



## JOINT AREA COMMITTEES IN SOUTH SOMERSET

### Officer Report On Planning Application: 09/02412/COU

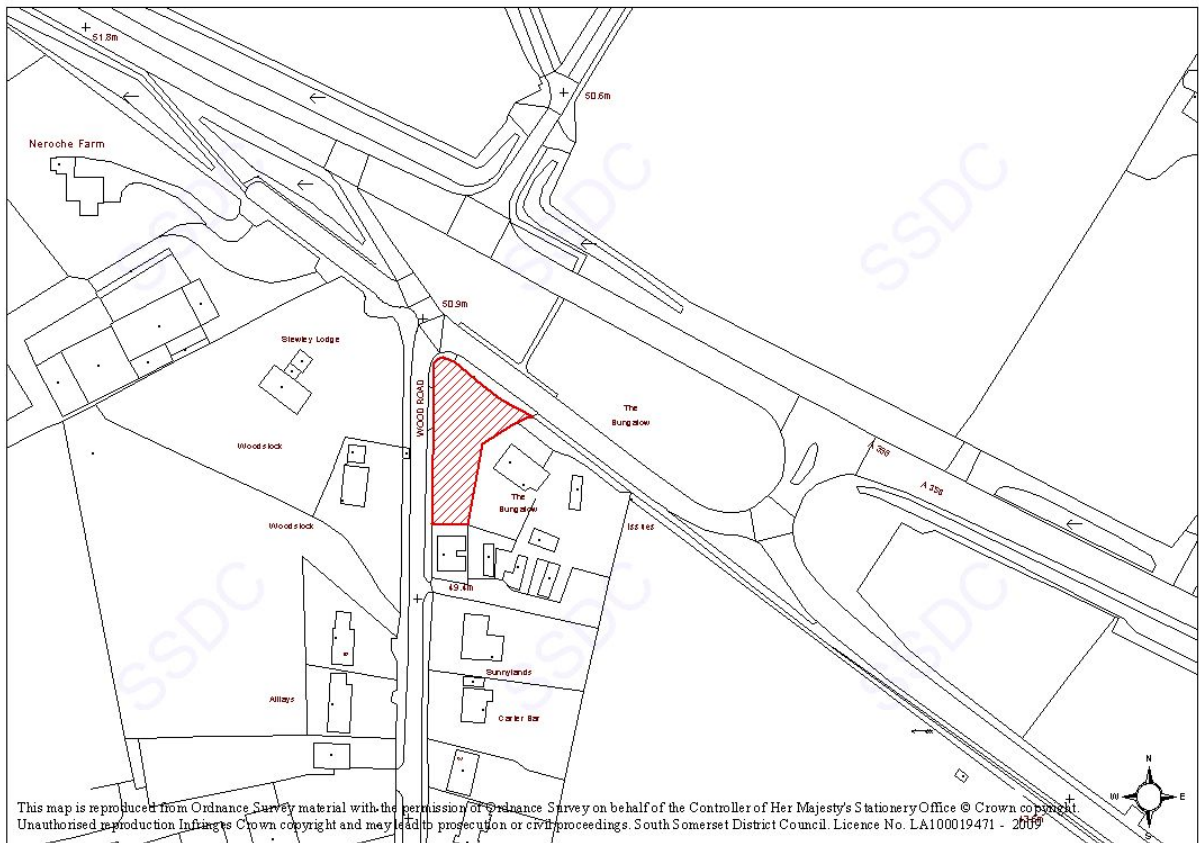


<b>Proposal :</b>	The change of use from car sales to cafe/hot food takeaway (use class A5) (GR: 331233/118016)
<b>Site Address:</b>	Stewley Cross Filling Station Ashill Ilminster
<b>Parish:</b>	Ashill
<b>Ward (SSDC Member)</b>	NEROCHE: Linda Vijeh (Cllr)
<b>Division (SCC Member)</b>	CURRY RIVEL: Derek Nelson (Cllr)
<b>Recommending Case Officer:</b>	John Millar Tel: (01935) 462465 Email: john.millar@southsomerset.gov.uk
<b>Target date :</b>	10th August 2009
<b>Applicant :</b>	Mr R Osborne
<b>Agent: (no agent if blank)</b>	Greenslade Taylor Hunt 1 High Street Chard Somerset TA20 1QF
<b>Application Type :</b>	Other Change Of Use

#### REASON FOR REFERRAL TO COMMITTEE

The application is to be considered by Joint Area Committee - West, having been deferred at the meeting of 16th September 2009. It is before Committee at the request of Cllr Vijeh, with the agreement of the Area Chair. It is felt that the issues should be given further consideration by members.

#### SITE DESCRIPTION AND PROPOSAL



This application relates to the former filling station at Stewley Cross, located off the A358 at Ashill. The site is on the corner of Wood Road and the Old A358, both classified 'C' roads and is adjacent to the junction onto the A358. There are a number of residential properties to the south and west, with outline planning permission recently granted for the redevelopment of the caravan park to the south to provide seven dwellings.

There is no current use on the site but it was last used as a car sales business and prior to this it was a petrol station with integrated village shop.

The proposal is made to change the use of the business to provide a café/hot food takeaway.

## **HISTORY**

09/00661/COU: The change of use from car sales to food takeaway - Application withdrawn.

07/00825/COU: Use of filling station for the sale of cars - Permitted with conditions.

03/02283/FUL: Erection of a dwelling house and garage (in place of existing filling station) - Permitted with conditions.

02/02180/OUT: Demolition of existing petrol filling station and erection of one dwelling - Permitted with conditions.

91/00060/FUL: Redevelopment of petrol filling station - Permitted with conditions.

Various consents for advertisements at filling station

## **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,

Relevant Development Plan Documents

Regional Spatial Strategy:

VIS 2 - Principles for Future Development

EN 4 - Quality in the Built Environment

Somerset and Exmoor National Park Joint Structure Plan:

STR1 - Sustainable Development

STR6 - Development Outside Towns, Rural Centres and Villages

Policy 49 - Transport Requirements of New Development

South Somerset Local Plan 2006

ST3 - Development Areas

ST5 - General Principles of Development

ST6 - The Quality of Development

EP9 - Control of Potentially Polluting Uses

Policy-related Material Considerations:

Draft Regional Spatial Strategy for the South West (Proposed Changes July 2008):

SD1 - The Ecological Footprint

SD2 - Climate Change

SD3 - The Environment and Natural Resources

SD4 - Sustainable Communities

Development Policy C - Development in Small Towns and Villages

PPS's/PPG's

Planning Policy Statement 7: Sustainable Development in Rural Areas

South Somerset Sustainable Community Strategy

Goal 5 - A competitive high performing economy that is diverse and adaptable

## **CONSULTATIONS**

*Town/Parish Council:*

Object on the following grounds:

- Need: There is no established need, with takeaway vans in lay-bys along the A358 plus a café and shop at Horton Cross. The hot food sales referred to in the application was not a significant element of the previous business and was from a vending machine or microwave.
- Traffic volume: The proposal would generate significantly more traffic than experienced for the last three years. During the brief use as a car sales business, most customers visited at weekends, with few customers during the week. The proposal will generate much more traffic, affecting properties fronting the Old A358.
- Road safety: The site occupies a sharp bend with limited visibility. Also the likely extensive on-road parking will lead to through traffic driving on the wrong side of the road, increasing danger to road users. The Old A358 is also used by pedestrians including children and adults going to Ashill School, dog walkers and occasional cattle. Increased traffic will increase risk to pedestrians and other road users.
- Noise: The proposal will lead to increased noise levels during the day.
- Parking: The limited parking space on site will be inadequate for the number of likely users, particularly heavy goods vehicles. The proposal will lead to lines of HGVs and other vehicles parked along Wood Road (in front of residential properties) and the Old A358, as occurs in the lay-bys along the A358.
- Emergency access: The likely parking problems will make it harder for emergency vehicles to access Wood Road. Also accidents causing the closure of the A358 lead to traffic being diverted via Wood Road.
- Refuse and litter: The proposal, which includes an outdoor eating area and takeaway, will lead to significant amounts of food waste and litter to the detriment of the area.
- Effluent/sewage discharge: There is no access to mains drainage at this part of Ashill. The existing arrangements are inadequate, as evidenced by the stench that sometimes occurs around the site.
- Security of adjoining properties: Residents are concerned about the increased risk to their security if the proposed business attracted large numbers of passing trade.
- Before being re-routed, the A358 ran through Ashill. The bypass was created to improve traffic flow and ease the impact of traffic. If granted, this application would lead to a real risk of large vehicles and caravans stopping and then having to force their way back onto the A358, disrupting what is now a, more or less, free flowing highway.

In conclusion, this application is highly contentious. The PC and residents take the view that there is no need for takeaway on this site and the impacts it will have on traffic volume, noise pollution, road safety, hygiene and security are not acceptable. The proposal is wholly out of character with this part of Ashill, which comprises a quiet residential area of bungalows in their own grounds.

*SSDC Technical Services:*

No comment.

*County Highway Authority:*

8th July I have the following observations on the highway aspects of this proposal: -

As I am sure you are aware the Highway Authority in previous applications at the site have raised concerns regarding the suitability of the site in sustainable transport terms. Given the remote location occupiers/customers of the development are likely to be dependant on private vehicles in order to access the site.

The Highway Authority also had concerns relating to the nature of the slip road on to the A358. The slip road at this point is limited in its length and has an excessive gradient. This makes it problematic for vehicles to emerge on to the A358 safely.

Given the above limitations the Highway Authority would not wish to see a proposal that is likely to increase the level of traffic at this point. It is noted from the planning history that the site was formerly a petrol refilling station. This previous use is likely to have generated a level of traffic significantly greater than that of the proposed take away. As a result, whilst there are still concerns regarding the site's location and nature of the surrounding highway network, given the likely reduction in the level of traffic movements at this point it may be unreasonable to raise an objection to the proposal.

8th October 2009 In response to the additional information submitted, I have reviewed the application, consulted my line manager and have the following comments

The main thrust of the arguments raised appear to be centred around the likely introduction of additional HGVs in this location and the lack of adequate parking and turning facilities within the site to cater for such vehicles.

The Planning History

It is the understanding of the Highway Authority that the site was formerly a Petrol Filling Station and whilst there is a temporary consent for the use of the site as a car sales facility once this consent has lapsed the former permitted use will be restored and the associated movements return. This current application is seeking to change the use of the Petrol Filling Station to that of a cafe/takeaway. When the trip generation of the two uses are compared it appears that the proposal is likely to result in a reduction in the number of traffic movements. However, the main concern does not appear to be the level of traffic movement but more the 'type' of vehicle associated with the use and in particular the number of HGVs.

The Surrounding Highway Network

The Highway Authority are satisfied with both means of access from the site on to the A358 in terms of their capacity and visibility achieved in both directions on to the A358 to cater for the likely traffic in connection with the use. Vehicles approaching the site from the Taunton direction are also able to benefit from the use of the Right Turn Lane facility provided.

The one area of concern is the ability of larger vehicles to manoeuvre in and around the site. The site is restricted in size to such an extent that there appears to be insufficient room for HGVs to enter and leave the site in a forward gear. As a consequence, there are concerns that in order for larger vehicles to be able to turn and head off in the Ilminster direction these vehicles are likely to complete this manoeuvre on the highway at the junction of the Old A358 with Wood Road. However, it should be noted that it is extremely difficult for the Highway Authority to determine the exact number of HGV movements that will seek to complete this manoeuvre as part of this current development and it is accepted that the previous permitted uses at the site (Petrol Filling Station and Car Sales) may have also resulted in vehicles such as Petrol Tankers and Car Transporters also completing this manoeuvre.

## Parking Requirements

Concerns have also been raised relating to the level of parking provided within the site. According to the current Somerset County Council Parking Strategy a development of this use class should provide parking for private vehicles only and based on the standard of 1 space per 25sqm. It should be noted that this strategy is being reviewed and a new updated parking strategy is being considered. However, as this is the current policy I am bound by the standards set within it. As such given the size of the development the proposal should be served by a maximum of 4 spaces. It is clear that the site is of sufficient dimension to enable this standard to be provided. Under the current policy there is no requirement for the provision of parking spaces to be provided for HGVs within the site. There are concerns that given the location of the proposed development, adjacent to the A358 HGVs are likely to be attracted to the site and as such there are concerns regarding their likely parking arrangements. The lack of parking and turning facilities within the site is likely to result in these vehicles parking on the Old A358 or in close proximity to the its junction with the Wood Road.

In light of the above, the Highway Authority are of the opinion that the concerns raised are significant and that further clarification from the applicant regarding these matters should be provided to indicate that this current proposal is unlikely to increase this manoeuvring or parking of vehicles, especially HGVs on the highway at this point.

2nd November 2009 In response to the additional information submitted by the Agent, I have the following comments.

As you are aware the Highway Authority in previous correspondence have raised concerns regarding HGV movements in and around the site. It is clear that given the restricted nature of the site there is an inability for HGVs to enter and leave the site in a forward gear and as such manoeuvring on the highway, particularly at the junction of Wood Road is likely to take place by those vehicles wishing to head off towards Ilminster.

It is clear from the additional information submitted that the previous use of the site would have attracted a level of HGV movement. However, with the former use it is likely that this facility would have only be used by HGVs travelling in the Taunton direction. These vehicles would have been able to park on the petrol station forecourt and not on the highway at this point before continuing the journey.

The proposal to change the use of the site to that of a takeaway/cafe is likely to attract a different 'user' and therefore a different trip pattern. The proposal, (if successful) is likely to attract customers travelling from several directions and as such facilities need to be provided to assist these vehicles turning requirements (including those for larger vehicles). As previously commented, given the restricted nature of the site it appears that there is insufficient room within the site to provide these facilities and as such the concerns regarding parking and turning on the highway are significant.

As a result, I would recommend that the application be refused on highway grounds for the following reason:

1. Adequate provision cannot be made on the site for the parking of vehicles in a satisfactory manner. The proposal is therefore contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted April 2000) and Policy ST5 of the South Somerset District Local Plan.

*SSDC Environmental Protection Unit:*

No objections are raised to the scheme but should planning permission be granted the following condition should be applied:

Equipment shall be installed to suppress and disperse fumes and/or smell produced by cooking and food preparation, and the equipment shall be effectively operated for so long as



the use continues. Details of the equipment shall be submitted to, and approved by, the Local Planning Authority and the equipment shall be installed and be in full working order to the satisfaction of the Local Planning Authority prior to the commencement of use.

Reason: To ensure that unsatisfactory odours outside the premises are minimised in the interest of the amenity of occupiers of nearby properties.

#### *SSDC Economic Development Unit:*

I have responded to a similar application for a change of use of the former filling station at Ashill to a takeaway. On that occasion as this, I am supportive of the opportunity to retain a commercial business at this location. The opportunity to provide employment and a service to local and travelling people is supported.

#### *Representations*

The application has been advertised by press and site notice for the requisite period. Over thirty letters of objection have been received from neighbours. Two petitions have also been received, one containing 175 signatures from local residents, the other being signed by pupils of Ashill School. The following comments were made:

- The site is on a dangerous junction and on-street parking, would be a danger to road users and pedestrians. This would be exacerbated, particularly as the business would be likely to be used by HGVs and cars towing caravans.
- Slow moving vehicles rejoining the A358 will add to highway safety concerns.
- The A358 bypass was built to reduce traffic through Ashill.
- The increased use of the toilets and cleaning equipment would put increase demand on the existing substandard foul water disposal system.
- The smell of food being cooked will be unacceptable in this residential area.
- The use will lead to a build up of litter to the detriment of the locality.
- This type of café could be a meeting place for the undesirable element of society, possibly leading to concerns for the safety of the elderly and young children living in the area.
- There is no need for the business as there are other food vans in laybys along the A358, the café and services at Horton Cross and local pubs.
- The business will require signage, which will be an eyesore for local residents.
- The café will not provide a service to local people, who neither wish to purchase food there or be employed at the site
- The long opening hours will result in litter, which will harm the amenities of those living in the vicinity.

#### **CONSIDERATIONS**

The application seeks to change the use of this business site from a car sales place to a café with takeaway. There is no use taking place at present but the last use was as a car sales place and prior to this it has included a local shop and filling station.

There have been several objections raised by local residents and the parish council. These revolve around concerns about highway safety, impact on residential amenity as a result of noise and smells, impact on existing sewerage system, general hygiene and security.

#### Principle of Development

The site is an existing commercial premises and as such local and national policies, such as PPS7, support the retention of existing facilities that provide employment opportunities or local services and facilities in rural areas.

Whilst there is no business currently trading from the site, there is a history of various uses, the last of which was a car sales place and prior to this it was a filling station with local shop. The planning permission granting consent for the car sales use is a temporary permission,

with that use having been required to cease no later than 18th June 2010. The Council's Economic Development Manager has considered the application and supports the proposal as it gives the opportunity to retain a commercial business at this location. Furthermore it is considered to give the opportunity to provide employment and a service to local and travelling people. It is noted that there is a presumption against the loss of petrol stations in rural areas however this use has ceased for sometime. Even though the use of the land and buildings technically reverts back to this use after the temporary use ceases, all the filling equipment has been removed prior to its last use as a car sales place.

In regard to the need for the business, which has been raised in objections, this is not considered to be a material planning consideration on this occasion. Whether there will be adequate trade to maintain a business is not a planning matter. It is however noted that this proposal varies from the catering vans along the A358, as it will also offer a service to local residents as well as passing trade.

### Highway Safety

One of the main concerns raised by the Parish Council and local residents of Ashill, is the impact of the proposed development on highway safety. It is felt that the development will generate significant vehicular movements, including use by HGVs. There is concern that there is inadequate parking on site, which as a result will lead to vehicles, particularly HGVs, parking on the public highway, to the detriment of highway safety. The objections also relate to the quality of the access onto the A358. There are concerns that larger vehicles will be forced to manoeuvre on the A358 depending on the direction they are leaving or joining the A358.

Information has been received in support of the application, regarding the car parking provision on site. It is argued that the Somerset County Council Local Transport Plan 2006-2011 sets out the maximum car parking standards for new development. It is stated that the parking standards for A3/A4/A5 uses is 1 car parking space per 25 sq.m. This maximum standard applies to areas without access to public transport and with little or no on-street parking". The total floor area of the building and the outside seating area is approximately 136 sq.m, requiring a maximum parking provision of 5 to 6 spaces. The provided site layout, indicates that there is space on site for 12 customer parking spaces, 2 staff spaces and room for an additional servicing and delivery area. It is therefore argued that the site can provide adequate parking for the development.

The applicant's agent has also pointed out the current lawful use, as a car sales place, is a temporary consent and as such, it could revert back to use as a petrol filling station, open 24 hours a day and serving HGVs and other larger vehicles. It is therefore suggested that the proposed development will generate less vehicular movements, due to its restricted opening hours and that there is unlikely to be an increase in manoeuvring or parking of vehicles, especially HGVs, on the highway adjacent to the site.

The County Highway Authority had initial concerns relating to the sustainability of the proposal, due to the likelihood that the majority of users will be dependant on private vehicles and that the adjacent slip road onto the A358 is of limited length and has an excessive gradient. Despite this, it was recognised that previous uses have included a car sales business and a filling station with local shop and therefore it may have been unreasonable to raise an objection. However, the Highway Authority has given the matter further consideration, in light of additional information received.

Taking into account that the site will revert back to use as a petrol filling station when the current use lapses, the Highway Authority feel that when comparing trip generation, there is likely to be a reduction in traffic movements. However, it is considered that the main concern from a highways point of view, is not the number of vehicle movements but the type of vehicles associated with the use, particularly the number of HGVs. The Highway Authority is satisfied that there is sufficient capacity and visibility for larger vehicles to safely join and leave the A358 in both directions. However, this is reliant on vehicles facing the correct direction when seeking to leave the site to join the A358. In order to do this without needing to

manoeuvre on the highway, there needs to be sufficient space within the site for vehicles to park and then turn before leaving in a forward gear. It is clear that the site only provides parking for cars and other smaller vehicles and that any HGVs using the site will need to manoeuvre on the highway, which is likely to be detrimental to users of the highway.

It is noted that the proposed level of parking meets the County Council's Parking Strategy requirements, which is confirmed as being a maximum of 4 spaces and doesn't include staff parking or parking for HGVs. Despite this, the Highway Authority are still concerned that the proposal will attract HGVs and that due to the lack of parking and turning facilities, vehicles will be encouraged to park on the Old 358 or in close proximity to the junction with Wood Road.

It is acknowledged that the use as a filling station could cater for HGVs and therefore potentially has a higher number of associated vehicle movements. However, the Highway Authority consider that this use is only likely to attract HGVs travelling in the Taunton direction and these would have been able to park on the petrol station forecourt and not on the highway before continuing the journey. The use as a takeaway/café is likely to attract a different type of user and therefore a different trip pattern. If granted permission, the use is likely to attract customers travelling from several directions and therefore facilities will need to be provided to assist the turning requirements of vehicles, including larger vehicles. As a result of the restricted nature of the site, there is insufficient room within the site to provide the necessary facilities. As such objections raised in relation to parking and turning on the highway are significant. As a result, the County Highway Authority recommends that the proposal is refused on these grounds.

#### Amenity

The site is located on a corner plot with the A358 to the north and a number of residential dwellings to the south, east and west. Objections have been raised in regard to impact on visual and residential amenity as a result of potential noise, smell and litter. Concerns are also raised regarding the personal security of local residents and the potential for increased usage of what is advised to be a sub-standard drainage system.

Firstly, it is not considered that there will be any significant increase in noise levels in comparison to another business use on site. The Council's Environmental Protection Officer has raised no objections to the scheme. There is the potential for uses taking place within the proposed business to generate odours i.e. cooking of food but Environmental Protection are satisfied that this will not have a significant detrimental impact on the residential amenity of local residents provided that suitable equipment is installed to suppress and disperse fumes and smells. As such, this is considered acceptable but a condition would be imposed if approved.

It is noted that there was a discrepancy in regard to the on-site provision for foul drainage. It is advised in the application form that any foul sewage will be disposed of by the main sewer although local residents have noted that there is no main sewer at this part of Ashill and the site disposes to a septic tank or cess pit. Further information was requested from the applicant's agent and it has been confirmed that the site is served by a package treatment plant, also used by the adjacent bungalow. There is outline permission for redevelopment of the adjacent site, for which a new communal treatment plant will be provided. The bungalow will be connected to this, leaving just the former filling station on the existing system. If this is inadequate it is proposed to connect to the new system or provide a completely new system. However, It is acknowledged that any new system on the adjacent site could be several years away at the earliest. Despite this, previous uses have included toilets that have been available for users of the site. It is not considered that there should be any significant increased usage from that which may have previously occurred. It is however considered appropriate to impose a condition for details of means of foul sewage disposal to be provided and agreed prior to commencement of the proposed use. If this then shows that the current provision is inadequate, further arrangements will then have to be made.



In regard to the issue relating to the potential for generation of litter, it is considered that adequate on-site provision for the disposal of litter that maybe generated will sufficiently deal with this concern. As such, a condition will be imposed to ensure that scheme is agreed for the on-site management and disposal of litter.

The matter of security is a planning consideration, but is not considered to be relevant in regard to this application. There is no reason to assume that users of the site will pose any risk.

Concern has been raised that there could be a potential conflict between pedestrians using the outside seated area and vehicles manoeuvring in the car park. However, the applicant's agent has confirmed that they would be willingly to provide a suitable boundary treatment to separate the seated area from the car parking area. This is considered to satisfy those concerns and a condition could be imposed accordingly.

It is noted in the application form that the proposed hours of opening are 9am to 9pm. A later request was received to amend the opening hours to 8 am or at least 8.30am, to allow the business to open earlier for serving breakfasts. As this is a residential area, there are concerns that activity later in the evening or earlier in the morning may have potential for disturbance. The Environmental Protection Officer feels that the earliest acceptable opening hours are 8.30am Monday to Friday and 9am Saturdays. While the level of disturbance can't be shown at the moment, it would seem prudent and reasonable to condition the hours of opening in line with the advice of Environmental Protection. If these need to be varied, this will allow the Local Planning Authority to give consideration to the potential additional impact on residential amenity.

#### Conclusion

Overall, despite the objections raised by the parish council and immediate neighbours, it is considered that the proposal is acceptable in principle as it will provide an acceptable commercial re-use of the site and is not considered to cause any unacceptable harm to the residential amenity of the occupiers of any residential properties in the vicinity. However, the potential impact on highway safety by parking and turning on the public highway is considered to be unacceptable.

Therefore, the recommendation to members is to refuse planning permission for the proposed change of use.

#### **RECOMMENDATION**

Refuse

#### **SUBJECT TO THE FOLLOWING:**

1. Adequate provision cannot be made on the site for the parking of vehicles in a satisfactory manner. The proposal is therefore contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted April 2000) and Policy ST5 of the South Somerset District Local Plan.
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