

**OFFICER: Mr Adrian Noon 01935 462370**

**APPL.NO: 08/03510/S73 APPLICATION TYPE: Section 73 Determination**

**PARISH: Huish Episcopi WARD: LANGPORT AND HUISH**

**DESCRIPTION: Application to remove condition 02 of decision notice 05/02831/FUL dated 03/04/07 re: the construction of a roundabout at new access road prior to any works on site (GR 342780/127545)**

**LOCATION: Bartletts Elm School, Field Road, Huish Episcopi, Langport, Somerset TA10 9SP**

**APPLICANT: Yarlinton Homes**

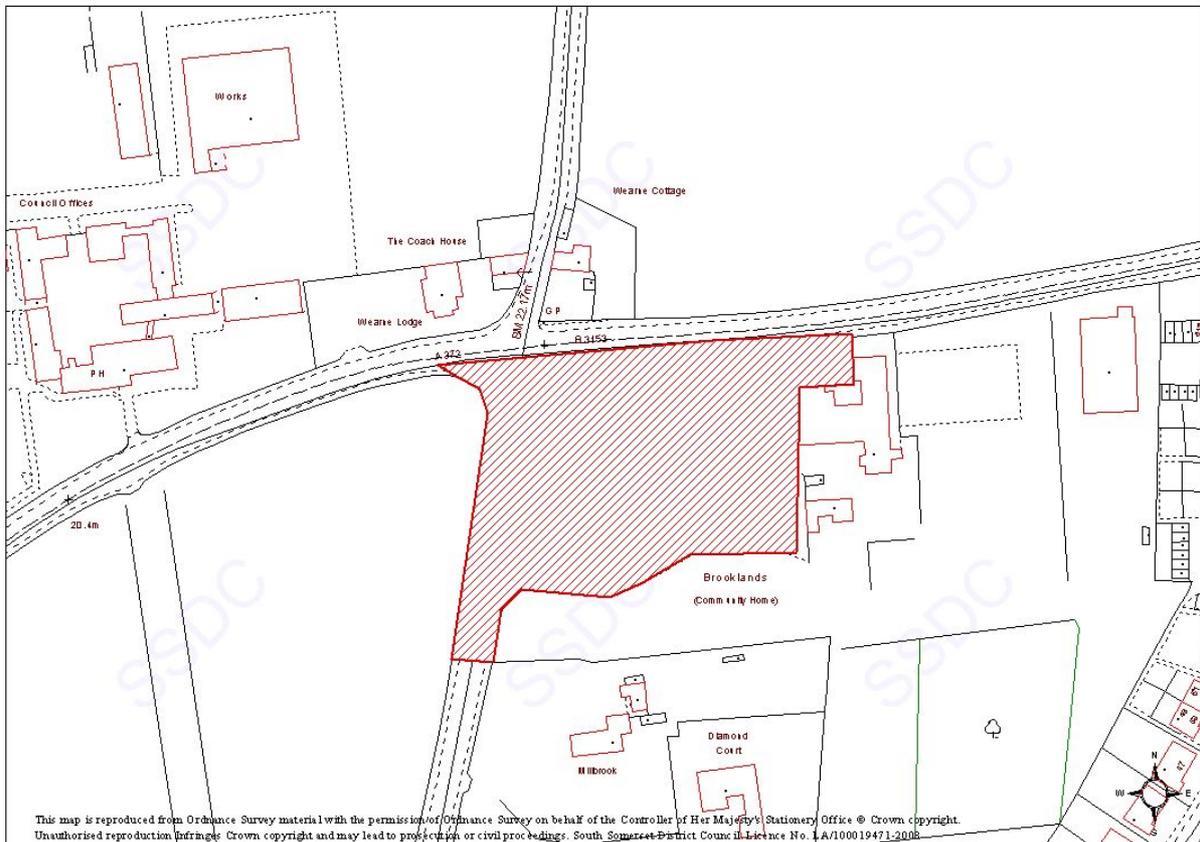
**AGENT: Boon Brown Architects, Motivo, Alvington, Yeovil, Somerset BA20 2FG**

**DATE ACCEPTED: 11 August 2008**

### Reason for Referral to Committee

This application is before Committee as the planning officer's recommendation is contrary to the advice of the Highways Officer, a Statutory Consultee.

### Site Description and Proposal



A former special school site at junction of A372/B3153. The original building and coach house are currently undergoing conversion to 14 units. There is a large development plot to the rear. The site has numerous protected trees and there is a substantial boundary wall to the north alongside the B3153.

The applications seeks the removal of a condition attached to the permission for the conversion that requires a mini-roundabout to be marked out at the existing access onto the A372 prior to the commencement of works.

## **History**

05/02831/FUL Planning permission granted for conversion of existing building and coach house to 14 units.

Condition 2 of this permission states:-

No works shall be undertaken on the site until a roundabout has been constructed at the junction of the proposed new access road and the A372, and improved visibility from the A372 onto the B3153 in an easterly direction with no obstruction higher than 300mm and which has been carried out in accordance with a design and specification to be first approved in writing by the Local Planning Authority and to be fully implemented to the satisfaction of the said Authority.

Reason: In the interests of highway safety and to accord with Policy 49 of the Somerset Structure Plan.

05/02818/OUT Outline planning permission granted for residential development of site to the rear. An identical permission was attached.

08/02945/REM Erection of 68 dwellings (application withdrawn)

08/02883/FUL Erection of a 36 bed nursing home (application withdrawn)

## **Policy**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A 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.

The development plan comprises the Regional Spatial Strategy (Regional Planning Guidance 10: The South West), The Somerset and Exmoor National Park Joint Structure Plan Review, and the South Somerset Local Plan (adopted April 2006).

The policies of most relevance to the proposal are:

Regional Spatial Strategy 10: The South West

Emerging Regional Spatial Strategy (RSS10) Draft 2006

Development Policy C - Development at in Small Towns and Villages  
Development Policy D - Required Infrastructure for Development  
Development Policy E - High Quality Design  
Development Policy G - Sustainable Construction

The Somerset and Exmoor National Park Joint Structure Plan Review  
Policy 49 - Transport Requirements of New Development

The South Somerset Local Plan (adopted April 2006)  
ST5 - Principle of Development  
ST6 - Quality of development

## Consultations

Huish Episcopi Parish Council - supports. Their view is that a mini-roundabout should not have been accepted at this site, which needs a main roundabout at the A372/B3153 junction.

They comment:-

"the Council has never supported this, or any other roundabout to be installed before the development of the original house and coach houses only."

Highways Authority - Object. It is noted that this mini-roundabout, and associated visibility improvements to the A372/B3153 junction, were considered necessary at the time the original application was considered. The removal of this condition will also remove the requirements to carry out the associated works.

Representations - 10 letters of objection have been received raising the following concerns:-

- This roundabout and visibility improvements were considered necessary at the time of permission;
- The works have already started.
- Poor visibility;
- Any roundabout should be at the junction of the A372/B3153.
- Impact on school traffic

A number of respondents have mistakenly assumed that the application relates to a roundabout at the junction of the A372/B3153. There is no formal requirement on this, or any local development, to provide such a roundabout which was not deemed necessary in connection with the original application.

## Considerations

Whilst this site is outside the settlement boundary there is an extant permission and this application simply seeks reconsideration of the conditions attached to the original permission. The sole issue is the likely highways impact of the removal of this condition. In all other aspects (design, amenity, landscaping, parking etc) the conversion scheme would remain identical to the original approval.

Whilst the Highways Officer has objected, this is on the assumption that the condition would be deleted. This is not the case because works have already started in breach of this (and other) condition. Accordingly the application becomes a Section 73A application and the local planning authority have the opportunity to reconsider all conditions attached to the original permission. The option is therefore available to consider a redrafting of Condition 2 not just its deletion.

Given the previous use of this site as a school it is not considered that the creation of 14 flats constitutes such an intensification of the use that wholesale alterations to the access arrangements are justified. In this context it is considered that the requirement to provide a mini-roundabout at the access onto the A372 with visibility improvements along the B3153 frontage is unduly onerous and unjustified in relation to the conversion of this former school to 14 flats. Indeed it could be argued that an educational establishment of this scale would in all likelihood generate greater traffic movements.

This is not to say that the existing access is satisfactory, however, it is considered that the scale of improvements originally sought are not reasonably necessary given the previous use

and the number of flats proposed. Accordingly it is considered appropriate to vary Condition 2 to require junction improvements to the existing access commensurate with the level of development. Such improvements will need to be submitted to and approved in writing prior to the first occupation of any of the units.

As a Section 73A application relating to development that is already underway, all other conditions need to be reconsidered, particularly as the applicant has not discharged some of those conditions. At the time the original application was considered it was looked at in conjunction with the outline application for the residential development to the rear and identical conditions were attached. This resulted in the imposition of conditions that are not considered reasonable or relevant to this application for conversion of the buildings to 14 units.

It is therefore proposed to delete some superfluous conditions relating to estate roads, travel plans, cycleways etc. and to reword others to more accurately reflect the development and require the agreement of details prior to occupation as opposed to prior to commencement. The result would be the reissuing of the decision notice with updated conditions as an alternative permission. The applicants would in effect have 2 alternative permissions, however given the failure to discharge conditions on the original permission, it is difficult to see how they could subsequently claim to be implementing the earlier permission. For Members information a copy of the original permission is appended to this report.

Finally, a number of comments have been made with regard to a need for a roundabout at the junction of the A372/B3153. Whilst this may well be strong local desire, neither the conversion of this building nor the residential development of the site to the rear has been considered to justify putting in such a roundabout. Both developments have been approved without a requirement for the developer to provide a roundabout at the junction and it would not now be reasonable to attempt to impose such an onerous requirement, particularly in relation to a development of just 14 flats.

#### **RECOMMENDATION:**

**APPROVE** subject to revised conditions to include requirement to agree improvements to point of access prior to first occupation of any of the flats.

#### **JUSTIFICATION**

The building, by reason of its substantial construction and residential character, represents a building suitable for conversion without the need for significant extension or alteration. The proposal adequately addresses the issues of access, tree and wildlife protection, affordable housing and open space provision. It therefore meets the aims and objectives of Policies ST4, ST5, ST6, TP7 and CR2 of the South Somerset Local Plan, adopted April 2006.

#### **Application Permitted with Conditions**

01. The development hereby permitted as amended by the agents letter dated the 28th December 2005 and drawing no. 2403/201/REVB shall be begun before the expiration of three years from the date of the original grant of permission (ref. 05/02831/FUL).

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

02. No unit shall be occupied until improvements to the junction of the proposed new access road and the A372 have been carried out in accordance with a design and

specification to be first approved in writing by the Local Planning Authority and to be fully implemented to the satisfaction of the said Authority.

Reason: In the interests of highway safety and to accord with Policy 49 of the Somerset Structure Plan.

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

Reason: In the interests of highway safety and to accord with Policy 49 of the Somerset Structure Plan.

04. No vehicular or pedestrian access, other than those hereby approved shall be made direct to A372 or B3153.

Reason: In the interests of highway safety and to accord with Policy 49 of the Somerset Structure Plan.

05. No unit hereby approved shall be occupied until there has been landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development, as well as details of any changes proposed in existing ground levels; all planting, seeding, turving or earth moulding comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner; and 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 accord with ST5 and ST6 of the South Somerset Local Plan (adopted April 2006).

06. No unit hereby approved shall be occupied unless foul and surface water drainage details to serve the development, have been submitted to and approved in writing by the Local Planning Authority and 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 that the site is properly drained and to accord with EU4 of the South Somerset Local Plan (adopted April 2006).

07. No part of the development shall commence until there has been submitted to and approved in writing by the Local Planning Authority a Mitigation Plan in respect of legally protected species (bats, badgers, slow worms, nesting birds). The Mitigation Plan in respect of badgers shall be based upon a badgers survey completed within 12 months prior to the submission of the Plan. The development shall be carried out in full accordance with the Plan.

Reason: To protect legally protected species of recognised nature conservation importance and to accord with EC8 and ST5 of the South Somerset Local Plan (adopted April 2006).

08. In this condition 'retained tree' means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs a) and b) below shall have effect until the expiration of 5 years from the date of occupation of the building for its permitted use.
- a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
  - b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
  - c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason: To ensure that trees, shrubs and other natural features to be retained are adequately protected from damage to health and stability throughout the construction period in the interests of amenity and to accord with ST5 and ST6 of the South Somerset Local Plan (adopted April 2006)

**NOTES** (if any)

- 01. The previous scheme, 05/02831/FUL, was approved by decision letter dated 3 April 2007.
  - 02. You are reminded that the details required by Condition 8 have been previously agreed and you should ensure ongoing compliance with the agreed details.
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