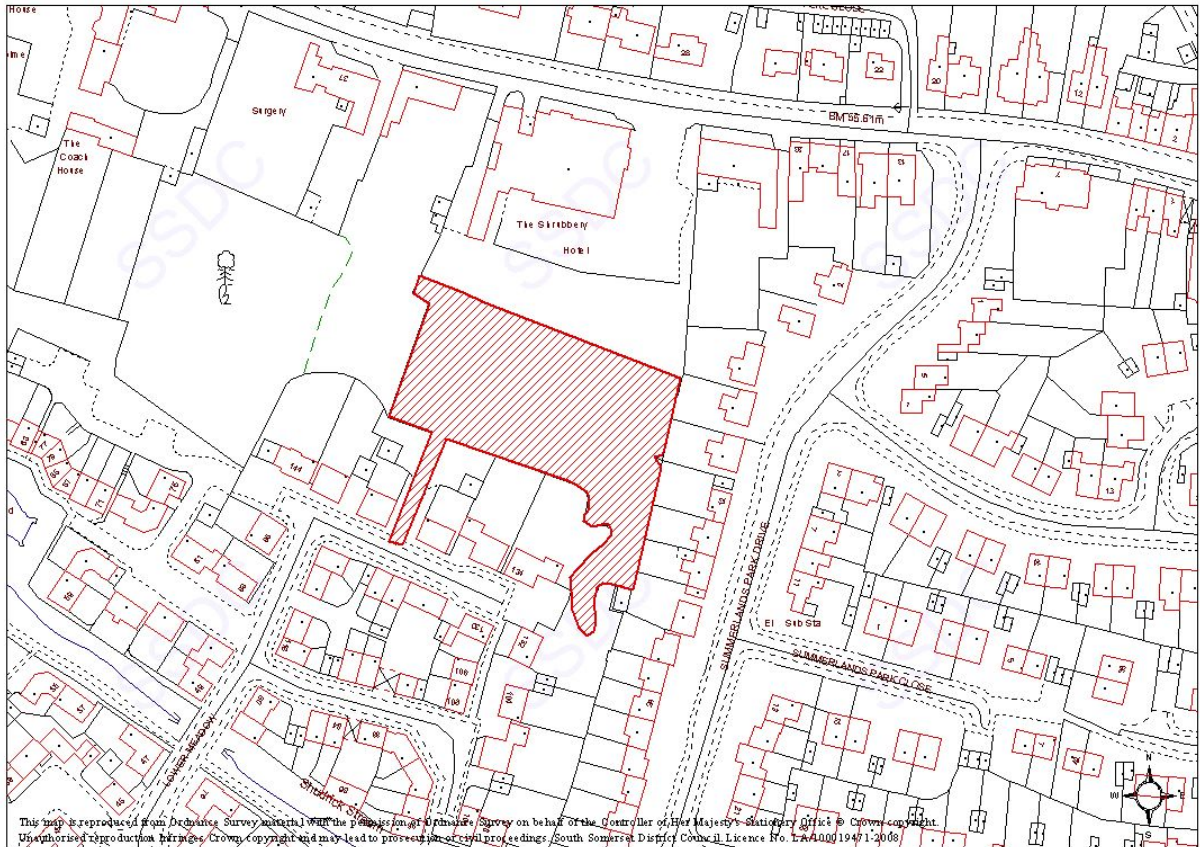


OFFICER: Lee Walton (01935) 462324 [Item 1]
APPL.NO: 07/05444/FUL APPLICATION TYPE: Full Application
PARISH: Ilminster WARD: ILMINSTER TOWN
DESCRIPTION: Residential Development of 5 no dwelling houses with associated access, parking and garaging. GR (335570/114687)
LOCATION: Land Rear of The Shrubbery Hotel Station Road Ilminster Somerset TA19 9AR
APPLICANT: Mr S Shepherd
AGENT: Turner Holden White Young Green Hawkridge House Chelson Business Park Wellington Somerset TA21 8YA
DATE ACCEPTED: 28 November 2007

REASON FOR REFERRAL TO COMMITTEE:

To allow members to consider the impact of the development upon the character of the Conservation Area.

SITE DESCRIPTION AND PROPOSAL:



The site is located at the rear of the Shrubbery Hotel, which is located within the town's Development Area and just within the Conservation Area. The hotel itself fronts on to Station Road and is adjoined by several listed buildings however the application site is behind the building and adjoins more recent residential development.

The wider site forms the curtilage to the Shrubbery Hotel. The land falls away from the hotel and forms a series of sculptured terraces that were created during the 19th century when the site formed a residential dwelling. The bare skeleton of land level change is all that is left of the Victorian garden: grassed terraces with a swimming pool inserted at the lower level. A tall evergreen hedge closes the plot off from the residential estate to the rear of the site, which follows the conservation area boundary.

The proposal seeks residential development of 5(no.) dwelling houses with associated access, parking and garaging. The proposal is to bring access from the rear through a residential road known as Lower Meadow.

The proposed dwellings are a mixture of 3 and 4 bedroom, of traditional design using natural stone and slate with timber windows. The plans indicate gardens for all properties and 9 parking spaces.

HISTORY:

07/02811/FUL - Residential development - refused.
06/02582/FUL - Residential development - withdrawn.

POLICY CONTEXT:

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

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires -(1) In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Relevant Development Plan Documents:

Regional Spatial Strategy
VIS1 - Expressing the Vision
VIS2 - Principles for Future Development
EN4 - Quality of the Built Environment
EH3 - The Historic Built Environment

Somerset and Exmoor National Park Joint Structure Plan 2000
STR1 - Sustainable Development
STR2 - Towns
9 - Historic Built Environment

South Somerset Local Plan 2006
ST2 - Towns
ST5 - Principle of Development
ST6 - Quality of Development
EH1 - Conservation Areas

CONSULTATIONS:

Town Council:

No objections subject to the following conditions.

(a) The Highway Authority confirms that arrangements for access to the site through Lower Meadow are appropriate and will reasonably address the concerns of local residents. This should include:

- (i) measures to ensure the safety of users of the access roads, particularly children, including temporary signage and restrictions on use by works traffic during periods when children are walking to and from school;
- (ii) regular clearing of road surfaces and repair of damage to roads or adjoining properties by the developer including cleaning of buildings in the vicinity;
- (iii) no parking of construction traffic in access roads.

(b) Appropriate authorities are satisfied that arrangements are in place to dispose of sewage and surface water so that there is no possibility of flooding to the existing properties to the south as a result of the development.

(c) Any action taken on the existing Leylandi hedge is with the agreement and supervision of the SSDC Tree Officer.

(d) The Council would point out that consent has already been given to housing in Lower Meadow, which interrupts the concept of an historic house with gardens running down the hill to the south - an argument used by the Conservation Officer when the previous application was refused in August 2007.

County Highway Authority:

As I am sure you are aware the previous application at the site was recommended for refusal, as it appeared that the land required to gain satisfactory access onto the public highway was not within the applicant's control. However, having had a meeting with the applicant it appears that the applicant has access rights over a strip of land between 138 and 140 Lower Meadow.

At present, this access to the site is substandard by reason of its width. However, from the submitted plan the access has been widened to enable two vehicles to pass. Whilst the access width has been improved, it is also essential that adequate visibility can be achieved from this access onto Lower Meadow.

Lower Meadow is a cul de sac road where vehicle speeds at this point are low. As a consequence, the Highway Authority would wish to see no obstruction to visibility greater than 900mm above the adjoining road level in advance of lines drawn 2.4m back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 15.0m either side of the access.

From the submitted plan it appears that these visibility requirements cannot be achieved without crossing over third party land and as such are not in control of the applicant.

The proposed development consists two four bedroom units and three bedroom units. Given the location of the site in close proximity of the town centre the Highway Authority would be looking for the provision of two parking spaces per dwelling in this location. Whilst it states that two parking spaces are provided for the dwellings in the additional information this is not represented on the submitted plan. As a result the Highway Authority would wish to see an additional parking space provided within the site so as to prevent parking on Lower Meadow.

The internal layout of the site does not meet adoptable criteria, we would still need to see and agree technical details in line with the Advanced Payments Code. I should point out that the Advance Payments Code provisions of the Highways Act 1980 will most likely apply to this development. To avoid an ongoing Advance Payments Code liability then the Council must approve all street works in writing. All drawings, specifications etc must be submitted for a technical audit and the construction supervised on site. If the audit and supervision procedure is followed to the Council' s approval then the Council has discretion to reduce, possibly to nil, the Advance Payments Code liability.

Please note that the estate road and site is currently believed to be in Persimmon Homes ownership although individual plots will have been sold along with land that might affect this access. Permission will have to be sought from the relevant landowner for the surface water drainage outfall and run off. Please note that if the Persimmon Homes site is ever adopted SCC will not accept private water combining with public water, due regard to this will need to be given.

Given the concerns raised above, the Highway Authority would need to see an amended plan incorporating visibility splays as described in this letter and an amendment to the level of

parking to serve the development. If the detail is provided then the Highway Authority are unlikely to raise an objection to the proposal.

Historic Conservation:

Developments within the Conservation Area are required to preserve or enhance the character of the Area. The area along the rear of the large properties fronting Station Road is not characterised by buildings; it remains a green area of trees, hedged boundaries and garden areas of varying degree of cultivation and is enclosed on the southern boundary. There are no breaches in this boundary so the conservation area is well separated from the recent residential development to the south.

Development has been supported within the large plots of some of the buildings on the principle that it is subservient in character and scale to the main buildings on the frontage and they maintain the integrity and character of the plots by being accessed from Station Road in the manner of out buildings or coach houses serving the principle buildings. There may be potential for development within the Shrubbery site if these same criteria can be met. The objection here is with the impact upon the character of the Conservation Area by failing to preserve the integrity of the Shrubbery garden area and the intact southern boundary, the erosion of the green space and intensification of built form.

There is some merit in the architectural design however as a subservient element and set low down below the principal building.

The comments of the Landscape Architect on the previous submission 07/02811/FUL apply equally to this proposal.

Landscape Architect's comments for 07/02811/FUL - Refusal. Characterised by individual properties fronting onto Station Road, with large southerly gardens. The garden associated with the Shrubbery appears to have been tiered down the hillside, as it is now. Development, and a rear access, would be an erosion of the historic pattern of the Conservation Area, and erode the open space that is an integral component of the area. Erosion of character alone would provide the basis for resisting development here. I am still not convinced that this is an area where we should be considering development.

SSDC Technical Services:

Drainage details to be submitted for approval.

REPRESENTATIONS:

There were 21 neighbour notification letters issued and a site notice posted (Conservation Area). There have been 16 responses. Objections include:

- the plans are exactly the layout previously refused;
- the approach should be from Station Road;
- lacks parking;
- loss of tree height will lead to disturbance from cars lights using hotel car park and from noise generated from the use of the hotel;
- highways safety;
- detrimental to the character and appearance of the conservation area;
- erosion of the historic pattern;
- loss of privacy.

CONSIDERATIONS:

The main consideration relates to character and appearance of the Conservation Area and whether the proposal preserves or enhances the character. Other considerations relate to the amenities of adjacent occupants and to highways issues.

Principle

The application site is located within Ilminster's Development Area and as such is considered, in principle, to be a suitable location for new development.

Impact upon the Character and Appearance of the Conservation Area

The applicant's Design and Access statement concludes by asking if the principle of not developing on this land were so important one might ask why this land had not been specifically protected in the past by way of the local plan. This statement/question does not factor in the presence of the Conservation Area designation and related to this the local plan policy context that seeks to preserve and enhance that is itself supported by the broad historic conservation guidance.

The statement fails to engage with the character of place but stresses the visual qualities of the design of the structures. The difference between character and appearance is one of visual amenity and intrinsic quality. The latter consideration permits consideration of things not necessarily 'visual'. The applicant states that the design of the scheme is more in keeping with the local vernacular. That there are a number of grand gentrified houses along Station Road with long gardens leading down the slope of the existing hill followed by the Conservation Area boundary; that there is a definite linear pattern of development which should inform the applicant's design is ignored.

The statement states that the layout provides a context to the existing buildings i.e. a series of out-buildings which are designed to look like stables, coach houses, cart stores, etc. and that the buildings are designed to blend with the existing linear development pattern. What the statement fails to identify is how this will happen if the proposed layout is completely independent from and unrelated to the existing arrangements working outwards from the principle building (the Hotel). It is considered that there has not been any justification put forward for breaching the Conservation Area boundary, providing distinct and unrelated independent access that detaches this parcel of land from its wider context.

At earlier discussions, concern was raised for the need to connect with the existing arrangement and this identified a very firm rejection of any proposal that might come from the rear simply because this lacked any relationship and implied the erosion of character. The proposed development could not be subservient in part due to the nature of the site. It is recognised that access from the front to the rear represents significant challenges, but any other approach undermines the historic pattern that is identified in the applicant's statement where it refers to the historic housing with large gardens stretching back (to where the Conservation Area boundary line is drawn).

The Conservation Area is 'an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance' (1967 Civic Amenities Act; 1990 Planning (Listed Buildings and Conservation Areas) Act, section 69(1). Neither the Act or successive circulars or planning guidance have identified the term: 'special', or the other terms contained in this definition. The Act does not specify to whom the preservation or enhancement of the area must be desirable; and opinion is scarcely likely to be unanimous. It is for the planning authority to determine which parts of its area are of special interest and to determine the weight afforded to any particular factor.

PPG15.4.2 states that 'It is the quality and interests of areas, rather than individual buildings, which should be the prime consideration in identifying Conservation Areas. There has been increasing recognition in recent years that our experience of a historic area depends on much more than the quality of individual buildings - on the historic layout of property boundaries and thoroughfares; on particular 'mix' of uses; on characteristic materials; on the quality of advertisements, shop fronts, street furniture and hard and soft surfaces; on vistas along streets and between buildings; and on the extent to which traffic intrudes and limits pedestrian use of spaces between buildings.'

It is permissible to designate parts of an area, not in themselves special, in order to protect the setting of buildings forming the focus of a conservation area. The intention of the legislation must have been that a planning authority would consider the whole of an area as an entity, which might give rise to the special interest. If areas possess a definable character, which does not appear 'special' or worthy of preservation or enhancement, then nevertheless policies can be developed that might retain that character.

In considering the current application the immediate concern is the relationship with the existing principal structure, the layout and a pattern that sought a subservient addition to the site that is capable of being 'read'. It is far more straightforward to suggest development that would be acceptable 'in principle'. Generally, access from the front of the site on land generally flat would encourage possible use of the area proposed for development that extends back from and is subservient to the principal building range. The particular and individual merits of the site show clear constraints that raise the difficulty of obtaining access from the front of the site, the presence of terraced levels makes this difficult, while the related introduction of a new and unrelated access through the Conservation Area boundary from the back of the site reinforces the lack of a connection with the historic pattern of development and makes the proposed development sit uncomfortably apart from the historic pattern of development that can be identified. The intrinsic qualities associated with the Conservation Area involves the presence of buildings, of gaps, of open spaces and does not necessarily relate to being seen given that these serve, as do structures of little architectural merit other than local value, in creating place.

For the reasons explained above, it is therefore considered that this development does not respect the character and appearance of the Conservation Area and is therefore contrary to local and national guidance.

Neighbour Amenity

It is considered that the proposal by reason of its design and layout will not have an unacceptable impact upon the amenity of adjoining residents or the amenity of future occupiers. The removal of the leylandii hedge is not considered to be a loss to the character of the area nor will it cause additional amenity issues, bearing in mind the distance from existing properties.

Highway Matters

In terms of highway matters the highways officer has sought revised drawings to clarify the situation. The applicant confirms that discussions have resolved these and this has been sought from Highways (awaited). The presence of the leylandii hedge could be removed at any time.

RECOMMENDATION:

Application Refused

1. The proposed development is considered to be detrimental and harmful to the character and appearance of the conservation area and to its setting by virtue of the division of the plot, separate access and unrelated built form given the particular characteristics of the site, namely the formal terracing and layout of the gardens provided for the house currently known as the Shrubbery Hotel contrary to policies, EH1, ST5 and ST6 of the South Somerset Local Plan 2006 and policy 9 of the Somerset and Exmoor National Park Joint Structure Plan 2000.
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