

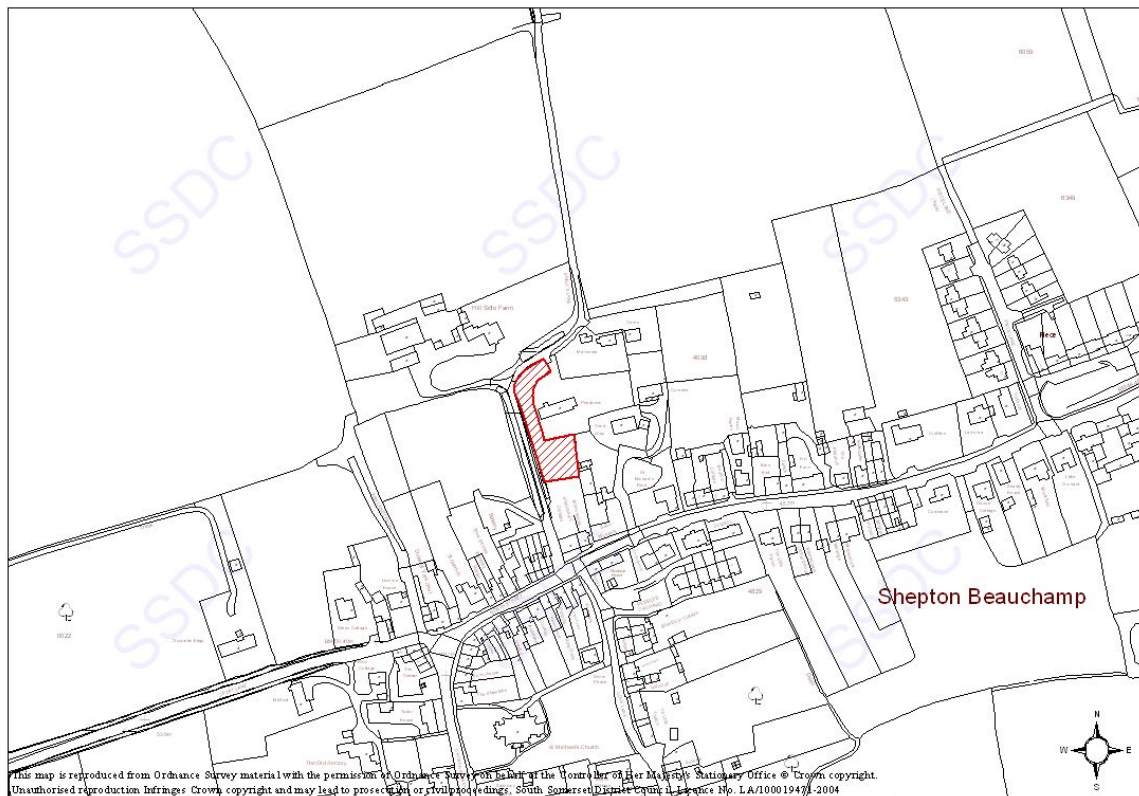
Officer Report On Planning Application: 10/00902/FUL

Proposal :	Formation of a new vehicular access and the erection of a dwellinghouse (Revised Application)(GR: 340322/117362)
Site Address:	Land South Of Pendower Shells Lane Shepton Beauchamp
Parish:	Shepton Beauchamp
SOUTH PETHERTON Ward (SSDC Member)	Mr Paull Robathan (Cllr) Mr Keith Ronaldson (Cllr)
Recommending Case Officer:	Mrs Jennie Roberts Tel: (01935) 462159 Email: jennie.roberts@southsomerset.gov.uk
Target date :	17th May 2010
Applicant :	Mr Peter Close
Agent: (no agent if blank)	Mr Duncan Anderson Applied Design Ltd The Barn, Castle Farm, Church Lane Enmore, Bridgwater, Somerset TA5 2DU
Application Type :	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL TO COMMITTEE

This application is referred to the committee at the request of the Ward Member with the agreement of the Area Chairman, as the comments of some neighbours are contrary to the officer's recommendation.

SITE DESCRIPTION AND PROPOSAL



The site is located off Shell's Lane, within the development area of Shepton Beauchamp, and is adjacent to, but outside of, the conservation area. It is also within an Area of High Archaeological Potential. The site was formerly used as a garden for the dwelling known as Pendower. A mixture of hedging, masonry walls and close-boarded fencing currently form the boundaries to the site. The boundary to Shell's Lane is formed by a steeply sloping and heavily planted bank approximately 3m high with a fence at the top. To the south and south west of the site, on lower lying land, are neighbouring properties, including two listed properties to the far south. Pendower itself is a chalet bungalow constructed from reconstituted stone and Roman tiles. Access to the site is from Shell's Lane, via a shared driveway with Pendower.

The site benefits from an existing planning consent for the erection of a detached three-bedroom dwelling (08/00723/FUL). However, this current planning application seeks the erection of a four-bedroom, two-storey dwelling house, complete with detached garage and two parking spaces. Materials are proposed to be local stone and render, with double Roman pantiles. Window and door frames would be uPVC. Two first floor windows on the east elevation would be obscure glazed, in order to protect the privacy of the dwelling known as St Michael's Peace to the east of the site. A 2m high inter-woven timber fence would mark the boundary with St Michael's Peace. A landscape specification has been provided as part of the application (drawing no. 610/10/002 C), which proposes to plant a number of mature native trees and hedgerow species along the site boundaries.

Groundworks have already commenced on site and the driveway has been carved out. The site lies on higher land than properties to the east and south, and the ground level has been lowered both to level the site and to minimise the impact of the proposed dwelling.

HISTORY

08/00723/FUL – Formation of a new vehicular access and the erection of a dwelling house – conditional approval – 08/04/2010

07/03904/FUL – The erection of a two storey dwelling with lower level garaging - 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.

For the purposes of determining current applications the local planning authority considers that the relevant development plan comprises the saved policies of the Somerset and Exmoor National Park Joint Structure Plan Review and the saved policies of the South Somerset Local Plan.

The policies of most relevance to the proposal are:

Saved policies of the Somerset and Exmoor National Park Joint Structure Plan (April 2000):

STR1 - Sustainable Development
Policy 9 – The Built Historic Environment
Policy 11 - Areas of High Archaeological Potential

Saved policies of the South Somerset Local Plan (April 2006):

ST5 - General Principles of Development
ST6 - The Quality of Development
EH1 – Conservation Areas
EH5 – Development Affecting the Setting of Listed Buildings
EU4 – Drainage

Policy-related Material Considerations

National Guidance
PPS1 – Sustainable Development
PPS3 – Housing
PPG13 – Transport

South Somerset Sustainable Community Strategy
Goal 3 – Healthy Environments
Goal 4 – Services and Facilities
Goal 8 – High Quality Homes

CONSULTATIONS

Shepton Beauchamp Parish Town Council – initially raised no objection provided:-

“..... that the drainage is adequate, that natural hamstone is used throughout and that ownership of the property will always include responsibility for the bank alongside Shell’s Lane preferably with a covenant placed on the property to this end.

The Parish Council feel so strongly about the safety issue of the said bank, especially so from the significant excavation that has already taken place, that if ‘Planning’ or the requisite authorities responsible for ultimately granting planning permission are unable to enforce such a covenant or request one legally as a condition of planning consent, then the Parish Council can no longer support the application.”

Subsequently, the Parish Council received a petition with 43 signatures stating that they do not wish the “parish council to approve a revision to the planning application for Pendower until the legal position has been clarified “. The PC note “that it is not possible to enforce protection of the bank as the applicant does not own the entire area”. In light of this, the parish council state that they withdraw their support for the application.

Highway Authority – No objections subject to conditions.

Area Engineer – Has reviewed the application in light of observations received and notes the comments of the Building Control officer. No objection is raised but it is suggested that:

“the new soakaway or storage system be located away from the south east corner where it might impact on the existing drainage. A condition requiring

drainage details to be submitted for approval should allow us to cover this aspect.”

Conservation Officer – no objection but advises careful consideration of:-

“the capacity of the site and surroundings for this and the whether development here will preserve the character of the conservation area. If development is potentially possible a careful check on the scale of this proposal in relation to the adjacent buildings, its eaves and ridge heights is important. There are no levels shown so the way it will occupy the site is unclear. There is a potential impact upon the setting of the adjacent listed building to the south and from what I can see (no site visit carried out) the existing trees both on the Shell lane bank and on the southern boundary are essential to preserve the character of the conservation area and must be able to be retained. I can see the expectation for removal of the trees adjacent of the front of the proposal to increase light.”

Environment Agency - No comment

County Archaeologist - No objection

Building Control – comments in relation to drainage:-

“1) The proposed new dwelling will have to use a soak-away system of drainage for the surface water discharge from the roof. This will either mean taking the water to a conventional 1.000m³ capacity soak-away located 5.000m away from any building or by the use of a rainwater harvesting/crate system located beneath the ground to a configuration and design to be determined. These systems have been used on many occasions without any problem to adjoining neighbours.

2) Run off water from the steep driveway must not be allowed to cause problems with Shells Lane and freeze during periods of cold weather. I am suggesting that the driveway surface incorporates a system of 'Acco' drainage running diagonally across it at a minimum of two or possibly three locations to discharge into a soakage system along its Northern edge. I would advise against discharging towards the Southern bank directly above Shells Lane in case it creates instability and slippage.

3) The applicant or agent needs to employ his own Structural Engineer to look at methods to ensure the stability of the existing bank and in particular the flanks of the new entrance, the soil type is of Yeovil/Pennard sand and will easily wash off during periods of heavy rain. It may be that a battered/feature wall or, alternatively a series of stone 'gabions' are adopted at this point.”

REPRESENTATIONS

A letter of support has been received from a neighbour. The occupiers of two neighbouring properties have objected to the proposal, raising the following areas of concern:

- Impact on the character of the conservation area and the listed buildings to the south of the site.
- Water run-off from the site and the impact it would have on the neighbours' drainage system.
- Stability of the bank in Shell's Lane.

- Removal of various trees and shrubs from the site.
- The removal of large amounts of earth from the site, despite the fact that various conditions were not discharged in relation to the original 2008 approval.

CONSIDERATIONS

It is considered that the proposal would not have a detrimental impact on: the Area of High Archaeological Potential or highway safety/parking issues.

The key issues are therefore considered to be:

Visual amenity

The site is adjacent to a conservation area and to the far south of the site are two listed buildings. The south and west of the site are fairly well screened by existing vegetation. The conservation officer has expressed the opinion that this screening to the south and west (along the boundary with Shell's Lane) is essential to preserve the character of the conservation area. The landscape specification provided as part of this application would further reinforce the existing screening.

The design, scale and materials of the proposed dwelling are considered to be satisfactory, and as such, it is considered that the scheme would not be detrimental to the character and appearance of the adjacent conservation area or the setting of the listed buildings as required by policies ST5, ST6, EH1 and EH5.

Residential amenity

There are two neighbouring properties potentially affected by the proposed development; Pendower to the north, and St Michael's Peace to the east. It is considered that the proposed dwelling is positioned in such a way that it would not unacceptably overlook, interfere with or disturb Pendower, which is on slightly higher land. The proposed dwelling would have obscure glazing in the first floor windows closest to St Michael's Peace (which is on lower ground than the application site), to ensure no overlooking of its windows. Furthermore, a 2m high inter-woven timber fence would be constructed along the boundary with St Michael's Peace, to ensure that the sight lines from the remaining first floor windows would not result in an unacceptable level of overlooking of the property's garden.

The scheme is considered to have an acceptable impact on the residential amenity of neighbouring properties and would therefore comply with policy ST6. Conditions to restricting the insertion of windows in the east, north and south elevations and to ensure the erection of the proposed fence are recommended to ensure that the proposed development continues to be acceptable in residential amenity terms.

Stability of bank in Shell's Lane

Concerns have been raised about the impact of the development on the stability of the steep bank in Shell's Lane. A large amount of soil has been removed from the site to form the driveway and to lower the site level. Both neighbours and the parish council are concerned that this work will undermine the bank's stability – the bank is considered to be an important visual feature of this part of the village. The parish council wishes to see a covenant placed on the proposed dwelling to ensure its owners will permanently be responsible for the bank. However, the applicant does not own the entire bank, so this is not appropriate.

Nevertheless, they would be responsible for the majority, which they do own. Whilst the parish council's reservations in this respect are noted, it is not considered that this 'legal' situation would prevent the future maintenance of this bank to an agreed standard. Accordingly, the applicant has been asked to appoint a structural engineer to look at the bank's stability and to provide cross-sections and a plan detailing measures for its stabilisation. It has been requested that this information be provided in time for the committee meeting. If the measures are deemed acceptable, their implementation can then be conditioned. On this basis this aspect of the proposal would comply with policy ST6.

Surface water run-off/drainage

There are concerns that surface water should not be allowed to drain into Shells Lane; this would be dealt with by condition (as required by the Highways Authority). Others are concerned about surface water being dealt with via a soakaway, as they fear that this would put too much pressure on a drainage gully behind two neighbouring properties (St Michael's and St Michael's Peace) to the culvert in North Street. An officer from Building Control was asked about surface water issues; he said that there must be adequate drainage provision for a new dwelling to dispose of rainwater to satisfy Building Regulations (it is suggested that his advice in relation to this is attached as an informative on the decision notice). Area Engineers have reviewed the proposal and do not consider there to be a problem that could not be addressed by a condition to require the details of the drainage to be agreed.

On the basis it is considered that the drainage of the site is acceptable and would comply with policy EU4.

Legal Position

A neighbour has expressed his concern about the removal of large amounts of earth from the site, despite the fact that various conditions were not discharged in relation to the original 2008 approval. This issue has now been raised in the petition to the parish council. Whilst it is unfortunate these works have commenced without discharging the relevant conditions and in advance of the determination of this application, this would not automatically render the extant permission invalid, or make it impossible for the district council to determine a revised application which would regularise the situation.

This matter has been fully investigated and could be remedied either by conditions attached to any permission issued with respect to this proposal or by the submission of the details required by conditions attached to the original permission. The neighbours' frustration over this issue is acknowledged, however the Local Planning Authority has to take a pragmatic approach to the discharge of conditions and in certain circumstances, it is accepted that the local planning authority can discharge pre-commencement conditions after commencement.

As with any 'breach' of planning legislation, there would have to be demonstrable harm to justify formal enforcement action. In this instance it is not evident that any clear harm has arisen that would merit taking action.

Other Issues

A neighbour has expressed his concern that various trees and shrubs have been removed from the site. However, the site is outside of the conservation area, and no

trees that have been removed are subject to Tree Preservation Orders. As such, the applicant does not need permission to remove the trees or shrubs.

RECOMMENDATION

Permission be granted subject to the receipt of satisfactory details to address the stability of the bank to Shells Lane and the following conditions.

JUSTIFICATION

The proposal, by reason of its size, design, materials and location, represents an appropriate infill which is carefully designed to respect the character of the area, causes no demonstrable harm to residential amenity and does not foster growth in the need to travel in accordance with the aims and objectives of policies STR1 and Policy 9 of the Somerset & Exmoor National Park Joint Structure Plan Review (2000), and policies ST5, ST6, EH1, EH5 and EU4 of the South Somerset Local Plan (2006).

Conditions

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

02. Within 6 months of the date of this decision notice, unless otherwise agreed in writing by the Local Planning Authority, the proposed access over the first 4.5m of its length, as measured from the edge of the adjoining carriageway, shall be properly consolidated and surfaced (not loose stone or gravel) in accordance with details, which shall have been submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway safety, in accordance with policy ST5 of the South Somerset Local Plan (2006).

03. Within 3 months of the date of this decision notice, unless otherwise agreed in writing by the Local Planning Authority, details of the surface water drainage system to serve the site shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include provision to prevent discharge onto the highway. Once approved, such details shall be fully implemented prior to the occupation of the dwelling hereby approved and shall be maintained in good working order at all times thereafter.

Reason: To ensure adequate drainage of the site in the interests of the amenity of the locality and highway safety, in accordance with policies ST5, ST6 and EU4 of the South Somerset Local Plan (2006).

04. The area allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of highway safety, in accordance with policy ST5 of the South Somerset Local Plan (2006).

05. At the proposed access there shall be no obstruction to visibility greater than 900mm above adjoining road level within the visibility splays shown on the submitted plan. Such visibility splays shall be constructed within one month of the date of this decision notice and shall thereafter be maintained at all times.

Reason: In the interests of highway safety, in accordance with policy ST5 of the South Somerset Local Plan (2006).

06. The construction of the dwelling hereby permitted shall not be commenced until particulars of the materials (including the provision of samples where appropriate) to be used for external walls and roofs have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity, in accordance with policy ST6 of the South Somerset Local Plan (adopted 2006).

07. 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 additional windows, including dormer windows, or other openings (including doors) shall be formed in the north, east or south elevations of the building hereby approved without the express grant of planning permission.

Reason: In the interests of residential amenity, in accordance with policy ST6 of the South Somerset Local Plan (adopted 2006).

08. All landscape works shall be carried out in accordance with the landscape specification as detailed on drawing no. 610/10/002 C (date-stamped 08/06/2010). All planting, seeding, turfing 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 that within a period of five years after planting are removed, die, or become, in the opinion of the Local Planning Authority, seriously damaged or defective shall be replaced as soon as it is reasonably practical with others of species, size and number as originally approved, unless the LPA gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs, to accord with policy ST6 of the South Somerset Local Plan (2006).

09. Prior to the development hereby approved being first brought into use the first floor windows to the dressing room and en-suite bathroom in the east elevation shall be fitted with obscure glass and shall be permanently retained and maintained in this fashion thereafter.

Reason: In the interests of residential amenity, in accordance with policy ST6 of the South Somerset Local Plan (adopted 2006).

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), there shall be no extensions to the rear (east) elevation of this building without the prior express grant of planning permission.

Reason: In the interests of residential amenity, in accordance with policy ST6 of the South Somerset Local Plan (2006).

11. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing no. 610/10/001 Rev B date-stamped 08/06/2010 (amended plan); Drawing no. 610/10/002 Rev C date-stamped 08/06/2010 (amended plan), Location Plan (July '10).

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

12. Within 3 months of the date of this permission, details of the retaining wall between 'Pendower' and the application site shall have been submitted to the Local Planning Authority for their written approval.

Reason: In the interests of visual amenity, in accordance with policy ST6 of the South Somerset Local Plan (2006).

13. The dwelling hereby approved shall not be occupied until the "2000mm inter-woven timber fence" to the boundary with St Michael's Peace as shown on drawing 610/10/002C received 08/06/10 has been fully provided. Once occupied, this fence shall be maintained at all times thereafter and not altered without the prior written agreement of the local planning authority.

Reason: In the interests of residential amenity, in accordance with policy ST6 of the South Somerset Local Plan (2006).

14. Possible condition(s) in relation to the stabilisation of the bank in Shell's Lane.

Informatives:

01. The applicant/developer is reminded of the advice of the council's Building Control officers, a copy of which is attached.
 02. The applicant/developer is reminded of the need to obtain any necessary consents prior to connecting to any water supply/sewerage system.
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