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## Appeal Decision

Site visit made on 25 January 2011

by **D R Nicholson RIBA IHBC**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 February 2011

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### Appeal Ref: APP/R3325/D/10/2142333

### 9 Lamparts Way, Broadway, Ilminster, TA19 9RY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Matt Stephens against the decision of South Somerset District Council.
  - The application Ref 10/03705/FULL, dated 4 September 2010, was refused by notice dated 22 November 2010.
  - The development proposed is replace the current garden wall with one on the boundary of the property; at the same time to replace and increase the front parking area and rear patio.
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### Decision

1. **I dismiss the appeal.**

### Main issue

2. From the representations submitted, and my site inspection, I find that the main issue in this appeal is the effect of the proposals on the character and appearance of the area.

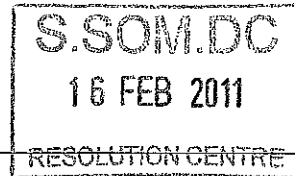
### Reasons

3. Lamparts Way runs down the side of a school and into a 20<sup>th</sup> Century housing estate. The main length of the road is lined with grass verges both alongside the school grounds and the adjoining houses. No.9 follows this arrangement with its gable end several metres back from the footway. It has a single storey lean-to against the gable which extends into a wall running parallel with the road. The proposed replacement wall would run along the back edge of the footway and extend for the length of the lean-to and the back garden enclosing the area of verge between the footway and the house.
4. In my assessment, the fairly open layout is an important feature of the road. The proposed wall would be positioned within the grass verge. Compared with the existing wall and others in the area, it would be relatively long and tall and project forward by a significant distance. I find that this extent of incursion into the verge would be at odds with the nature of the road. It would jar in the streetscene and so harm the character and appearance of the area.
5. I accept that extensions have been allowed in nearby streets but in each case the circumstances are different. I acknowledge that there have been no objections from neighbours, and that there would be no increased overlooking, but neither of these would outweigh the harm I have found to the character and appearance of the streetscene.

6. I therefore find that the proposals would conflict with current policies ST5 and ST6 of the adopted South Somerset Local Plan which expect proposals to respect the form, character and setting of the locality; and only permit new development where the architectural and landscape design satisfactorily respect the form, character and setting of the settlement or local environment, and would preserve and complement the key characteristics of the location, to maintain its local distinctiveness.
7. For the reasons given above and having regard to all other matters raised, including the possibility of lowering the proposed wall slightly or using wood panels, I conclude that the appeal should be dismissed.

*D R Nicholson*

INSPECTOR



## Appeal Decision

Site visit made on 7 February 2011

by **Andrew J Seaman BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 February 2011

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**Appeal Ref: APP/R3325/A/10/2137276**  
**43 Crimchard, Chard, Somerset TA20 1JT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr and Mrs Peter King against the decision of South Somerset District Council.
  - The application Ref 10/01854/OUT, dated 10 May 2010, was refused by notice dated 29 July 2010.
  - The development proposed is described as an 'application for outline planning for detached chalet bungalow'.
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### Decision

1. I dismiss the appeal.

### Main Issue

2. The main issue raised by this appeal is whether the proposal, with full regard to its location, would accord with the sustainable development strategy of the South Somerset Local Plan (LP).

### Procedural Matters

3. This application was submitted in outline with layout and scale reserved for later consideration. The application was dated 10 May 2010 although notice upon an affected landowner was subsequently served on 26 June 2010. I have used the correct postcode for the site address as shown on the appeal forms.

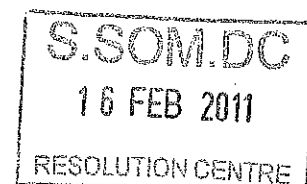
### Reasons

4. The policies of the LP support a strategy which seeks to direct new development towards established towns, such as Chard, and other settlements. Such an approach broadly accords with the principles of sustainable development outlined in documents such as Planning Policy Statement 1 'Delivering Sustainable Development', Planning Policy Statement 3 'Housing' (PPS3) and Planning Policy Statement 7 'Sustainable Development in Rural Areas' (PPS7). Indeed, PPS7 is clear that new house building should be strictly controlled when away from areas allocated for housing in development plans. The LP specifically identifies development areas within established settlements. These have been defined to show where, in principle, development is normally to be permitted; I note that the delineation of such areas may not always follow existing property boundaries.
5. The appeal site is located to the rear of a terrace of houses facing Crimchard and adjacent to Laurel Gardens from where access would be obtained to serve the proposal. It is an overgrown garden which backs onto fields and is not previously

developed land as defined by PPS3. It lies outside of, albeit abutting, the defined development area for Chard. As a consequence, the proposal represents a new house in a location where LP Policy ST3 indicates that development will be strictly controlled to that which benefits economic activity, maintains or enhances the environment and does not foster the need to travel.

6. The proposed bungalow would not specifically or substantively benefit economic activity. In environmental terms, it would replace the current overgrown garden, which provides a soft landscaped edge to this part of Chard, with a new dwelling. The introduction of additional built form would intensify the urban characteristics of Laurel Gardens and the area behind the Crimchard properties. The essentially undeveloped nature of the land that lies behind the Crimchard buildings, and which characterises this edge of the development area of Chard, would be eroded.
7. Its position would shield views from Laurel Gardens of the commercial premises beyond the site to the north. However, even if planning conditions were imposed to secure suitable floor levels, landscaping and the retention of hedging species on the southern boundary, the new dwelling would be evident on its slightly elevated plot. I am not persuaded, even with regard to the rather unkempt appearance of the site, that the appeal scheme would represent the maintenance or enhancement of the local natural or built environment.
8. Whilst recognising that the facilities of the town would be within realistic walking distance and that a bus stop can be found nearby, the site's location at the edge of Chard and the provision of the parking proposed make it most likely that the scheme would increase the need for travel and journeys beyond that envisaged or intended by the LP. Overall, I conclude that the proposal would run counter to the sustainable development strategy of the LP, particularly as expressed by Policy ST3.
9. The appeal site is well related to Laurel Gardens and, by its position at the end of the northern turning head, would provide an arguable visual completeness of dwellings similar to that seen around the southern turning head. However, given my comments relating to the contribution that the site currently makes to the undeveloped characteristics of the development area boundary, this fact does not weigh strongly in support of the scheme.
10. With due regard to the submissions from nearby residents, there is no persuasive evidence to suggest that the proposal, situated within Flood Zone 1, would be unacceptable in terms of flood risk. A suitable design for the dwelling could ensure that any overlooking or overbearing effects upon the reasonable living conditions of any neighbour would be avoided. In this regard and on balance, I consider that there would be adequate separation from 43 Crimchard to ensure that the setting of this Grade II listed building would be preserved. I appreciate that the appeal scheme would also provide off road parking for 41 and 43 Crimchard but am unaware that the current arrangements prejudice highway safety to the extent that this outcome should weigh strongly in favour of the appeal scheme. None of these material considerations or any other matter raised, outweighs my overriding conclusion that the proposal would run contrary to the sustainable development strategy embodied within the LP. The appeal does not succeed.

*A J Seaman*





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## Appeal Decision

Site visit made on 7 February 2011

by **Andrew J Seaman BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 February 2011

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**Appeal Ref: APP/R3325/D/11/2143674**

**Woodbury, Crimchard, Chard, Somerset TA20 1JY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Mervyn Powell against the decision of South Somerset District Council.
  - The application Ref 10/02181/FUL, dated 8 June 2010, was refused by notice dated 13 October 2010.
  - The development proposed is an off street parking facility and vehicular access.
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### Decision

1. I dismiss the appeal.

### Main Issue

2. The main issue raised by this appeal is the effect of the proposal upon highway safety.

### Reasons

3. The appeal scheme would create a hardstanding within the front garden of Woodbury and a new vehicular access onto Crimchard. Whilst the highway authority raises no objections to the principle of the access, it suggests the need for adequate visibility splays to be provided in order that highway users have adequate sight of vehicles manoeuvring from the access and vice versa. With due regard to the advice of Manual for Streets (MfS), splays of 43m in both directions are recommended from a point set 2.4m back from the carriageway edge (the 'x' distance).
4. The appellants have provided information which shows that, including the relocation of a telegraph pole, splays of 43m could be achieved. However, such splays would encroach over the front gardens of the neighbouring properties. It is apparent that the owner of Foxmore to the south has consented to the principle of lowering the front boundary and has no objection to the proposal. It would therefore appear feasible for adequate visibility to be secured in this direction. However, I am mindful as to the importance for this to be secured permanently.
5. Circular 11/95 'Use of Conditions in Planning Permissions', as supplemented by advice from central government<sup>1</sup>, indicates that a suitably worded planning condition could be used to provide the necessary visibility splays if there are at least reasonable prospects of these being secured within the time limit imposed

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<sup>1</sup> Letter to Chief Planning Officers dated 25 November 2002 - CIRCULAR 11/95: USE OF NEGATIVE CONDITIONS

by the permission (normally three years). Whilst this would be possible to the south, the subsequent and necessary retention of the visibility splay could not, in terms of enforceability and reasonableness, be so secured. This would particularly be the case, for example, if Foxmore changed ownership. In the absence of any alternative mechanism, such as a S106 planning obligation, the sought visibility splay would not be maintained in perpetuity. The suggested condition of the Council which seeks a legal agreement to be completed to achieve this effect would not accord with the advice of Circular 11/95 paragraph 13 and is unreasonable.

6. Of at least equal importance is the visibility to the north which looks along the nearside carriageway. This would partially cross the front garden of Cherry Trees. Whilst the front garden wall is sufficiently low so as not to impede visibility in this direction, planting currently exists which, particularly in summer and if not maintained at a low height, would obstruct visibility to a distance significantly below the sought 43m. There is no agreement to secure the required visibility across this neighbour's garden. It is therefore apparent that the proposed access would not secure visibility splays in either direction as sought by the highway authority.
7. I have considered whether splays below 43m would be reasonable and note that Crimchard is not the main route into Chard. With this in mind, there is no reason to consider that traffic speeds would exceed the 30 mph speed limit and, during my inspection, I noted that the presence of permitted on street parking has a traffic calming effect. Nevertheless, whilst the MfS can be applied with a degree of flexibility, the visibility splays which could be reasonably obtained by the use of necessary and enforceable planning conditions would be limited to the land controlled by the appellants. This would produce only minimal splays if the 'x' distance was set at 2.4m and would provide insufficient visibility between drivers of vehicles using the proposed access and those on the highway.
8. In relation to junctions, the MfS indicates that a minimum 'x' distance figure of 2m may be considered in some very lightly trafficked and slow speed situations. Whilst the proposal relates to a single access point, I have insufficient evidence to suggest that such circumstances apply to the appeal site, for example a Crimchard traffic count and speed assessment. Furthermore, I have no submissions on the extent or adequacy of the resulting splay if a reduced 'x' distance was used. I therefore have no sound basis upon which to conclude that a planning condition requiring the provision of splays with an 'x' distance of 2m would secure an adequate and safe access and would be reasonable.
9. Whilst recognising that the proposed access would remove on street parking and potentially benefit the free flow of traffic, the absence of adequate visibility splays would be prejudicial to highway safety. This would run contrary to the highway objectives of the development plan as expressed by Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review and Policy ST5 of the South Somerset Local Plan. This cannot be mitigated by the use of reasonable and enforceable planning conditions. With regard to all other matters raised, including the presence of vehicular access points with different degrees of visibility for other properties along Crimchard, the appeal does not succeed.

*A J Seaman*

Inspector



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## Appeal Decision

Site visit made on 25 January 2011

by **D R Nicholson RIBA IHBC**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 February 2011

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**Appeal Ref: APP/R3325/D/10/2140350**

**4 School Hill, Misterton TA18 8NL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Andrew Sweetman against the decision of South Somerset District Council.
  - The application Ref. 10/03086/FUL, dated 9 July 2010, was refused by notice dated 21 September 2010.
  - The development proposed is the erection of 2 storey and single storey extensions at rear of property together with internal alterations.
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### Decision

1. **I allow the appeal**, and grant planning permission for the erection of 2 storey and single storey extensions at rear of property together with internal alterations at 4 School Hill, Misterton in accordance with the terms of the application, Ref. 10/03086/FUL, dated 9 July 2010, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 217/LP2.0 and 217/2.2.
  - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
  - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on the north west or south east elevations.

### Main issue

2. From the representations submitted, and my site inspection, I find that the main issue in this appeal is the effect of the proposals on the living conditions of neighbouring residents with regard to outlook and daylight.

### Reasons

3. No.4 School Hill is in the middle of three pairs of semi-detached houses. The proposals would extend the ground and first floors by roughly the width of the house and half its depth. However, to avoid overshadowing the back of No.3,

to which the appeal property is attached, the proposed first floor would be offset to one side with the overhanging part supported by columns.

4. I acknowledge that the resulting design would be unusual, but it has been well thought through and the offset would only really be apparent in the rear garden to the appeal site. The drawings indicate that the first floor extension would not intrude on a 45 degree line from the centre of the nearest window to No.3 and I therefore accept that the adjoining house would not be unacceptably overshadowed.
5. The offset first floor would come very close to the boundary with No.5. On the other hand, the house at No.5 stands away from this boundary by at least as far as the first floor would be offset from No.3. As a result, the effect on daylight to any windows in the rear elevation would be no greater than the effect on No.3, which I have found acceptable, and to which the Council has not raised any concerns. Moreover, the proposed extension would stand to the north west of No.5 so there would be no appreciable loss of sunlight.
6. I saw that No.5 has a rear extension with side windows facing the appeal site. However, this stands on the far boundary such that there would be a significant distance between the two so that the outlook would remain acceptable. Again, given its orientation, the extension would not significantly reduce sunlight.
7. For all the above reasons, I find that the proposals would not cause unacceptable harm to the living conditions of neighbouring residents. The proposals would therefore comply with current policy ST6 of the adopted South Somerset Local Plan which only permits proposals which would not unacceptably harm the residential amenity of occupiers of adjacent properties by disturbing, interfering with or overlooking such properties.
8. To protect the appearance of the area the materials need to match those on the existing house, as has been proposed. To simplify any application for a minor material amendment, the development should comply with the plans as listed. To protect the amenities of neighbouring residents, control is needed over any future windows in the flank walls.
9. For the reasons given above and having regard to all other matters raised, including whether or not the adjoining property is vacant, I conclude that the appeal should be allowed.

*D R Nicholson*

INSPECTOR