

Area West Committee – 16th February 2011

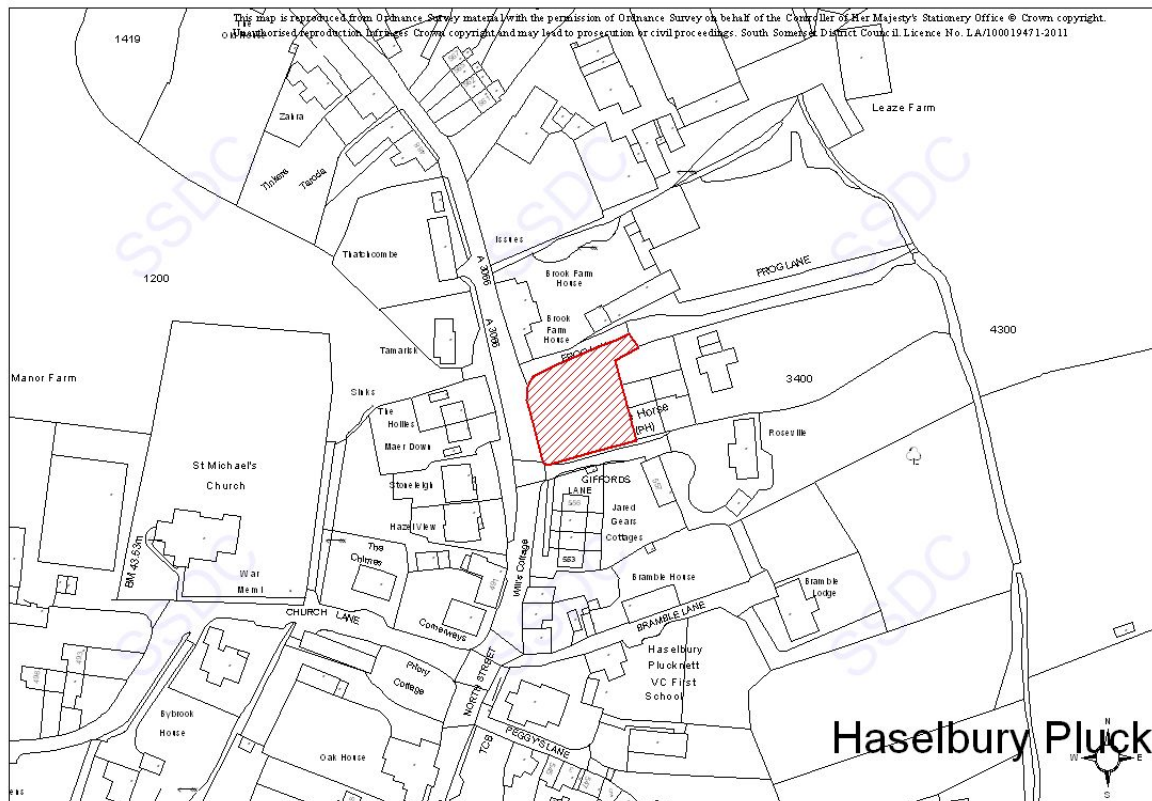
Officer Report on Planning Application: 10/05077/S73

Proposal:	Application to remove conditions 18 and 19 of decision 03/02274/FUL (regarding holiday restriction/ownership) (GR 347254/110970)
Site Address:	The White Horse North Street Haselbury Plucknett
Parish:	Haselbury Plucknett
PARRETT Ward (SSDC Member)	Mr. R.J.T. Pallister (Cllr)
Recommending Case Officer:	John Millar Tel: (01935) 462465 Email: john.millar@southsomerset.gov.uk
Target date:	31st January 2011
Applicant:	P J And J S Howard
Agent: (no agent if blank)	Paul Dance Foxgloves 11 North Street Stoke Sub Hamdon Somerset TA14 6QR
Application Type:	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL TO COMMITTEE

The application is to be considered by Area West Committee at the request of Cllr Pallister, with the agreement of the Area Chair, Cllr Turner. It is felt that the issues should be given further consideration, particularly as conditions 18 and 19 were originally imposed at the request of members of this Committee.

SITE DESCRIPTION AND PROPOSAL



The application relates to The White Horse, a public house at the centre of Haselbury Plucknett. The site is within the defined development area and conservation area.

Planning permission was granted in 2004, under 03/02274/FUL, for the reduction of the area of the pub used for an A3 use, conversion of part of the building into two flats and the erection of three dwellings. This was eventually approved following consideration at Area West Committee and a number of conditions were imposed, including the retention of the two flats within the same ownership as the public house and restrictions on the use solely for holiday accommodation. Permission was recently refused (10/01492/S73) for the removal of conditions 18 and 19 of permission 03/02274/FUL to allow the flats to be occupied other than as holiday-let accommodation and to allow them to be sold off separately from the ownership of The White Horse. The refusal was based on residential amenity grounds. Specifically, the Local Planning Authority raised concerns about the potential for disturbance to future occupiers of these flats as a result of generation of odours, noise and disturbance from the existing kitchen flue and activities associated with the use of the pub.

This application is a revised submission to remove conditions 18 and 19 of planning permission 03/02274/FUL. Additional information has been submitted to include measures to mitigate against potential disturbance to future residents.

HISTORY

10/01492/S73: Application to remove conditions 18 and 19 of decision 03/02274/FUL (regarding holiday restriction/ownership) - Refused.

04/02728/FUL: Remove condition 18 of planning permission 03/02274/FUL - Application withdrawn.

04/01650/TCA: Notification of intent to fell 5 Leylandii trees (trees within a conservation area) - Permitted.

03/02274/FUL: Conversion of part of building to two flats, the erection of three dwellings and the retention of a reduced A3 (food and drink) area - Permitted with conditions.

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

Somerset and Exmoor National Park Joint Structure Plan:
STR1 - Sustainable Development
Policy 49 - Transport Requirements of New Development

South Somerset Local Plan 2006:
ST5 - General Principles of Development
ST6 - The Quality of Development
EP9 - Control of Other Potentially Polluting Uses
MS1 - Local Shopping and Services

PPS's/PPG's

Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement 4: Planning for Sustainable Economic Growth

South Somerset Sustainable Community Strategy

Goal 5 - A competitive, high performing economy that is diverse, adaptable and resource efficient.

Goal 9 - A balanced housing market with a range of low carbon affordable housing with the flexibility to meet the changing needs of the population.

CONSULTATIONS

Parish Council: Further to our meeting please find below planning comments on the above application:

Condition 18

The Parish Councillors have considered the matter again and by majority vote do not object to the removal of this condition.

Condition 19

The Parish Councillors object to the removal of Condition 19. There are concerns as to the future stability and use of the main pub/restaurant business should the flats be allowed to be sold off separately. The Parish Council does not want to see the closure of another business in the village.

SSDC Technical Services: No comments.

County Highway Authority: I refer to the above-mentioned planning application received on 30th December 2010 on which I have the following comments on the highway aspects of the proposal.

It appears that this current proposal is seeking to remove conditions 18 and 19 from the previous consent to enable the two existing units of holiday let accommodation, tied to the public house/ restaurant, to be sold off as two separate residential units.

In principle, the village of Haselbury Plucknett does not accommodate adequate services and facilities, such as, employment, health, retail and leisure, and the public transport services within the village are infrequent. As a consequence, occupiers of the new development are likely to be dependant on private vehicles for most of their daily needs. Such fostering of growth in the need to travel would be contrary to government advice given in PPG13 and RPG10, and to the provision of policy STR1 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted: April 2000).

Notwithstanding the aforementioned comments, it is noted that the site is located within the development limits of Haselbury Plucknett, and as a consequence, there may be a presumption in favour of small-scale development in this location. Therefore, it must be a matter for the Local Planning Authority to decide whether the principle of development on this site outweighs the transport policies that seek to reduce reliance on the private car.

In detail, it appears from the design and access statement that the proposal is unlikely to impact upon the parking provision currently serving the public house/restaurant as the existing units of holiday let accommodation currently benefit from a parking space each.

The one area of concern is the means of access to the site. The access on to the A3066 is clearly substandard by reason of its restricted width not enabling two vehicles to pass and the limited visibility achieved by emerging vehicles to the north. The change of use of the existing units of holiday let accommodation to that of two dwellings is likely to result in an increase in the use of this access. However, given the level of movement currently generated from the site in connection with the existing public house/restaurant and other residential properties this increase is unlikely to be significant.

As a result, I would advise you that from a highway point of view there is no objection to the proposal.

SSDC Conservation Officer: If there is no external alteration, then no comment.

SSDC Economic Development Manager: My comments are made purely from an economic development perspective.

The application seeks to remove conditions relating to the holiday accommodation and the separation of their ownership from the main pub/restaurant business.

My main concern would have been that the removal of these conditions would have rendered the pub business unviable and create the risk of losing the facility from the village. But the trading accounts from the sample years provided (2008 and 2009) would support the view that the pub business generates sufficient trade to generate viable profits as a stand-alone business (i.e. without the holiday lets).

The gross income from the holiday lets appears to have generated 4% of total sales in 2008 and approx 10% of sales in 2009. When fixed overheads and associated costs are removed from these figures it can be said that the income from the letting accounts for only a minor part of the overall trade in either year (despite some declining sales in 2009) and that their loss would not jeopardise the viability of the main pub business.

I would not object to the removal of the conditions as I don't believe it would either reduce employment opportunity or place the existing facility at risk. I'm sure that if there are any wider planning issues, they will be commented on by appropriate officers

SSDC Environmental Protection Unit: Subject to the conditioning of the recommendations made in the report prepared by Anderson Mitchell dated the 12th November; I have no objections to this application.

REPRESENTATIONS

The application has been advertised by press and site notice for the requisite period and three letters of support have been received from two local residents, making the following points:

- The imposition of conditions 18 & 19 on Planning Application 03/02274/FUL have made it impossible for the owners to maximise their potential income or to sell their property. The present restaurant and bar are important assets to the village and if the owners are unable to continue, through ill health, it will be greatly advantageous that a reduced sized property could be sold as a 'going concern'.
- The Parish Council objection to the removal of condition 19 seems to be totally contrary to their desire to keep the business trading. They appear to have backtracked from their previous decisions to maintain a viable business premises for the community.
- The village shop and post office having closed, the continuance of the White Horse is most important as a meeting place and facility in Haselbury Plucknett. The continued viability of the business will be supported by the removal of the conditions.

CONSIDERATIONS

The original permission, 03/02274/FUL, was submitted with the intention of losing the entire public house however after a recommendation of refusal based on the potential loss of a local service, the application was amended to retain a reduced element of A3 (food and drink) area.

Among the conditions imposed on the permission were conditions 18 and 19, for which this application is made to remove. These were imposed at the time, as it was considered that the use of the flats as holiday accommodation would be vital to the overall viability of the business. It was also suggested that the units would not be suitable for permanent independent occupation, due to their limited facilities and specifications. Objections raised included the potential for noise disturbance from the pub/restaurant to adversely affect the residential amenity of any long-term-occupiers

In 2004, an application was made to remove condition 18, which restricted the use of the flats to holiday accommodation for periods not exceeding 4 weeks in total. The flats could then be let out as either holiday accommodation or as private rented accommodation in the

summertime. At the time a recommendation was made to approve this but subject to a Section 106 legal agreement restricting the use to holiday-let or short term tenancies and tying the flats into the same ownership as the pub. The applicant was not prepared to enter into such an agreement and the application was subsequently withdrawn.

At the time, the main concerns in regard to residential amenity were due to the potential impact of noise and other activities associated with the pub. Discussions in 2004, between planning officers and the applicant, appeared to be generally supportive of allowing short-term occupancy as well as holiday-let but it is interesting to note that the Council's Environmental Protection Unit were not involved in any discussions or consultations. The issue of retaining the flats within the ownership of the pub returns to the potential viability of the business without this extra income.

Viability of Business

The Parish Council have no objections to the removal of condition 18, which requires the flats to be retained as holiday accommodation but have objected to the removal of condition 19, which would allow the properties to be sold off separately. Parish Councillors are concerned about the future stability and use of the pub/restaurant if the flats are sold off and do not want to see the closure of the business as a result.

The applicant has provided details with the most recent application to show that the business has been trading well, primarily as a restaurant, and as a profitable business it does not rely on the income from the flats to remain viable. Having considered the information there would appear to be merits in not requiring the flats to be retained under the same ownership, on viability grounds. The Council's Economic Development Team have been consulted as part of the application process and have raised no objections to the separation of the flats from the main business. This case was also accepted in the previous application, with refusal being made only on residential amenity grounds.

Aside from the main issues, it is also noted that government guidance advises against the imposition of conditions to control ownership in this way. Where there is a need to control ownership, this is usually achieved by way of a legal agreement. Despite this, it is still considered that the removal of condition 19 is acceptable on grounds of viability, whether the condition is reasonable or not.

Residential Amenity

The previous application, 10/01492/S73, was refused, with the main concern being in relation to the impact on the future occupiers of these dwellings, if approval was granted for them to be occupied other than for holiday accommodation. The Council's Environmental Protection Officer objected to the recent proposal, not only with potential disturbance as a result of noise from activities of the pub/restaurant but also the potential impact of noise and odours from the existing kitchen flue, which is closely related to the flats.

This application is made following further discussions with the Environmental Protection Officer and with additional information submitted in the form of a noise and odour assessment, which includes recommendations to mitigate against impact on future occupiers of the flats. These recommendations include the provision of a silencer to the existing extract system, provision of secondary glazing, allocation of parking spaces immediately in front of the flats to the flats themselves and the improvement of the flue system, including increasing the height by 1m and improving filters. The Environmental Protection Officer has considered the findings of the report and subsequent recommendations and is satisfied that these should deal with the previous reasons for refusal, subject to a condition being imposed to include the recommendations in the report.

Other Issues

In regard to overall facilities on site, both flats would appear to have acceptable levels of living space and access to outside private amenity areas. As such, it would appear to be

unreasonable to object on grounds other than impact as a result of the relationship between the business and the two flats.

There are a couple of listed buildings located to either side of the property, however the proposal will not have any impact on their setting as the only external works are likely to be the extension of the flue, which is located to the rear of the pub and not readily visible in the overall street scene. It is also noted that the private amenity space is already sub divided so there should be no further impact in this regard.

In terms of highway safety, the County Council Highway Authority have commented on the proposal and raise no objection. It is the Highway Authority's view that the existing access is substandard but the flats could potentially be occupied all year round so removing the requirement for retention as holiday accommodation is unlikely to result in significant additional traffic movements. As such, it is considered unreasonable to object on highway safety grounds. It is also noted that each flat has a space allocated to it so there is also unlikely to be any significant harm due to reduction of parking space available to the business.

CONCLUSION

Overall, it is now considered that the proposed recommendations to mitigate against unacceptable harm to residential amenity deal with the previous reasons for refusal. As such the proposal is considered to be acceptable on both viability grounds and in regard to residential amenity. Therefore, the recommendation to members is to grant planning permission for the proposed removal of conditions 18 and 19, subject to the addition of a new condition in relation to necessary measures to mitigate against potential noise disturbance and odours.

RECOMMENDATION

Grant consent.

JUSTIFICATION

The proposed removal of conditions 18 and 19 of planning permission 03/02274/FUL is deemed to be acceptable, is not considered to adversely affect the viability of the business or cause any unacceptable harm to highway safety or residential amenity, in accordance with the aims and objectives of policies 49 and STR1 of the Somerset and Exmoor National Joint Structure Plan Review and saved policies ST5, ST6, EP9 and MS1 of the South Somerset Local Plan 2006.

SUBJECT TO THE FOLLOWING:

1. The development hereby permitted shall be begun before the expiration of five 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.

2. The development 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: To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

3. The use of the development hereby permitted shall not be commenced until the surfacing materials of the access drive and turning and parking areas have been

approved in writing by the Local Planning Authority and such areas properly drained, consolidated and surfaced in accordance with those approved details.

Reason: To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

4. 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 building, or other external alteration made without the prior express grant of planning permission.

Reason: To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

5. 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 this building without the prior express grant of planning permission.

Reason: To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

6. Before the development hereby permitted is commenced details of the material and external finish to be used for all windows, doors, boarding and openings shall be approved in writing by the Local Planning Authority. Such approved details, once carried out shall not be altered without the prior written consent of the Local Planning Authority.

Reason: To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

7. Before the development hereby permitted shall be commenced details of all eaves/fascia board detailing, guttering, downpipes and other rainwater goods shall be submitted to and approved in writing by the Local Planning Authority. Such details once carried out shall not be altered without the prior written consent of the Local Planning Authority.

Reason: To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

8. The windows comprised in the development hereby permitted shall be recessed in accordance with details to be submitted to and approved in writing with the Local Planning Authority before any work on the development hereby permitted is commenced.

Reason: To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

9. Before the development hereby approved is commenced, a sample panel of the local natural stonework, indicating colour, texture, coursing and bonding, shall be provided on site for inspection and agreed in writing by the Local Planning Authority.

Reason: To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

10. All of the windows hereby approved shall be traditional side hung balanced casements (with equal sized panes of glass).

Reason: To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

11. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority a scheme of 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, 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 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 protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

12. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the adequate archaeological investigation of this development site.

13. Before the development hereby permitted is commenced, foul and surface water drainage details to serve the development, shall be 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 protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

14. Before any of the development hereby permitted is commenced details of the internal ground floor levels of the building(s) to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

15. A local natural stone wall shall be erected along the road frontage of the site in a position to be agreed in writing by the Local Planning Authority before the building hereby permitted is first occupied at a height to be agreed in writing by the Local Planning Authority.

Reason: To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

16. No part of the development hereby granted permission shall be commenced until full details of all means of enclosure including gates have been submitted to and approved in writing by the Local Planning Authority. Such details once approved shall not be altered without the prior written permission of the Local Planning Authority.

Reason: To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

17. No part of the development hereby granted permission will be commenced until full details of the design and appearance of the proposed chimneys have been submitted to and approved in writing by the Local Planning Authority. Such details once approved shall not be altered without the prior written permission of the Local Planning Authority.

Reason: To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

18. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted plans and specifications as amended by letter and plan dated 6th October 2003 and 9th January 2004.

Reason: To avoid doubt as to the proposal hereby approved.

19. The A3 food and drink use hereby granted permission shall be limited to a public house and/or restaurant and for no other use within Class A3 of the schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instruments revoking and re-enacting that Order with or without modification.

Reason: To protect the character and amenity of the area and to retain an important public service in accordance with Policy ST5 and MS1 of the South Somerset Local Plan.

20. No part of the development hereby permitted shall be commenced until full details of the means of enclosure to all garden areas are submitted to and approved in writing by the Local Planning Authority. Such details once approved shall be fully implemented before any dwelling hereby approved is first occupied and such details shall not be altered without the prior written permission of the Local Planning Authority.

Reason: To protect the character and amenity of adjoining properties and the character and appearance of the buildings the subject of this permission in accordance with Policy ST5 of the South Somerset Local Plan.

21. Prior to the occupation of the two flats as dwellings, other than as holiday accommodation, the recommendations and mitigation measures set out in section 8 of the noise and odour assessment dated 12th November 2010 shall be completed in full. Such mitigation measures shall include the provision of a suitable silencer, the extension of flue height, removal of terminal restrictions and the installation of fine filter and activated carbon filter. Details of the silencer and its performance and details of the odour control system shall be submitted to and agreed in writing by the Local Planning Authority prior to installation.

Reason: To safeguard the residential amenities of future occupiers of the properties and the character and appearance of the buildings in accordance with saved policies ST5, ST6 and EP9 of the South Somerset Local Plan 2006.