

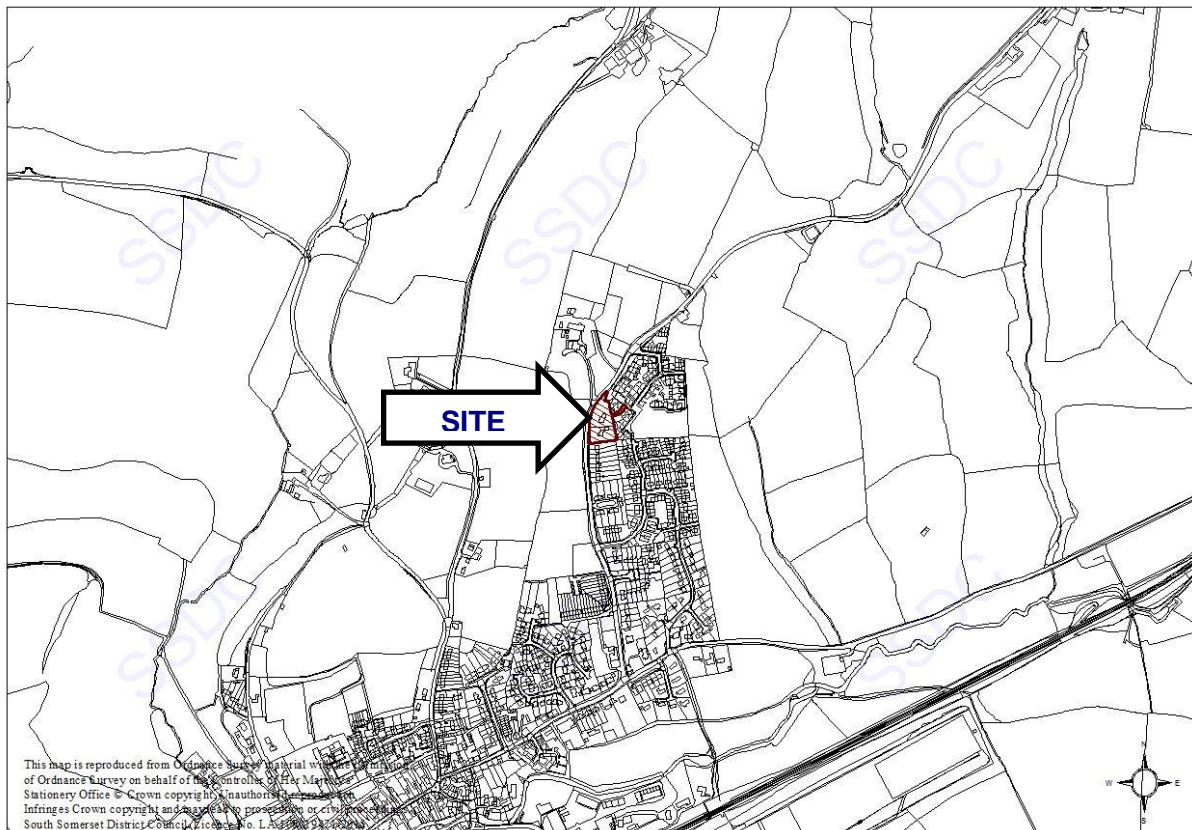
## Officer Report on Planning Application: 15/02991/S73

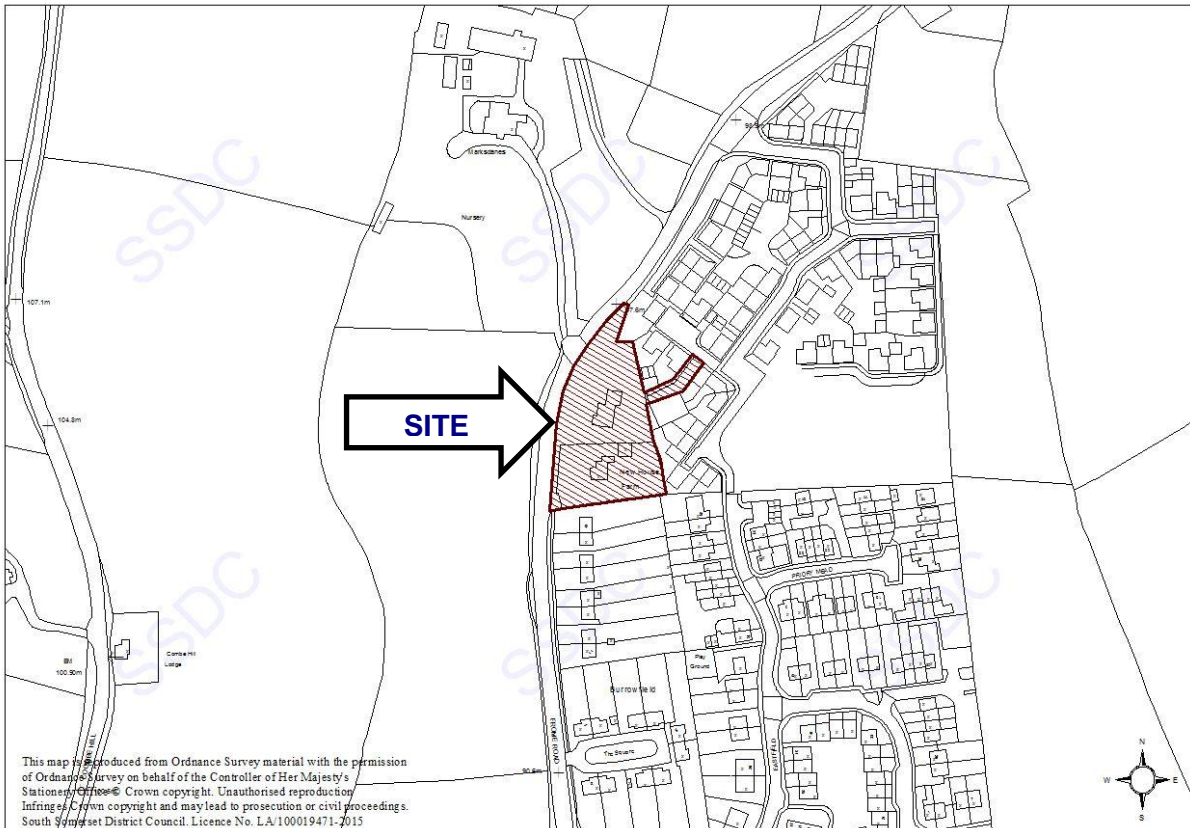
<b>Proposal :</b>	Section 73 application to amend condition 2 of planning approval 11/00411/FUL dated 11.03.2013 to revise house types and remove condition 09 to allow construction traffic to access site from Frome Road (GR: 368667/135575)
<b>Site Address:</b>	New House Farm, Burrowfield, Bruton
<b>Parish:</b>	Bruton
<b>BRUTON Ward (SSDC Member)</b>	Cllr Anna Groskop
<b>Recommending Case Officer:</b>	Adrian Noon Tel: 01935 462370 Email: adrian.noon@southsomerset.gov.uk
<b>Target date :</b>	14th August 2015
<b>Applicant :</b>	Mr Samuel Sowden
<b>Agent: (no agent if blank)</b>	
<b>Application Type :</b>	Minor Dwellings 1-9 site less than 1ha

### REASON FOR REFERRAL TO COMMITTEE

This application is referred to committee as the recommendation to approve is contrary to the comments of the highways authority in relation to an A-class road and to enable the issues raised to be debated.

### SITE DESCRIPTION AND PROPOSAL





This 0.32 hectare site is located on the north side of Bruton, fronting onto the Frome Road between the new development at 'Cuckoo Hill' and the existing development in Eastfields. Historically the site comprises a New House Farm, a domestic property with a substantial garden and outbuildings, along with the footings for a commenced dwelling with the curtilage.

Planning permission has been granted for the erection of 9 dwellings (11/00411/FUL), accessed via the Cuckoo Hill development to the rear. This application originally sought to amend the plans condition (condition 2) to substitute alternative house types. In response to local concerns about the agreed access via Cuckoo Hill the applicant has amended the proposal to also include a variation of condition 9 to allow construction traffic to access the site via Frome Road. A drawing has been provided to show how this access would be achieved.

Now changes to the layout or long term access arrangements are proposed and it is not possible to vary the previously agreed planning obligations.

## HISTORY

There are a series of permissions relating to the additional dwelling now commenced within the garden. On the adjoining site full permission has been granted for the erection of 60 dwellings which are now substantially complete.

## POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S.54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

## **South Somerset Local Plan 2006 - 2028**

SD1 - SD1- Sustainable Development  
TA5 – Transport Impact of New development  
EQ2 – General development

National Planning Policy Framework

Part 1 - Building a strong, competitive economy

Part 4 - Promoting sustainable transport

Part 6 - Delivering a wide choice of high quality homes

Part 7 - Requiring good design

Part 8 - Promoting Healthy Communities

Part 10 - Meeting the challenge of climate change, flooding and coastal change

Part 11 - Conserving and enhancing the natural environment

Part 12 - Conserving and enhancing the historic environment

## **CONSULTATIONS**

**Bruton Town Council** – initially recommended approval to the variation of condition, but raised concerns over the access as it was felt that the circumstances have changed. Subsequently support proposal to allow a construction access from Frome Road and comments that this should be made permanent and would like this site to be reconsidered in light of Landhouse development on opposite side of road.

**Highways Officer** – initially focus comments on the layout. Subsequently, and having been reminded that no changes to layout are proposed and in relation to the proposal to allow construction access via Frome Road, it has been observed and the layout is acceptable. A detailed plan of how the temporary access would be achieved has been requested (and provided).

Concerns have been raised that even if an access could be ‘made safe’ there is a requirement for a legal agreement to ‘put in and take out’ the measures necessary to provide this access. This will take time, and it will necessary to establish what has been previously said and to see if this is even possible with the previous comments that have been issued from the Highway Authority.

**Landscape Architect** – no landscape issues identified

## **Representations**

21 letters were received in response to the initial consultations regarding the house type substitutions. No respondent objects to the development of the site or the revised house types, however the following concerns and objections are raised:-

- Access via Cuckoo Hill is unsuitable, being too narrow, with tight turns, parked cars and children playing;
- Access should be directly from Frome Road;
- Delivery lorries have problems accessing Cuckoo Hill;
- Not appropriate to run construction traffic through Cuckoo Hill;
- Garages are not used leading to increase on street parking causing problems;
- No enough parking provided in Cuckoo Hill;
- Additional traffic in Cuckoo Hill;

- Residents were not informed of the original application in 2011.

2 further letters have been received in response to the re-consultations regarding the amendment to condition 9 to allow a temporary construction access via Frome Road:-

- The access to the site as a whole should be reviewed in light of changed circumstances and the submission of the application for 68 houses opposite (15/03274/FUL)
- The Bruton Trust consider the design to be dull and the development too dense. A reduction of 1 or 2 would enable a permanent access via Frome Road to be considered. Lighting should be considered carefully.

## **CONSIDERATIONS**

This application is made under Section 73 of the Act to vary specific conditions of the original grant of permission. As such it is not possible to review the principle of development or the terms upon which it was granted (i.e. the planning obligations). Nor is it possible to seek to introduce new or more onerous restrictions. Any grant of permission under s73 would in effect be a new/alterative permission and the applicant would have to option to revert to the original approval or to implement the new permission.

Accordingly the original scheme remains the 'fallback' position for the applicant and is therefore a material consideration of significant weight. The applicant seeks only to amend the house types and to secure a temporary construction access from Frome Road. The key issues therefore are the merits of the design changes and the highways safety issues arising from the temporary construction access.

### **House Design**

Whilst the Bruton Trust have reservation about the design, it is not considered that the alterations are objectionable in the context of the surrounding development. The houses remain in approximately the same positions as previously agreed, although an approved pair of semi-detached house now become two detached properties and the northern most house is re-orientated to face up Frome Road. The road layout within the development remains unchanged.

On this basis it is considered that the proposed revised plans list suggested as a variation to condition two is acceptable and the amended designs meet the requirements of policy EQ2.

### **Highways Safety**

Historically the highways authority have maintained an objection to accessing this site from Frome Road. Given the alignment of the road this is understood. This concern led to the imposition condition 9 to ensure that construction traffic does not temporarily take advantage of the either of the two existing accesses, each of which currently only serve a single dwelling.

This arrangement was acceptable to the then applicant as they had a right of access from the Cuckoo Hill site which they had historically owned.

No technical objections are now raised with regard to highways safety, but the highways authority maintains an objection to the temporary access as they are not satisfied that measures could be secured to ensure the appropriate formation and removal of the access. This position is not considered reasonable. Firstly the suggested position of the access is in

the same location as the existing access to the commenced dwelling; no new access would be formed.

Secondly, plot 7 is situated on top of the proposed construction access. Accordingly there would be no reason to seek to retain the access once that plot is commenced. In any event a suitably drafted condition could ensure that the access is properly formed and stopped up upon cessation of its use. Thirdly it is considered that there would be real benefits to the neighbouring properties if construction traffic could be steered away from Cuckoo Hill.

On this basis it is considered that an amended condition 9 could allow for temporary construction access via Frome Road to the benefit of the amenity of residents in Cuckoo Hill. Such condition would also require the agreement of safety measures to ensure that highways safety was not compromised for the duration of the use of the construction access. As such the proposal would comply with policies TA 5 and EQ2.

### **Residential Amenity**

No significant changes to the approved layout are proposed and the relationship with existing houses remains acceptable. There are not considered to be any amenity issues arising from the changed house types within the site.

### **Other Issues**

Clearly there is a great deal of local concern about the agreed access through Cuckoo Hill to this site. However this remains the approved access and the applicant could simply withdraw the request to vary condition 9 and ask the council to determine this S73 application on the basis of the amended house types to which there is no objection and very little local concern. If the current proposal is refused there remains the fallback position of the original approval. In both scenarios construction access would be forced to use Cuckoo Hill.

It is therefore considered that this application does offer a meaningful benefit in the form of a temporary construction access from Frome Road.

Whilst the local desire to revisit the access arrangements in favour of a permanent vehicular access via Frome Road is noted, the applicant is not willing to do this as it would have implications for the approved layout and house numbers – in all probability a reduction would be necessary to achieve an access in a position that could satisfy normal highways requirements.

The point of the 'Landhouse' proposal on the other side of the road changing things is noted, however that development has not yet been approved, whereas this site has approval. Furthermore the Landhouse scheme does not allow for a new access to serve this site. Accordingly, and in light of this, the applicant, who wishes to commence development on this New House Farm site, understandably does not wish to reopen discussions about the access which might result in the loss of a unit.

The original permission is subject to a S106 agreement to secure leisure contributions. This agreement includes a clause (1.17) that makes provision for the defined 'Permission' (i.e. 11/00411/OUT) to include "any subsequent renewal amendments or modification of it receiving planning approval". As such a supplement agreement to tie any approval of this S73 application to the previous obligations is not necessary.

## **Recommendation**

That the revisions to conditions 2 and 9 are **accepted** and all other previously imposed conditions are repeated.

## **Justification**

The variation of conditions 2 and 9 would have no adverse impact on highways safety or visual amenity. As such the proposal complies with policies SD1, TA5 and EQ2 of the South Somerset Local Plan 2006-2028. Overall the provision of 9 units of much needed housing would contribute towards the district wide need for additional homes. The proposal is of an acceptable form, design and layout that would have no negative impact on amenity, highways safety or the character of the locality. As such the proposal complies with the policies of the South Somerset Local Plan 2006-2028.

## **SUBJECT TO THE FOLLOWING:**

1. The development hereby permitted shall be begun within three years of the approval of the original permission reference 11/00411/FUL, dated 11/03/13.

Reason: To accord with the provisions of section 91(1) of the Town and Country Planning Act 1990.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the following plans:-

BT-LP-001A; BT-EF-001D; BT-PL-002D; BT-SS-001B; BT-LL-001D; G-P/BRU-01A; BT -D-T/01A; BT-G-P/BER-01D; BT-G-P/BUC-01A; BT-BRN/01A; BT-BUN/01A; and BT-G-P/GAR-01B

Reason: To clarify the development hereby approved as the submitted plans have been amended.

3. No development shall be undertaken unless a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the phasing of construction; hours of construction; routing for construction vehicles; construction access and compound areas including parking for construction and contractors vehicles; and measures to reduce noise and dust and to ensure all vehicles leaving the site are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. The development shall thereafter be carried out in accordance with such details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard residential amenity in accordance with policy EQ2 of the South Somerset Local Plan 2006-2028.

4. No development hereby approved shall be commenced until surface water drainage details, including calculations, have been submitted to and approved in writing by the local planning authority. Such details shall incorporate sustainable drainage techniques where appropriate and shall include measures to prevent surface water from private properties draining onto the public highway. Once approved such details shall be fully implemented prior to the occupation of any of the units and shall be maintained in good working order at all times thereafter.

Reason: To ensure that the development is adequately drained in accordance with policy EQ2 of the South Somerset Local Plan 2006-2028.

5. No development hereby approved shall be carried out until such time as details of the proposed levels have been submitted to and agreed in writing by the local planning authority. Once approved such details shall be fully implemented unless agreed otherwise in writing by the local planning authority.

Reason: In the interests of visual and residential amenity in accordance with policy EQ2 of the South Somerset Local Plan 2006-2028.

6. No development hereby approved shall be carried out until particulars of following have been submitted to and approved in writing by the Local Planning Authority;
  - a. details of materials (including the provision of samples where appropriate) to be used for the external walls and roofs;
  - b. details of the recessing, materials and finish (including the provision of samples where appropriate) to be used for all new windows and doors;
  - c. details of all hardstanding and boundaries;
  - d. details of the rainwater goods and eaves /fascia details and treatment.

Once approved such details shall be fully implemented unless agreed otherwise in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the area in accordance with policy EQ2 of the South Somerset Local Plan 2006-2028.

7. No dwelling or flat shall be occupied until its parking spaces have been provided in accordance with the plans hereby approved. Thereafter all parking spaces shall be kept free of obstruction and available for the parking of residents cars at all times.

Reason: To ensure that adequate parking is provided at all times in the interests of residents amenities in accordance with policy TA6 of the South Somerset Local Plan 2006-2028.

08. None of the dwellings hereby approved shall be occupied until a 1.8m footway has been provided on the Frome Road frontage as shown generally in accordance with the submitted layout plan, such highway works to be carried out in accordance with a design and specification to be approved in writing by the Local Planning Authority and to be fully implemented in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of pedestrian safety in accordance with policy TA5 of the South Somerset Local Plan 2006-2028.

09. No construction traffic shall access the site from Frome Road unless details of the formation, surfacing and removal/stopping up of a temporary construction access, generally in accordance with drawing BT-CVA-001, together with safety measures to be implemented during use, have been submitted to and approved in writing by the local planning authority. Once approved such temporary access shall be formed in accordance with the approved details prior to first use and shall only be used in accordance with the agreed safety measures. Within 1 month of the cessation of use of the temporary access it shall be stopped up and made good in accordance with the agreed details.

Reason: In the interests of pedestrian and highways safety in accordance with policy TA5 of the South Somerset Local Plan 2006-2028.

10. The proposed access road and any associated, footways, footpaths, tactile paving, cycleways, bus, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: In the interests of pedestrian and highways safety in accordance with policy TA5 of the South Somerset Local Plan 2006-2028.

11. 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 pedestrian and highways safety in accordance with policy TA5 of the South Somerset Local Plan 2006-2028.

12. None of the dwellings hereby permitted shall be occupied until a scheme of street lighting has been installed on the internal estate road and Frome Road frontage in accordance with a design and specification to be approved in writing by the Local Planning Authority

Reason: In the interests of pedestrian and highways safety in accordance with policy TA5 of the South Somerset Local Plan 2006-2028.

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