

Officer Report on Planning Application: 15/01007/FUL

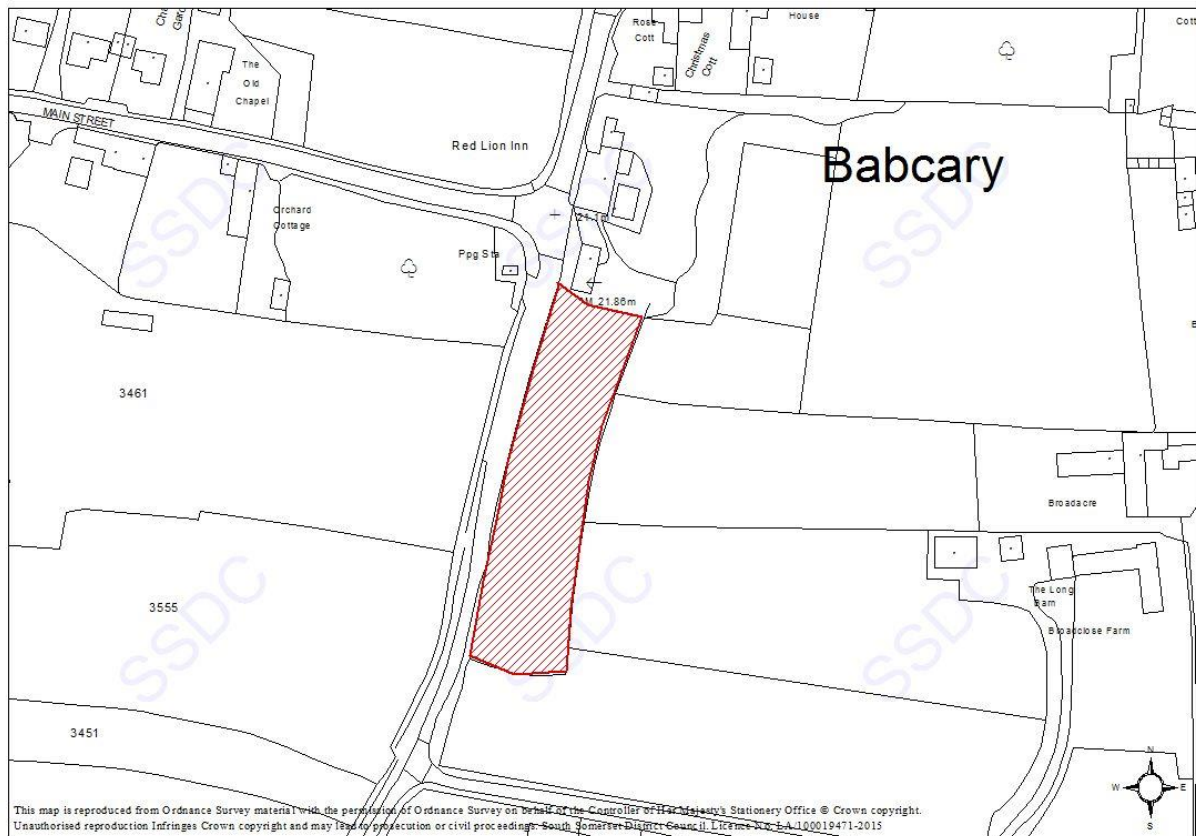
Proposal :	Erection of a dwelling and village shop (GR:356453/128550)
Site Address:	Land To The South Of The Red Lion Inn North Street Bab Cary
Parish:	Bab Cary
CARY Ward (SSDC Member)	Cllr N Weeks Cllr H Hobhouse
Recommending Case Officer:	Dominic Heath-Coleman Tel: 01935 462643 Email: dominic.heath-coleman@southsomerset.gov.uk
Target date :	14th May 2015
Applicant :	Mr & Mrs C Garrard
Agent: (no agent if blank)	Mrs Janet Montgomery Wessex House 8 High Street Gillingham Dorset SP8 4AG
Application Type :	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL TO COMMITTEE

The application is before the committee at the request of the ward members and with the agreement of the area vice-chair to allow the issues to be publicly debated.

SITE DESCRIPTION AND PROPOSAL





The proposal seeks permission for the erection of a two storey detached dwelling and a village shop. The site for the dwelling consists of a small area of land adjacent to a public house car park, currently laid to grass. The site for the shop will be in the car park itself. The site is close to a grade II listed public house and open countryside. The proposed dwelling would be finished in natural stone, render and timber cladding, under a clay tiled roof with painted timber window frames. The proposed shop building will be finished in timber with a cedar shingle roof. The site is not located within a development area or direction of growth as defined by the local plan.

HISTORY

14/00033/REF - Erection of a dwelling - Appeal dismissed 07/11/2014

14/01868/FUL - Erection of a dwelling - Application refused 27/06/2014

10/05151/FUL- Demolition and re-building of existing outbuilding to provide six en-suite letting rooms, construction of garden function room/store, and erection of staff/manager's dwelling - Application permitted with conditions 11/10/2011

10/05155/LBC - Demolition and re-building of existing outbuilding to provide six en-suite letting rooms, construction of garden function room/store, change of use of first floor staff flat to family letting suite and erection of staff/manager's dwelling - Application permitted with conditions 27/07/2011

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).

The policies of most relevance to the proposal are:

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

Policy SD1 - Sustainable Development
Policy SS1 - Settlement Strategy
Policy SS2 - Development in Rural Settlements
Policy EQ2 - General Development
Policy EQ3 - Historic Environment
Policy TA5 - Transport Impact of New Development
Policy TA6 - Parking Standards

National Planning Policy Framework

Chapter 6 - Delivering a Wide Choice of High Quality Homes
Chapter 7 - Requiring Good Design
Chapter 12 - Conserving and Enhancing the Historic Environment

Other Material Considerations

None

CONSULTATIONS

Parish Council - Shop: State that they have concerns as to the extra parking caused by a shop, are not convinced that it would be commercially viable (a recently opened farm shop in Bab Cary did not prove viable), and are not persuaded it is necessary as they already have a community shop on a Saturday. However, due to its very small size they do not consider it to be significant and raise no objection.

House: They note the planning history that has led up to this point. They state that the new access is onto a dangerous and narrow lane with poor visibility and prone to flooding and as such there should no additional access here. They note that they supportive of the pub and the work the applicants have done to make it a success and that they do not object a managers house, but continue to feel strongly that the house and pub must be kept in common ownership by a section 106 agreement.

County Highway Authority - Refers to standing advice

SCC Archaeology - No objections

SSDC Highways Consultant - In regards to the proposed shop he suggests as a local facility serving a local need, this part of the application could reduce the number of local trips. In regards to the dwelling he suggests that sustainability issues should be considered, particularly if the dwelling is not tied. He suggests consideration should be given as to whether the proposed access is necessary and indicates that a single point of access through the pub car park would be better. He suggests a visibility splay should be added to the car park access in a southerly direction. He states that parking provision should comply with the Somerset Parking Strategy.

SSDC Conservation Officer - Notes that previous issues raised were dismissed in the recent appeal so does not reiterate those. He suggests that the main difference between the current scheme and the scheme recently considered at appeal is the inclusion of a small shop facility

which is offered as a public benefit to justify the provision of a new house. He states that from a design perspective he has a number of issues with this, which cause him to doubt its viability. He states that the proposed shop is very small, appears to have the form of an un-insulated timber building with no associated storage, which is unlikely to provide a meaningful facility for the village. He states that it is in a strange location, tucked beside an existing building and behind two parking spaces, where it will often be obscured by parked cars. He suggests it would make more sense for a facility like this to be directly associated with the main building, where it would need to have a devoted member of staff. He notes the storage container standing behind the proposed building and states that planning permission is required for its permanent retention. He concludes that he is not convinced that the scheme put forwards for the new shop is viable and will offer the enhancement to community facilities and services required under policy SS2 of the local plan to justify the provision of a new house.

SSDC Landscape Architect - Confirms that he defers to comments of SSDC Conservation Officer on this scheme and that he agrees with the conservation officer's comments in relation to the 2014 scheme.

SSDC Economic Development Officer -

"This is a very finely balanced request from what I understand. On the one hand, the landlord of the pub has been awarded consent to build a dwelling tied to the business, yet unfortunately the banks are reluctant to lend to public houses, due to the falling demand and high closure rates. On the other hand, here is a business employing 25 people in a rural location, providing a service to the community for the past 13 years. The application before me is to build the dwelling, without a tie to the business. To strengthen this application, the landlord is diversifying his business to that of providing a retail shop and adding more facilities to the community.

I have been asked increasingly to comment on pub closures in the past few years, which often impacts significantly on the community. Having read the additional disclosure, I am leaning towards supporting this application as it will continue to provide a public house, additional facilities in a rural location and the continued employment opportunities for not an insignificant number of people.

SSDC Area Development Officer - Notes the need for a dwelling on site as established by the approval. She notes that the proprietors have undertaken many improvements to the pub and that the Red Lion combines its role as a village pub with of destination eatery and accommodation provider. She notes that the business employs over twenty staff and that the proposed shop would provide an additional part-time post. She suggests that the proposed shop would be complimentary to the pub which sources its produce locally. She suggests that the shop has an advantage over many farm shops in that it has a captive market generated by visitors to the pub and paying guests. She concludes by stating that rural businesses are being encouraged to diversify to survive and the preservation of the pub and provision of a new farm shop has to be welcomed. She therefore supports the scheme.

REPRESENTATIONS

Letters of support were received from the occupiers of 8 properties in Babcary. In addition single letters of support were received from the occupiers of properties in Castle Cary, East Lydford, Cary Fitzpaine, Charlton Adam, West Camel, and Langport. Support was expressed on the grounds that the pub is a valuable local facility, which will be enhanced by the proposed dwelling and that the shop is a good idea. Support was also expressed in relation to the applicants themselves in relation to how they have ran the pub business and how they are an asset to the community.

Letters of objection were received from the occupiers of 5 properties in Babcary. Objection was raised on the following grounds:

- The proposed shop will exacerbate existing parking issues.
- There is already adequate shopping in the area, including a community shop on a Saturday.
- If the shop is forced to close due to not being commercially viable this would leave an unrestricted house in place, which could set a precedent for similar decisions.
- The applicants would set their own criteria for the viability of the shop and could thus close the shop breaking any tie between the house and pub. The viability of the shop should be proven for at least 2 years before the restriction on the dwelling is lifted.
- Questions were raised over whether every angle has been explored to get the funding to build the tied house as already approved.
- Other properties are and have been available for purchase in the village that would have been suitable as a manager's dwelling.

CONSIDERATIONS

History and Principle of Development

There is an extant permission for the erection of a similar dwelling on the application site. However, the extant permission is for a dwelling subject to an occupancy condition restricting occupancy of the dwelling to those employed by the Red Lion public house, as part of the day to day running of the public house, and their dependants. The applicant also entered into a legal agreement with the council restricting the occupation of the dwelling to a person or persons solely or mainly employed to provide services in connection with the operational running of the public house business. An application was submitted in 2014 for a similar dwelling, but not subject to the occupancy condition or legal agreement. The 2014 application was refused for the following reasons:

- "01. *The proposed dwelling would be sited in an unsustainable location, remote from services, facilities, employment opportunities, and regular public transport. With no ties to the adjacent public house business there would be not be any overriding economic or community benefit. As such the proposal would be contrary to policy ST3 of the South Somerset Local Plan, emerging local plan policy SS3, and the aims and provisions of the NPPF.*
02. *The proposed dwelling, by reason of its siting in close proximity to a public house car park, would provide an unsatisfactory level of amenity to future occupiers due to disturbance from vehicle movements, particular late at night. The proposal would therefore be contrary to paragraph 17 of the NPPF.*
03. *The proposed dwelling, by reason of design and materials, would have a modest adverse impact on the setting of the nearby listed building contrary to saved policy EH5 of the local plan and the aims and objectives of the NPPF. There are no apparent public benefits of the scheme to outweigh this modest harm as required by paragraph 134 of the NPPF."*

An appeal against the decision was made. The inspector did not agree with the LPA in relation to reasons for refusal 02 and 03. He found that the effect of the proposed development on the living conditions of its future occupants and the setting of the listed building would not be so severe as to warrant the dismissal of the appeal. However, the inspector agreed with the first reason for refusal, concluding that without the link to the public house, the outcome would be a dwelling that would be contrary to existing and emerging planning policy and to the principles of sustainable development as set out in the NPPF. He therefore dismissed the appeal. The

appeal decision was made before the adoption of the new local plan. However, the inspector gave policy SS2 significant weight, which is also the policy of most relevance now.

The current scheme essentially amounts to a resubmission of the refused scheme, attempting to address the reason for refusal agreed with by the inspector at appeal. Given the appeal decision concluding that the scheme should be refused for a single reason, made in a similar policy context to now, whether that reason for refusal has been addressed must be the main consideration in determining the current scheme.

The extant scheme with the clear link to the running of the public house is considered to provide an obvious community benefit in accordance with policy SS2 of the local plan. Without the link there is no such obvious benefit. Policy SS2 requires that development in rural settlements such as Babcary should "...*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."*

The applicant has argued that the proposed provision of a shop will increase the sustainability of the settlement by providing employment opportunities and by creating a new community facility. The applicants have proposed that a legal agreement should be drawn up ensuring that the shop is built and opened within 3 months of the first occupation of the dwellinghouse, and maintained and ran by the applicants (or the owners of the Red Lion Inn) as long as the shop is a viable going concern in its own right.

The proposed shop consists of a small timber building with a floor area of approximately 13 square metres (including a veranda). The applicants have estimated that there will be an increase in employment of 50% of a full-time post associated with the proposed shop use. The applicants have offered to run the shop on this basis for as long as the shop is a viable going concern in its own right. The difficulty with this proposal is that a community shop of this nature might never be a viable going concern in its own, and the applicants could therefore choose to close it at any time. For many settlements of this size and type the only shops that are viable are community shops staffed by volunteers. The SSDC Conservation Officer has also raised concerns as to how viable the proposed shop can be. He argues that the proposed building is very small, appears to be of un-insulated timber construction and offers no associated storage. He also criticises the proposed location towards the back of the car park behind two car park spaces, where it will often be obscured from public view.

Therefore when assessed against the provisions of policy SS2, the employment opportunities offered are considered to be so small as to be negligible, and the enhancement to community facilities and services to be very questionable. Indeed the parish council have stated that they are not persuaded that the shop is even necessary, and cite the recent closure of a local farm shop as evidence that such a shop may not be viable. Furthermore, the needs of the community in this regard are considered to be met by the weekly village shop on a Saturday. The proposal does not meet an identified housing need in Babcary.

Policy SS2 also states that proposals "...*should generally have the support of the local community following robust engagement and consultation.*" In this case the proposal cannot be argued to have the support of the local community as, although several local residents wrote in to support the scheme, several wrote in to object, as did the parish council.

It is therefore considered, notwithstanding the tentative support of the SSDC Economic Development Officer, the support of the SSDC Area Development Officer, and the support of some local residents, that the first reason for refusal on the previous scheme, as upheld by an

inspector at appeal, has not been addressed. The proposed location, by reason of its distance from services, facilities, employment opportunities, and regular public transport is considered to be an unsustainable location for residential development. With no occupancy condition or legal agreement tying the occupation of the proposed dwelling to the public house business there is no overriding economic or community benefit. The proposed shop is not considered to constitute any such overriding benefit and the proposal as a whole is not considered to enhance the sustainability of the settlement.

Other Matters

The scheme has not changed significantly in terms of the impact on visual amenity from the scheme recently considered at appeal. The inspector found that the impact would be acceptable in this regard. It would therefore be unreasonable to raise an objection on this ground.

As with the impact on visual amenity, the inspector found that the impact on residential amenity and the amenity of future occupiers would be acceptable. It would therefore be unreasonable to raise an objection on this ground.

A neighbour has raised a concern regarding the impact of the proposed shop on parking. However, the shop does not represent the loss of any parking spaces and, as the proposed shop is so small, it will not generate a significant increase in vehicle movements above and beyond that generated by the existing use.

The parish have raised concerns as to the proposed new vehicular access to serve the dwelling. The highway authority has referred to their standing advice, and it is clear that the required level of visibility cannot be achieved. However, despite the technical objection from the highway authority, and the objection from the parish council based on local knowledge of the prevailing highway conditions, the fall-back position of the applicant must be considered. In this case there is an extant permission for a dwelling in the proposed location. If the permitted dwelling was built, an access could be formed in the currently proposed position under permitted development rights. It would therefore be unreasonable raise an objection to the currently proposed development on highway safety grounds.

Conclusion

The proposed location, by reason of its distance from services, facilities, employment opportunities, and regular public transport is considered to be an unsustainable location for residential development. With no occupancy condition or legal agreement tying the occupation of the proposed dwelling to the public house business there is no overriding economic or community benefit. The proposed shop is not considered to constitute any such overriding benefit and the proposal as a whole is not considered to enhance the sustainability of the settlement.

Accordingly the proposal is considered to be contrary to policies SD1, SS1 and SS2 of the South Somerset Local Plan and the aims and provisions of the NPPF.

RECOMMENDATION

Permission be refused for the following reasons:

01. The proposed dwelling would be sited in an unsustainable location, remote from services, facilities, employment opportunities, and regular public transport. With no ties to the adjacent public house business there would be not be any overriding economic or community benefit. The proposed shop, for which no adequate justification or

supporting information has been provided, is not considered to constitute any such overriding benefit and the proposal as a whole is not considered to enhance the sustainability of the settlement. As such the proposal would be contrary to policies SD1, SS1 and SS2 of the South Somerset Local Plan and the aims and provisions of the NPPF.

Informatives:

01. In accordance with paragraphs 186 and 187 of the NPPF the council, as local planning authority, takes a positive and proactive approach to development proposals focused on solutions. The council works with applicants/agents in a positive and proactive manner by;
- offering a pre-application advice service, and
 - as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions

In this case there were no minor or obvious solutions to overcome the significant concerns caused by the proposals.