve the settlement; and/or meets identified housing need, particularly for affordable housing." Clearly the proposal to erect a single open market dwelling does not provide employment opportunities or enhance community facilities and services to serve the development. The applicant has implied that the dwelling will meet an identified housing need as it will allow the applicant to remain within the community within which she has lived for 40 years. They argue that applicant would be able to remain in the village, supported by her neighbours, friends, and family and in the situation of ill-health this would provide her with an independent support network. However, this is the 'housing need' of a single private individual and cannot be the 'identified housing need' required in local plan policy SS2. There is no neighbourhood plan, housing need survey, any other formal document, or even a letter from the parish council identifying a need for a particular type of housing in Alford. There is of course a district wide need for affordable housing, but the proposal cannot be argued to meet this need. If the approach of SS2 was that every householder living in a rural settlement in South Somerset could self-identify a need for a particular type of housing and then be granted planning permission to build a dwelling to satisfy that need, the settlement hierarchy identified in policy SS1 of the local plan would very quickly be undermined. It must therefore be concluded that the proposal fails to satisfy policy SS2 of the local plan as it does not provide employment opportunities, enhance community facilities and services to serve the development, or meet and identified housing need, particularly for affordable housing.

It must therefore be concluded that the first reason for refusal has not been addressed.

Reason for Refusal 02 - Flood Risk

The flood zone status of the site has not changed since the application was last considered. The applicant has argued that the Environment Agency flood maps are incorrect and the site should be considered to fall within flood zone 1. However, whilst the Environment Agency have previously accepted that the site should be considered to fall within flood zone 3a rather than 3b as identified by the LPA in the Strategic Flood Risk Assessment, they have pointed out that there has been no formal challenge to the flood map and the Environment Agency Flood Zone designation remains unchanged.

The NPPF and the NPPG are clear that for residential development in flood zone 3 the developer must conduct a sequential test to show that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. If the sequential test can be passed then an exception test must also be passed to demonstrate that the development provides wider sustainability benefits to the community that outweigh flood risk and that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk overall. The applicant has not submitted information in relation to either a sequential test or the exception test. Furthermore, as the proposal is for a single open market dwelling it is considered very unlikely that the applicant would be able to demonstrate that there are no other reasonably available sites elsewhere in the district that accommodate the development. The fact that the applicant does not own other sites cannot be considered relevant in the application of a sequential test. As such, it is considered that is no reasonable prospect of the development passing a sequential test, let alone the exception test, even if the applicant was to make such an attempt.

It must therefore be concluded that the second reason for refusal has not been addressed.

Reason for Refusal 03 - Visual Amenity

As highlighted above the previous refusal was issued in a substantially different policy context. Furthermore the reason for refusal relating to landscape character was carried forward from a 1990 inspector's decision relating to the site. In the absence of an objection from the SDDC Landscape Architect it is difficult to see how this third reason for refusal can be sustained.

The third reason for refusal is therefore considered to be addressed, as the impact on the character of the area will be acceptable in accordance with policy EQ2 of the South Somerset Local Plan.

Other Matters

The parish council and a neighbouring occupier have raised concerns regarding the proposed access arrangements, in particular in relation to the use of the existing access onto Wells Farm Lane. However, the proposed access arrangements remain unchanged from the previous scheme and were not found to be objectionable when that scheme was considered. It would therefore be unreasonable to raise an objection to the access arrangements at this point.

Conclusion

The previous scheme was refused for three reasons. As discussed above, and notwithstanding the support of neighbouring occupiers and the parish council, it is considered that the changes to the policy context and the justification put forwards by the applicant have failed to address two of these reasons. The third reason for refusal is considered to be unsustainable in the current policy context. As such it is still considered that:

- 1) The erection of a new dwelling in this rural location, remote from adequate services,

employment, education and public transport, has not been justified on the basis of any exceptional circumstance or community benefit that would outweigh the longstanding policy presumption to protect the countryside from unwarranted and unsustainable development; and

- 2) The proposed dwelling would be located within Flood Zone 3 where residential development that would result in people and property being at risk from flooding and is only acceptable in exceptional circumstances. No such circumstances have been demonstrated and furthermore it has not been demonstrated that, sequentially, there are no other suitable sites available that would not be at risk of flooding.

Given the dramatic change in policy context the previous reasons for refusal should be re-worded to reflect the newly adopted local plan.

RECOMMENDATION

Refuse for the following reasons:

01. The erection of a new dwelling in this rural location, remote from adequate services, employment, education and public transport, has not been justified on the basis of any exceptional circumstance or community benefit that would outweigh the longstanding policy presumption to protect the countryside from unwarranted and unsustainable development. As such the proposal is contrary to the aims and objectives of the NPPF (in particular paragraphs 14 and 55), and policies SS1 and SS2 of the South Somerset Local Plan.
02. The proposed dwelling would be located within Flood Zone 3 where residential development that would result in people and property being at risk from flooding and is only acceptable in exceptional circumstances. No such circumstances have been demonstrated and furthermore it has not been demonstrated that, sequentially, there are no other suitable sites available that would not be at risk of flooding. Accordingly the proposal is considered to fail the required Sequential Test and in these respects, the proposal is contrary to the aims and objectives of the NPPF (in particular paragraphs 14, 55, 100 and 101), and Policy EQ1 of the South Somerset Local Plan.