

Officer Report On Planning Application: 11/00494/FUL

Proposal:	Application for a new planning permission for the erection of 13 houses and garages together with access road and parking area to replace extant permission 07/05685/FUL to extend the time limit for implementation (GR 348447/128762)
Site Address:	Former Highways Depot, Etsome Terrace, Somerton
Parish:	Somerton
WESSEX Ward (SSDC Members)	Ms P Clarke (Cllr) Mr D J Norris (Cllr)
Recommending Case Officer:	Lee Walton Tel: (01935) 462324 Email: lee.walton@southsomerset.gov.uk
Target date:	9th May 2011
Applicant:	Edgar Homes Ltd
Agent: (no agent if blank)	Mr Ian Collier DSP Collier Reading, 66 High Street, Glastonbury BA6 9DZ
Application Type:	Major Dwlg 10 or more or site 0.5ha+

REASON FOR REFERRAL TO AREA COMMITTEE

The application is referred to the committee by the Development Manager in agreement with the Area Chairman to allow further consideration of the issues relating to the previous approval.

BACKGROUND

This is an application that seeks to extend the life of planning approval 07/05685/FUL that was permitted in April 2008.

The 2007 application was recommended for approval by the officer but with a requirement to make financial contributions towards Sports, Arts and Leisure through a Section 106 Agreement. The Area committee considered statements by the previous ward member and the Town Council and came to the view that it was unreasonable to request contributions from this development on the basis that the developer had entered into a financial arrangement with the previous land owner (the Town Council) and that any further contribution would be taken from the Town Council receipt.

This resubmission has once again triggered the requirement for contribution towards Sports, Arts and Leisure facilities and the developer has responded by clearly stating that they are unwilling to make any contribution through a Section 106.

The original Area Committee report and minute are attached as Appendix A to the current report for Members' information.

SITE DESCRIPTION AND PROPOSAL



The Etsome Terrace site is the former Highways depot located in a central location between the school and the Fire Station. It is a fairly flat site that has been cleared of any buildings and is currently surrounded by fencing.

The proposal seeks to erect 13 dwellings and the actual detail of the proposal is the same as previously approved by Area North. The houses are predominantly 3 storey, making use of the roof space

2 parking spaces per dwelling are proposed with each dwelling provided with a single garage and space either before the garage doors or to one side.

Materials are proposed to include a mix of natural stone and profiled tiled pitched roofs.

The application drawing also indicates a drop off area for the adjoining school and parking for the existing Memorial Gardens.

PLANNING HISTORY

07/05685/FUL. The erection of 13 houses and garages together with access road and parking area. Approved by committee 26 March 2008.

07/03029/FUL - Revision to 06/01898/FUL (approved) for the erection of a two storey medical centre and dental surgery. Withdrawn.

Prior to 1987 applications refer to the use of the site related to a Highways Depot.

POLICY

Town and Country Planning (General Development Procedure) (Amendment No.3) (England) Order 2009.

The above legislation allowed for applications to extend the life of the existing permission. It remains that the application should be determined in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004 that 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 Local Planning Authority may refuse the application to extend the time limit for permissions where considerations indicate the proposal should no longer be treated favourably.

For the purposes of determining current applications the local planning authority accords significant weight to 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:

Save policies of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011:

Policy STR1 - Sustainable Development

Policy STR5 Development Inside Towns, Villages and Rural Centres.

Policy 49 Transport

Save policies of the South Somerset Local Plan:

Policy ST5 - General Principles of Development

Policy ST6 - The Quality of Development

Policy CR2 Leisure

Policy CR3

Policy ST10 Obligations

National Guidance

Planning Policy Statement 1 - Sustainable

Planning Policy Statement 3 - Housing.

Planning Policy Guidance 17

South Somerset Sustainable Community Strategy

Goal 8 Quality Development

Goal 9 Homes

CONSULTATIONS

PARISH / TOWN COUNCIL. As co-owner of the site, the Town Council cannot comment on the application. However, it was agreed that a number of comments made by a member of the public would be passed on the Planning Authority for your consideration (again without comment). Officer Note: The comments are précised as part of the Neighbour Representations (below).

COUNTY HIGHWAY AUTHORITY. This proposal seeks to renew a planning permission, the details of which have not changed. The Highway Authority is content that this permission continue with the same conditions. As a result, the Highway Authority raises

no objection to the proposal.

AREA ENGINEER. Drainage details to be submitted for approval. Use SUDs techniques to control surface water run-off. Flood risk assessment required.

LEISURE AND RECREATION. The Community, Health and Leisure service are fully aware that an exception to policy was made in April 2008 due to the unique circumstances surrounding this site, resulting in no Community, Health and Leisure planning obligations being secured. This memo, however, treats this as a new application and represents the councils current policies, standards and needs assessments to identify the level of planning obligations being sought from this development in 2011. The assessment has therefore been undertaken on the basis that the net increase in the number of dwellings is 13 new dwellings of which all are two-bed dwellings or larger... The total contribution sought (capital and commuted sum) directly for the proposed development is £77,399.80 or £5,953.83 per dwelling.

ENVIRONMENT PROTECTION. Reapply condition 13 (land contamination)

LANDSCAPE ARCHITECT. No landscape issues.

REPRESENTATIONS

A site notice (Major Development) was posted on site and 35 Neighbour notification letters issued. There have been three letters objecting to the proposal, and the letter forwarded by the Town Council, received by them from a member of the public:

- Gated development, out of keeping that will create fear in other residents.
- Somerton Town Council will remain responsible for the upkeep of the road
- What of the future of the school drop off place?
- Is the current school large enough?
- Entry, exit, parking and other vehicle movements will present a serious hazard
- Lacks affordable homes
- No reference to any section 106 contribution
- Highway safety, additional traffic, this will make the junction by the Fire Station a highly dangerous corner. Speed humps should be placed in the road by the fire station.

APPLICANT'S CASE

The applicant has submitted a confidential letter that details the financial commitments entered into with the Town Council to justify a relaxation of the policy requirement to secure a financial contribution. The information suggests that the applicant would have entered into a relatively high financial commitment representing 5% of the total construction costs, and it would be impossible to develop the site if there is any increase in the council related expenditure.

CONSIDERATIONS

Principle

The principle of developing this site was accepted in 2008. It is a 'brownfield' site located within a sustainable location and therefore its redevelopment for residential uses is acceptable.

Layout and Design

The details of the proposal were considered at the previous meeting and as there have been no changes then it would be unreasonable to raise concerns about the scheme. The comments of neighbours have been considered but it is considered that the design is of a good standard and that the proposal is acceptable.

Highways/Parking

Objectors have made the point that the entry and exit point will present a hazard, particularly next to the fire station and a bend in the road.

Although these concerns are understood the impact of the development upon the highway network was previously considered to be acceptable and there has been no change to the detail of the proposal since the last approval.

The school parking area provides for 10 parking spaces accessed through the development with a pedestrian access into the school grounds. Highways did not object to its layout, although concerns have been raised that at the time of the school drop off and collection practical difficulties will arise for users.

Section 106 Contribution

The local planning authority seeks Sports, Arts and Leisure contributions on any scheme of 5 or more dwellings. In this instance the total amount sought is £77,399 (£5,953 per dwelling). The assessments show deficiencies in each area of provision, indicating that during peak periods the provision in the locality is unable to serve the current population (based on the 2009 population of Somerton) with or without the additional 13 dwellings. The contribution would go towards equipped play and youth facilities, playing pitch, changing room, theatre and Art centres, synthetic turf pitches, swimming pool, indoor tennis centres and sports hall contributions.

When considering the last application members were conscious that any 106 requirement would be borne by the Town Council as they were disposing of the site. As the developer has now bought the site from the Town Council then this is no longer an issue and accordingly contributions are sought from the scheme.

The applicant has put forward a justification for not making a contribution that is based upon the requirement to provide parking for the school although it is understood that this is an agreement between the developer and a former land owner (Somerset County Council). Any agreement outside of the planning process is a developer matter and South Somerset District Council have not been privy to them.

There is a process for a developer challenging the requirements for a Section 106 and this is achieved through an open book process by which a developer demonstrates that there is insufficient viability in the scheme for them to make a reasonable profit and make a contribution. This would require the developer to submit a full financial appraisal to the district valuer who would then carry out an independent appraisal. The applicant has chosen not to do this and instead has sent in some general costings showing the works that have to be carried out to provide parking areas and access road to serve the parking for the school and public gardens. The figures that have been submitted indicate a cost of £79,000 for these works and therefore the applicant believes that they should not be required to make a contribution to SSDC.

Without a full understanding of the costs of the site and a thorough independent appraisal of the finances the officer recommendation is to seek the 106 contributions. The developer may have an obligation to the County Council to provide parking areas

however these would have been reflected in the purchase price and should not necessarily influence the planning obligations.

Neighbour Objections:

All objections have been considered. The gated development serves both residential, the recreation and the school drop off areas. There is a utilitarian purpose in having gates that serve both the play area and school dropping off areas. The gates would remain open during the day time and can be conditioned to be kept open at times when the public areas are in use to ensure that they did not become seen as a closed gated feature associated purely with the dwellings that is considered would give rise to those local concerns about the perception of the 'fear of crime' becoming more dominant in the locality. It is considered that the roadside arrangement of fire station, open space, and residential housing, and the presence of gates would not be 'out of keeping'.

It appears that Somerton Town Council's responsibility to upkeep the road derives from the access given to the public to enter the play area car park and the school drop off areas and to avoid any future difficulty that might arise with regard to access for both sets of users, however, ownership is not a planning matter.

Notwithstanding the concerns about access arrangements, the Highway Authority have considered the plans and support the arrangements. Highways have not identified the school drop off area as a problem to users, however, the planning officer in considering the plans is concerned that the limited area and the volume of traffic at the beginning and end of the school day is likely to represent practical difficulties. The Highway Authority have not requested any financial contribution towards improvements to road safety. The Highway Authority previously noted the provisions made on site for public access considered to be beneficial to the Highway Authority. They have considered any impact from the development not to warrant any additional traffic calming measures. They also noted that the gates might be removed and a turning head provided, although their recommendation, notwithstanding, is to raise no objection.

Contributions towards additional school places would not be sought from a development of this scale.

Similarly, the threshold for seeking affordable housing is currently 15 units and therefore is not applicable to this development of 13 units.

Summary

It is considered that the more common planning issues such as design, highways etc are all acceptable as they were considered at the time of the previous application. The only outstanding issue is the applicant's reluctance to make a contribution towards strategic facilities through a 106 agreement. Back in 2008 the committee agreed, contrary to officer's advice, not to seek these contributions on the basis that Somerton TC would receive a smaller receipt. The site has now been purchased by the applicant and therefore there is a requirement for the authority to seek contributions, as we would from any other scheme. The applicant has stated that he has to provide community parking facilities at an additional cost however these are considered to be a development cost and should not be deducted from the amount that is sought from the scheme. There is a process by which the developer can seek to demonstrate that the scheme is unviable if such contributions are sought, however, they have chosen not to pursue this option.

Environmental Impact

This development does not fall within the scope of the Town & Country Planning (Environmental Impact Assessment) Regulations 1999 and so Environmental Impact

Assessment is not required.

RECOMMENDATION

REFUSE

SUBJECT TO THE FOLLOWING:

01. The development does not make provision for the necessary district wide sports and leisure provision and as such the scheme is contrary to policies CR2, CR3, ST5 and ST10 of the South Somerset Local Plan.

Informatives:

01. The applicant is again reminded that there is an opportunity to demonstrate to the local authority that the scheme is unviable if these obligations are sought and it is strongly suggested that they contact the officer to discuss this option.
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