

Area West Committee – 20th February 2013

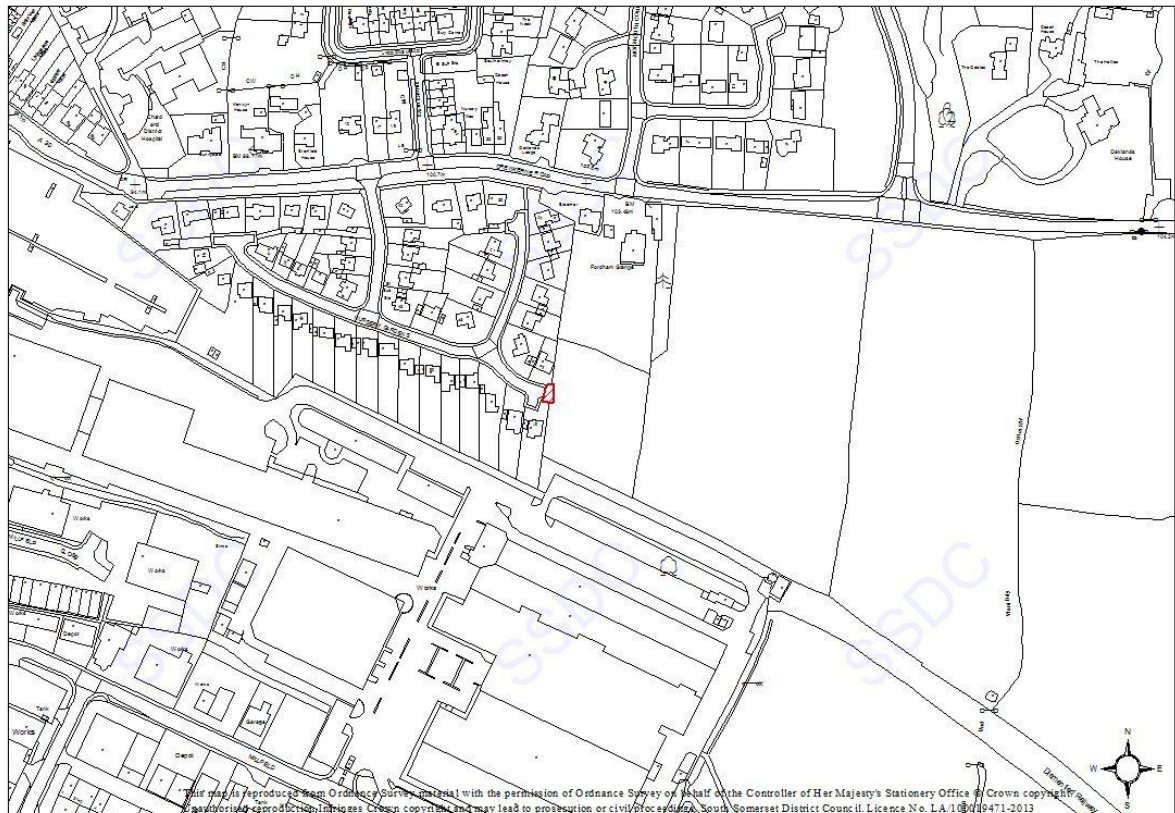
Officer Report On Planning Application: 12/04194/FUL

Proposal :	Formation of an agricultural access and installation of gate. (GR 333357/108568)
Site Address:	Land Rear Of Nursery Gardens And Fordham Grange Nursery Gardens Chard
Parish:	Chard
JOCELYN (CHARD) Ward (SSDC Member)	Cllr D M Bulmer
Recommending Case Officer:	John Millar Tel: (01935) 462465 Email: john.millar@southsomerset.gov.uk
Target date :	3rd January 2013
Applicant :	Mr & Mrs R Trott
Agent: (no agent if blank)	Miss Sarah Hall Hawkrigde House Chelston Business Park Wellington, Somerset, TA21 8YA
Application Type :	Minor Other less than 1,000 sq.m or 1ha

REASON(S) FOR REFERRAL TO COMMITTEE

The application is to be considered by Area West Committee at the request of the Ward Member, with the agreement of the Area Chair. It is felt that the application should be given further consideration by members, to consider the potential impact on local amenity.

SITE DESCRIPTION AND PROPOSAL



The application relates to a small square-shaped field, which adjoins a number of larger fields on the east edge of Chard, just to the south of the A30. The land is owned by the occupiers of Fordham Grange, a residential dwelling, also adjoining the application site. The west boundary is alongside Nursery Gardens, with the road and turning head stopping just short of the field boundary. The two properties at the end of the cul-de-sac, one of which is a bungalow and the other a house, immediately adjoin the site. There is a small strip of land between the site and the public highway, which is understood to be in the ownership of these two neighbouring properties, 31 and 32 Nursery Gardens.

The application is made to create a vehicular access into the site from Nursery Gardens and install a gate.

HISTORY

12/03170/AGN: The formation of an access and installation of a gate - Planning permission required.

03/02050/FUL: Erection of 16 dwellings and associated road - Refused.

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 5 - Landscape Character
Policy 49 - Transport Requirements of New Development

South Somerset Local Plan 2006:
ST5 - General Principles of Development
ST6 - The Quality of Development
EC3 - Landscape Character
EC8 - Protected Species
EP9 - Control of Other Potentially Polluting Uses

Policy-related Material Considerations

National Planning Policy Framework (March 2012):
Core Planning Principles - Paragraph 17
Chapter 7 - Requiring Good Design
Chapter 10 - Climate Change and Flooding
Chapter 11 - Conserving and Enhancing the Natural Environment

South Somerset Sustainable Community Strategy (2008-2026):
Goal 11 - Environment: Protection and enhancement of our material environment and biodiversity.

CONSULTATIONS

Parish Council: Recommend refusal - The Clerk advised to recommend approval as she considered there was no concern regarding the impact of traffic based on the

information contained within the Design and Access statement. However the Members of the Planning Committee and the Chairman expressed dissatisfaction about the suitability of the access for agricultural vehicles and therefore wish to recommend refusal on the grounds of Highways access.

SSDC Technical Services: Looking at the site using Google 'StreetView' I note that the agricultural land falls in a general North/South direction and is about 0.75m above the road which is situated to the west. I would not expect any issues to do with surface water run-off from the agricultural land but to safeguard against this the applicant could be required to install a stone-filled drain across the entrance. To be honest I'm surprised that the County Council haven't requested this as it is fairly standard practice where access onto the highway is being proposed. There could of course be an issue to do with depositing mud on the highway when the access is in use but this is a highway enforcement matter rather than a planning issue.

County Highway Authority: The application relates to the formation of an agricultural access and installation of a gate.

The proposal would result in an increase in vehicle movements on Nursery Gardens however this is unlikely to be significant enough to warrant an objection by the Highway Authority on these grounds.

In terms of the access it is apparent from visiting the site that the proposed access would be higher than the existing carriageway. As a consequence the applicant would be required to re-grade the proposed access so it is at the same level as the road. The application detail also shows that the access would be gated. Please note that the Highway Authority would require the entrance gates to be open inwards and set back from the carriageway edge.

Although the applicant has provided a location plan of where the access will be situated it does not provide any design detail. Therefore the applicant would need to provide a drawing showing that the entrance gates have been set back from the carriageway edge although the Local Planning Authority can attach this requirement as a pre commencement condition if they deem it appropriate.

I note from the further information submitted, by the applicant, that there has been questions raised over whether the section of land between the back edge of the highway and the fence and its ownership. The Highway Authority are currently investigating this matter and respond to this under a separate cover once this has been completed.

Therefore to conclude, the proposal is unlikely to generate a significant increase in vehicle movements on Nursery Gardens. In terms of the detail re-grading work would be required so the access can link into the existing highway also a more detailed plan should be provided showing that the entrance gate has been set back from the carriageway edge, although this could be conditioned.

Therefore based on the above information I raise no objection to this proposal and if planning permission were to be granted I would require the following conditions to be attached.

- No work shall commence on the development hereby permitted until a lay out drawing of the access has been submitted to and approved in writing by the Local Planning Authority.
- Any entrance gates erected shall be hung to open inwards and shall be set back

- a minimum distance of 4.5m from the carriageway edge.
- The section of highway between the edge of the carriageway and the entrance gate shall be properly consolidated and surfaced (not loose stone or gravel).

NOTE:

Having regard to the powers of the Highway Authority under the Highways Act 1980 the applicant is advised that the creation of the new access will require a Section 184 Permit. This must be obtained from the Highway Service Manager, South Somerset Area Highway Office, Mead Avenue, Houndstone Business Park, Yeovil, Tel No. 0845 345 9155. Application for such a permit should be made at least four weeks before access works are intended to commence.

REPRESENTATIONS

The application has been advertised by site notice for the requisite period. Letters of objection have been received from twelve local residents and a petition has also been received with 66 signatures on it. The main issues raised are as follows:

- There is no need for agricultural access. The site is a paddock, which is not used for grazing any livestock and there are already several access points.
- Nursery Gardens is a quiet cul-de-sac, unsuitable for use as a through route. It is narrow in places and has restricted visibility at the junction onto the A30, where road users often exceed the speed limit. As such any additional traffic (particularly as a result of large agricultural vehicles) is likely to be detrimental to highway and pedestrian safety, particularly children who play in the street.
- Increased traffic will cause disturbance to residents (i.e. noise and mud on the roads), which will be detrimental to their residential amenity.
- The strip of land between the public highway and the site is owned by the residents at the end of the cul-de-sac and has been maintained to a high standard, being grassed and planted with a high hedge and flower beds. There has never previously been any access via the cul-de sac, in the forty years that the estate has existed.
- Permission was refused in 2003 for the erection of houses on this site. The creation of an access may set a precedent for approving a future application.
- The removal of the hedge would be detrimental to wildlife in the area.

CONSIDERATIONS

Principle of Development

The proposal relates to the provision of a new access, and associated gate, from Nursery Gardens into the application site. The site itself is a small field, referred to as a paddock on previous planning application 03/02050/FUL. As such, it is agricultural land in open countryside. The site is however within the defined development area of Chard, despite being beyond the existing developed limits of the town.

There is existing access to the field from the applicant's property and other adjoining fields and it would appear that there is no formal agricultural business being carried out. At the time of visiting the site, no animals were present on site. Several of the objections have made reference to a lack of use of the site for agricultural purposes, highlighting a lack of need or justification. It is noted that no justification has been provided for the new access, however it is acknowledged that there is no need for the applicant to justify the proposal. It is for the Local Planning Authority to assess the proposal on its own merits

and in this case, the main considerations will be impact on local landscape character and visual amenity, highway safety and the residential amenity of local residents.

Scale and Appearance

The proposal is relatively small-scale, in terms of appearance, involving the removal of a section of hedge 3m wide and the insertion of a 6 bar metal field gate, consistent with the type used on agricultural land. There is a difference of levels between the carriageway and the application site, however required excavations would be limited. The field to the north of the hedge is at the same level as the top of the grass bank, as seen from Nursery Gardens. In terms of visual impact, it is not considered that the proposal would have any adverse impact on the character of the built environment or local landscape character.

Highway Safety and Local Amenities

The main areas of concern seem to relate to the impact the scheme may have on highway safety and residential amenity due to increased and potential larger vehicle movements. Objectors refer to the junction of Nursery Gardens and the A30 having restricted visibility, along with cars exceeding the speed limit, making this unsuitable for agricultural vehicles, as well as the cul-de-sac being narrow in places and difficult for larger vehicles to manoeuvre. It is also pointed out that the cul-de-sac is currently relatively quiet and safe and as a result, there is potential for increased traffic to pose a risk to the safety of highway users and pedestrians, as well as increased disturbance to local residents. It is noted that permission for a new housing development in 2003, which would have also derived access at this point, was refused with one of the reasons being impact on highway safety and loss of residential amenity.

In terms of impact on highway safety, the County Highway Authority have considered the proposal and raised no objections. They acknowledge that there may be an increase in vehicle movements but these will not be significant enough to recommend refusal. County Highways have requested that the gate be set back 4.5m from the existing carriageway, which has been agreed by the applicant so this may be conditioned along with the details of re-grading part of the land, if approved. The boundary line is currently set back over 3.5m from the highway so this would require the gate being set back only 600-1000mm from existing hedge line.

In regard to residential amenity, it is not considered that the proposal will cause any unacceptable harm either. Even though it is not a through road to any further development, Nursery Gardens is a residential area, with regular vehicle movements expected. As with the issue of highway safety, the proposed development is unlikely to create any significant increase in traffic movements and as a result increased disturbance is likely to be minimal. Concerns have been raised that this proposal could set a precedent for future development; however this should not be the case. Any future development proposal will be considered on its own merits and if likely to lead to a significant increase in vehicle movements, it may be considered differently.

Other Issues

One objector has referred to the potential impact on wildlife as a result of the loss of a section of hedgerow. In this case, it is not considered that this should be a matter of concern. The area of hedge to be removed is only 3m wide and furthermore, the hedge at this point is a domestic species. The fact that it is also forms a domestic boundary means that it is unprotected and could be removed at any point, subject to owner consent.

Consideration had been given to the potential impact of surface water run-off from the field onto the highway but the Council's Engineer does not consider that there is likely to be additional runoff than would be experienced at present. Despite this, they have suggested that a stone-filled drain across the proposed site entrance would safeguard against any potential issue. A standard condition may be imposed to request details of drainage provision to ensure that there is no run-off onto the highway.

An issue raised in relation to this application and the previous one, is that the strip of land over which the access will be derived between the highway and the application site, is within the ownership of the adjoining residents at 31 and 32 Nursery Gardens. The applicant is certain that the land is owned by the County Highway Authority and has provided a highway map indicating that the land is part of the highway; however land registry documents were provided as part of application 03/02050/FUL, which showed that the strip of land was owned by the occupiers of these two neighbouring properties. These documents have been provided again as part of this application, with further correspondence from the applicant's agent, which would seem to confirm that the land was adopted by the County Council, as part of the highway following a legal agreement entered into in 1971. It would seem that despite the land being laid out as garden, adoption by the Highway Authority may have been in place since the estate and associated road network were developed in the 1970s. Notwithstanding these issues of land ownership, the grant of planning permission does not override any other legal requirements, for example the need to gain another land owner's consent to carry out works on their land. This may apply on this site, however it would certainly appear that the strip of land in question is part of the adopted highway. Nonetheless, the concerns raised in regard to land ownership are a civil matter and should not be a reason for refusal.

CONCLUSION

Overall, the proposed development is considered to be acceptable. The visual impact of the proposal will be limited, with no adverse impact on the established street scene or on local landscape character. The potential increase in vehicle movements is not considered to be significant and as a result will have no detrimental impact on highway safety or cause any unacceptable harm to the residential amenity of neighbouring residents. Furthermore, it is not considered that the proposal will increase the likelihood of surface water run-off beyond the site.

RECOMMENDATION

Approval with conditions

01. The proposed development, by reason of its size, scale and materials, respects and relate to the character of the area and causes no unacceptable harm to residential amenity, highway safety, landscape character or local ecology, in accordance with the aims and objectives of policies 5, 49 and STR1 of the Somerset and Exmoor National Joint Structure Plan, saved policies ST5, ST6, EC3 and EC8 of the South Somerset Local Plan 2006 and the provisions of chapters 7, 10 and 11 and the core planning principles of the National Planning Policy Framework.

SUBJECT TO THE FOLLOWING:

01. The development hereby permitted shall be begun before the expiration of three 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.

02. The development hereby permitted shall be carried out in accordance with the following approved plans: '1:2500 Location Plan' and '1:500 Proposed Block Plan', received 29th October 2012.

Reason: For the avoidance of doubt as to the development authorised and in the interests of proper planning.

03. No development shall be carried out on site unless a layout drawing of the access has been submitted to and approved in writing by the Local Planning Authority. The layout shall include details of the grading of the access, including changes proposed in existing ground levels, position of the gate hereby approved and details of any new boundary treatment. Such details once carried out shall not be altered without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity and highway safety, in accordance with policies STR1, 5 and 49 of the Somerset and Exmoor National Joint Structure Plan, saved policies ST5, ST6 and EC3 of the South Somerset Local Plan 2006 and the provisions of chapters 7 and 11 of the National Planning Policy Framework.

04. The design and finish of the field gate hereby permitted shall be carried out in accordance with the details submitted in correspondence, received 8th November 2012.

Reason: In the interests of visual amenity, in accordance with policies STR1 and 5 of the Somerset and Exmoor National Joint Structure Plan, saved policies ST5, ST6 and EC3 of the South Somerset Local Plan 2006 and the provisions of chapters 7 and 11 of the National Planning Policy Framework.

05. Any entrance gates erected shall be hung to open inwards and shall be set back a minimum distance of 4.5m from the carriageway edge.

Reason: In the interests of highway safety, in accordance with policy 49 of the Somerset and Exmoor National Joint Structure Plan Review and saved policy ST5 of the South Somerset Local Plan.

06. Prior to the access hereby permitted being first brought into use, the section of highway between the edge of the carriageway and the entrance gate shall be properly consolidated and surfaced (not loose stone or gravel).

Reason: In the interests of highway safety, in accordance with policy 49 of the Somerset and Exmoor National Joint Structure Plan Review and saved policy ST5 of the South Somerset Local Plan.

07. Provision shall be made within the site for the disposal of water so as to prevent its discharge on to the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such approved drainage details shall be completed and become fully operational before the development hereby permitted is first occupied. Following its installation such approved scheme shall be permanently retained and maintained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and local amenity, in accordance with policies 49 and STR1 of the Somerset and Exmoor National Joint Structure Plan Review, saved policies ST5, ST6 and EP9 of the South Somerset Local Plan and the provisions of chapter 10 of the National Planning Policy Framework.
