

5. Land At Witches Way Holywell East Coker

Site Address:	Land At Witches Way Holywell East Coker
Ward:	COKER
Proposal:	Outline application for the erection of a dwelling (GR 352898/113152)
Recommending Case Officer:	Simon Fox
Target date:	25th October 2012
Applicant:	Mr And Mrs Dudley And Aileen Miller
Type:	Minor Dwellings 1-9 site less than 1ha

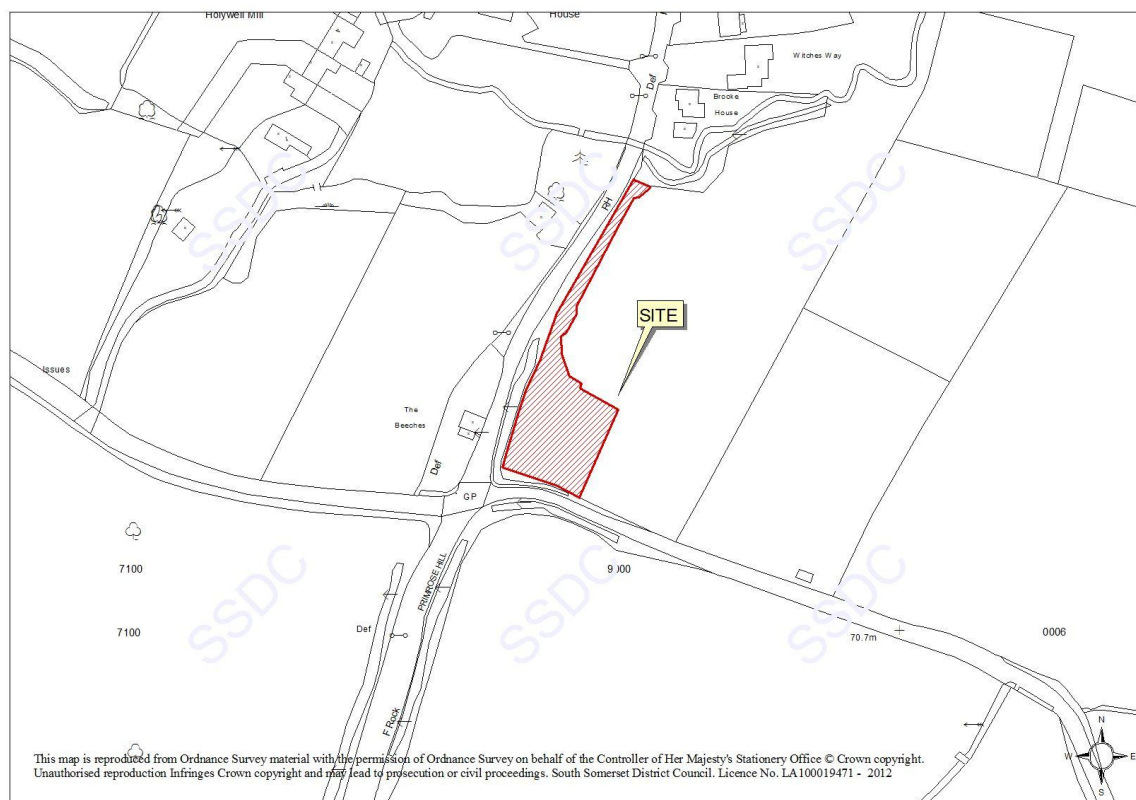
Reason for Referral to Regulation Committee

At the meeting of Area South Committee held 7th November 2011 it was resolved by members by a vote of 7 to 6 that the application be referred to the Regulation Committee with the recommendation that the application be approved contrary to the officer's recommendation. (Draft Minute attached as Appendix A).

Members resolved that the application should be approved for the following reason:
The proposal would represent a new home in the countryside for which an overriding essential need has been justified based on the personal circumstances of the applicant. The proposal would not represent an unjustified and undesirable intrusion into an attractive area of open countryside detrimental to the visual appearance and character of the landscape and would represent sustainable development. The proposal is therefore in accordance with the National Planning Policy Framework and policies ST5 and EC3 of the South Somerset Local Plan (adopted April 2006).

The following officer's report has been slightly amended from that presented to Area South Committee.

Site Description and Proposal



The application site comprises the western side and south west corner of an agricultural field within the hamlet of Holywell. Holywell consists of a mill, farm and public house plus around a dozen dwellings. It also falls on the boundary between West and East Coker parishes, lying as it does between the two larger village settlements. The application site is within East Coker parish.

The field within which the application site falls is undulating in nature sloping also from the north up to the south. Here the site stands high relative to the adjacent road from which access is derived; this is the road running from the A30 through Holywell to Hardington Moor which meets the East to West Coker road at a crossroads (Beryl Knapp). This junction is within a cutting with established trees and hedging on top in part forming the outer boundary to the application site.

The application seeks outline permission for the erection of a dwelling, with all matters reserved for later approval (access, appearance, landscaping, layout and scale). The Design and Access Statement that accompanies the application outlines this would be a 1½ - 2 storey 3 bedroom dwelling. Although not specifically detailed indicative plans and the shape of the red line indicate the dwelling will be located in the south west corner access via a driveway along the western edge of the site. Despite also not detailed and also left for future determination the access point would be approximately where the current field access and 'corral' are located. The red line denoting the extent of the residential garden is approx 2000m² or less than 0.2 hectares.

The application is also supported by a Planning Statement which outlines the argument for this proposal. The applicants currently live with their son at Witches Way; a four-bedroomed dwelling located one house away to the north of the application site. The applicant's son has Aspergers Syndrome and the intention is to provide a home in the

long-term for the applicant's son where the applicants can live with him while they are alive and where a carer can live afterwards. The applicant's would sell Witches Way to finance the build. A bespoke dwelling within a familiar area would help meet his long term needs, health and welfare.

The site is not within the development area as defined in the South Somerset Local Plan.

Despite being encouraged by the National Planning Policy Framework no pre-application consultation was carried out by the applicant.

HISTORY

01/01092/OUT: The erection of a single storey dwelling with garage: Refused: 06.09.2001

This application was submitted by the current applicant with an almost identical red line. The argument at that time was that the applicant, not his son, had been diagnosed with a serious illness and that his health would deteriorate significantly eventually restricting his mobility. It was said that a move from the two-storey Witches Way to a bespoke single storey dwelling would enable the applicant to remain in Holywell whilst in accommodation more suited to his needs.

The application was refused at Area South Committee September 2001 for the following reason:

The proposed development is contrary to policy STR6 of the Somerset and Exmoor National Park Joint Structure Plan, policy P3 of the Yeovil Area Local Plan, policies ST3 and ST5 of the South Somerset Local Plan Deposit Draft and national planning policy advice in particular but not exclusively PPG1 paragraph 28, PPG3 paragraph 70 and PPG7 paragraph 2.3 in that:

- a) *it would result in a new dwelling in a prominent location not otherwise identified for expansion in the local plan;*
- b) *it may set an unfortunate precedent for other inappropriate development*

NB. No mention of this application is made in the current submission. It is noted that the applicant still remains resident at Witches Way some 11 years later.

751986: Erection of a dwellinghouse: Refused: 03.02.1976

The red-line site was located close to existing access. The application was refused for the following reason:

The proposal would comprise an undesirable extension of development into open countryside, beyond the established limits of the village, detrimental to the visual amenities of an attractive rural area and contrary to the policy of the Local Planning Authority.

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.

In March 2012 the existing national Planning Policy Statements and Guidance Notes (PPS's and PPG's) were superseded by the publication of the National Planning Policy

Framework.

National Planning Policy Framework (March 2012):

Chapter 6 - Delivering a Wide Choice of High Quality Homes

Chapter 11 - Conserving and Enhancing the Natural Environment

The development plan comprises the saved policies of the Somerset and Exmoor National Park Joint Structure Plan Review, and the South Somerset Local Plan.

The policies of most relevance to the proposal are:

Somerset and Exmoor National Park Joint Structure Plan (adopted April 2000):

STR1 - Sustainable Development

STR6 - Development Outside Towns, Rural Centres and Villages

5 - Landscape Character

49 - Transport Requirements of New Development

South Somerset Local Plan (adopted April 2006):

ST2 - Villages

ST5 - General Principles of Development

ST6 - The Quality of Development

EC3 - Landscape Character

CONSULTATIONS

East Coker Parish Council:

"The Parish Council considered carefully but did not approve as they considered it an inappropriate location to build on agricultural land".

Neighbouring Parish:

West Coker Parish Council:

No objections.

Highways Authority (Somerset CC):

"The site lies outside of the recognised development limits of East Coker, in an area where development is strictly controlled in addition to being remote from adequate services, facilities, and where there is limited access to public transport services. 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".

It was noted that a previous application in 2001 attracted the following comments from the Highway Authority officer:

"In terms of the detail the approach roads leading to the site are narrow and poorly aligned in places, furthermore, there are no footways or street lighting along these stretches of highway, which are subject to the national speed limit of 60mph. However from personal observations traffic speeds would appear to be lower than this past the site, as a result of issues set out above".

"Whilst an existing agricultural access will be utilised it is essential that the proposal meets the detailed requirements for a new residential development such as this, in the interest of highway safety for all road users at this point".

"Taking the above points into consideration based on the submitted details I would recommend refusal of the application on sustainability and highway safety grounds".

SSDC Planning Policy:

“The proposal is located in the open countryside, where development is strictly controlled. The National Planning Policy Framework (para 55) states that isolated new homes in the countryside should be avoided unless there are special circumstances. The only 'special circumstance' that could be considered in this case is "the exceptional quality or innovative nature of the design of the dwelling". Given it is an outline application that lacks detail on design, the proposal does not meet this stringent criterion. I note the applicant puts forward the special circumstances of their son as a justification for the dwelling. I would question why the appropriate accommodation could not be provided by amending their existing dwelling and/or building an annexe, rather than an isolated new home.

Overall, I consider the proposal is contrary to policy that strictly controls new homes in the countryside, and therefore object”.

SSDC Landscape Architect:

“The prime landscape issue raised by the application for a dwelling plot is the potential impact of development upon landscape character: LP policies ST5 para 4 & EC3 seek to protect the character and quality of the landscape, and require development proposals to respect and respond to the character of the local environment.

The proposal lays in open countryside, where ‘development will be strictly controlled to that which ... maintains or enhances the environment...’ (local plan policy ST3). Whilst there is no inherent enhancement in supplanting pasture by built form, the main landscape issue is to assess the suitability of the site, in terms of its relationship to local landscape character.

In reviewing the character of the local landscape, it is clear that the site is an agricultural field in a rural context, set apart from both the existing built form of East Coker village, and the smaller cluster of houses that makes up Holywell. This corner of the field is distinctly rural, is not characterised by development form, and does not have a relationship with local development clusters. Additionally, any new development here would also subtly erode the open space that currently provides separation of East and West Coker. Consequently there is a landscape case for refusal when considered alongside LP policies ST5 para 4 & EC3”.

SSDC Technical Services:

Details for surface water disposal to be agreed.

REPRESENTATIONS

Two neighbouring properties to the site were notified in writing. A site notice was also displayed and an advert placed in the local press (Departure from Local Plan).

In response five letters of support have been received:

- These are special social circumstances. Their present residence cannot meet these needs, therefore they have no alternative but to erect suitable accommodation within the grounds of their own property.
- The additional dwelling would only add to the community of Holywell. The dwelling would support local services and tradesmen. The hamlet of Holywell should not be exclusive or exempt from change.
- This is one of the planning applications that should be passed.
- The family are part of the community.
- The building will be of the highest standard and within keeping of the surroundings.

One letter from an adjoining neighbour to the application site has raised an objection:

- This proposal is a major leap into agricultural land and would open the floodgates for many similar fields in the area.
- The property would overlook and devalue our property (The Beeches)

CONSIDERATIONS

The application raises several issues that will be considered in turn.

Principle of Development

The site is located in open countryside. It neither falls within or adjacent to the settlement of West Coker which policy ST2 identifies as a sustainable village suitable for development.

Paragraph 49 of the National Planning Policy Framework (NPPF) states housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. A recent appeal decision for land to the rear of Wincanton Community Hospital, Dancing Lane, Wincanton has established as at 29th August 2012 that South Somerset District Council does not have a five-year supply of deliverable housing land and as such the previously saved Policy ST3 no longer applies in relation to housing. However the NPPF can be referred to and there are other saved policies within the Local Plan that demand proposals maintain or enhance the environment and preserve the character of the area; these include SSLP policies ST5, ST6 and EC3. These are to be considered alongside the NPPF.

The purpose of the planning system is to contribute to the achievement of sustainable development (para 6, NPPF). To achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously through the planning system (para 8, NPPF). The golden thread running through plan-making and decision-taking is a 'presumption in favour of sustainable development'.

Further advice for decision-takers is given in Paragraph 14 of the NPPF where planning permission should be granted where a policy is out-of-date (such as Policy ST3) unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, unless material considerations dictate otherwise.

Indeed Paragraph 55 of the NPPF advises, *'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby'*.

Local planning authorities are advised to avoid new isolated homes in the countryside unless there are special circumstances. The NPPF outlines that these special circumstances *may* include (but are not restricted to) - agricultural/forestry and rural worker occupational dwellings, conservation enabling type development, the re-use of redundant or disused buildings, or dwellings of an exceptional quality or innovative design.

Notwithstanding any special circumstances that may be a material consideration there remains other material considerations to bear in mind. Indeed, the application has attracted an objection from the Landscape Architect due to the incompatible nature of the proposal to the landscape character. The site is distinctively rural and does not have a

visual relationship with development clusters; to that end it is isolated. It neither falls within or is adjacent to the settlements of West Coker and East Coker and is not even adjacent to the cluster of built form that is Holywell. The planning history shows that even when attached to the linear form of development an application for a dwelling attracted an objection on landscape grounds (1975).

The site is distant from services, employment and amenities. The site does lie on a bus route which does provide some connectivity with West Coker and Yeovil town centre. It is a fixed route operating an hourly service Monday to Saturday. The first bus is at approx 810 and the last arrives back at Holywell at approx 1742. Whether this is a regular enough service to support what is proposed as a family sized home is debatable and car use is inevitable. The increased use of private cars runs contrary to sustainable development objectives. The comments of the Highway Authority are noted.

Given the site is not adjoining a settlement considered to be sustainable as defined in policies ST1 and ST2 of the Local Plan then the site cannot be deemed sustainable and therefore there is a presumption against development.

Assessment of Special Circumstances

It should be remembered that 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.

Any matter which relates to the use and development of land can constitute a material consideration but it is for the LPA to determine how much weight the matter should be given weight. Some matters such as the impact of a development on the value of neighbouring properties, for example, are a material consideration but one where often little weight is attributed. Where a material consideration is given great weight, such as personal circumstances, then the consequences of that still need to be assessed as this report will go on to explain.

Given the assessment of the principle of development above it can now only be argued that the development is acceptable due to the special circumstances representing a material consideration of sufficient weight to outweigh the other evident well established policy objections. This section will outline the nature of the special circumstances whilst assessing the mechanisms normally used to control development when a special need is argued and accepted (conditions, planning obligations).

Paragraph 50 of the NPPF says local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (*including people with disabilities*) to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.

The text accompanying saved Local Plan policies is no longer saved and commentary of housing for people with disabilities (paragraphs 10.27 to 10.32) bears no weight and furthermore only refers to those with physical disabilities.

Whilst the rationale behind the application is fully acknowledged and understood it is a matter of assessing whether the need/argument of special circumstances outweighs the strong national policies against development in the open countryside.

The applicant's son has Aspergers Syndrome and is under the care of the NHS'

Aspergers Team. A detailed letter from the Care Co-Ordinator to the applicant's solicitor has been copied to the LPA in support of the application (this is attached as **Appendix One**). It states the applicant's son has difficulties with social communication, social interaction and social imagination, and requires medication. He needs support for his day to day life without which he would not be able to function. His condition affects him constantly but at times is very disabled by it. At present the applicants provide this support, and now retired they are making longer term plans. Their residence, Witches Way, is too large and too complicated to be a long term option as their son will find it impossible, it is said, to locate the fuse boxes and stop cocks because there are several located throughout the house as it has evolved. The grounds would also be too extensive to manage. The plan is therefore to move as a family to a smaller specifically designed house close by to help familiarisation.

Having verbally discussed more generally the impact and effects of Aspergers with the Care Co-Ordinator from the NHS' Aspergers Team it is clear this application is unique. It has been stressed to the writer, in trying to understand these personal circumstances that it is important to recognise that each individual is different and what one person with Aspergers can do or cope with is different to what the next person with Aspergers can do or cope with. In addition it has been stressed by the Care Coordinator and the agent that people with Aspergers do not like change.

Living within the quiet environment of Holywell all his life has presented an ideal situation for the applicant's son. The main argument for the siting of the proposed dwelling is that any significant change will unduly impact upon his health. If he had to move away from the immediate area where he has lived all his life it would cause anxiety and stress and the immediate withdraw from society further harming his health and wellbeing. It is also stated he would lose his day job at a nightclub in Yeovil if he had to move away. It is said therefore that he needs to stay in an environment that is, and amongst people who are, familiar with/to him. This is why the house is proposed in Holywell and why for instance any house in Yeovil, West Coker or East Coker could not be sufficiently adapted for his circumstances. It is understood that the applicant's son does ride a moped for short trips but is actually dependent on his parents for the vast majority of journeys, especially to work.

With the issue of change being so significant one has to question whether a brand new dwelling with a new layout and new outlooks, regardless of its location will be accepted by the applicant's son and with the best will in the world is it a cast-iron guarantee and solution to the circumstances the applicant's are planning for. It is an inherently difficult matter to wrestle with given the variances in the Aspergers/autistic spectrum and trying to relate this to planning policy where you are assessing how worthy a set of special circumstances are.

At this moment in time there does not seem to be a Plan B but clearly the existing dwelling presents one. The applicant's son feels safe and secure at Witches Way. Witches Way was approved in 1980 and has been subsequently extended via permissions in 1984 and 1991. It is now a four-bedroomed dwelling. The application all too readily dismisses the current dwelling as unacceptable due to its size and complexity to manage, although being the family home and the applicant's son having lived through the changes of the various extensions. It has also not been adequately demonstrated that the house cannot be suitably adapted to simplify its services or reduce its size (radical as this may seem). The extensive garden is also cited as a difficulty but this could be reverted to agricultural land or sold to adjoining properties as garden to reduce the burden. It has been suggested that a full-time carer would be in place at the new dwelling in the long-term and so there is no reason why that same carer could not help

continued occupation of a modified Witches Way.

If looking at the application favourably one might seek to impose restrictive conditions or secure a legal agreement to in some way justify what is in many ways an unacceptable application in planning terms, otherwise an unfettered approval would give grant to an open market dwelling.

Circular 11/95 'The Use of Conditions in Planning Permission' discusses occupancy conditions and personal permissions. It would be held to be unreasonable if later challenged to limit occupancy of a dwelling in the open countryside to somebody with a disability. There is no justification to limit occupancy to a person with disabilities over any other defined social group and there is no land use based reason to do so, unlike say an agricultural/forestry worker or other rural based occupational worker. A personal permission would create similar difficulties.

There are occasions for example where it is proposed exceptionally to consider granting permission for the use of a building or land for some purpose which would not normally be allowed at the site, simply because there are strong compassionate or other personal grounds for doing so. The fundamental problem is that when eventually the need ceases (could be one year, could be 50 years) and the named individual cannot or does not occupy the dwelling a local authority may have no option but to lift any condition when these circumstances change, if it wishes to avoid the certainty of the dwelling being left empty. The LPA is then in an invidious position. From the outset therefore this type of planning condition will scarcely ever be justified in the case of a permission for the erection of a permanent building. No planning conditions or indeed any form of planning obligation, private covenant or undertaking would provide sufficient comfort that effectively an open market dwelling is being sought, albeit, in the first instance to be occupied by a person with specific requirements that seem unable to be catered for in his current home. In this circumstance, should members grant planning permission, the dwelling could be sold on the open market without recourse to the LPA.

Although the NPPF does not contain explicit guidance on the matter of judging personal circumstances in decision making advice within the 2005 OPDM publication 'The Planning System: General Principles' highlights that personal circumstances will seldom outweigh more general planning considerations particularly where the dwelling would remain long after the current personal circumstances cease to be material. So, again whilst the personal circumstances are acknowledged it is not considered that they represent overriding special justification for a new dwelling in this location and no measure can be put in place to mitigate the objectives of the development plan and national guidance that have been identified.

The applicant has made reference to a case at Plackett Lane, Yeovil. In 1988 a dwelling was approved against the officer's recommendation for a dwelling to accommodate a family and their severely disabled daughter. The specific need for an edge of town site was to adjoin a paddock so their daughter could keep a pony. Although the family remain resident now, their daughter sadly passed away, but was resident for 10 years perhaps emphasising the sometimes short-term need associated with this type of development. The permission was approved as an open market dwelling and this is what remains.

Back to the application site and the 2001 application refusal decision cited precedence. It is acknowledged 'precedent' is a proper and material consideration where it is likely that similar future proposals in closely parallel situations could not be resisted and cumulative harm to planning principles or policies would result. However, the force of the 'precedent' argument is reduced where the planning circumstances are unlikely to be replicated, or

where policies exist within the discipline of which there is room for treating each proposal on its merits in the light of the situation prevailing at the time. If an approval was only predicated on the basis of the intended occupier being disabled (with no suitable controls on occupation-effectively an open market dwelling) then clearly the precedent issue would need to be considered as extremely pertinent. Clearly mental health requires unique consideration within the realm of disabilities and this adds significant complications, challenges perceptions and questions interpretations of planning policy.

Nevertheless, although significant it is not considered that the special circumstances alone outweigh the substantial planning reasons that protect the countryside and in addition it is felt there are not sufficient safeguards in place to adequately control occupancy and that a dangerous precedent and pressure for similar uncontrollable developments would result.

Design, Form and Layout

The application seeks outline permission for the erection of a dwelling, with all design type matters reserved for later approval (appearance, landscaping, layout and scale). The Design and Access Statement that accompanies the application outlines this would be a 1½ - 2 storey 3 bedroom dwelling. Although not specifically proposed the indicative plans and the shape of the red line indicate the dwelling will be located in the south west corner access via a driveway along the western edge of the site.

Supporting information indicates the scale parameters to be height 7.5m, width 7m and length 12m with a detached garage. By comparison Witches Way is two-storey (specific height unknown), width 8.5m and length 15m with an attached double garage. The Design and Access Statement also indicates compliance with the criteria of paragraph 55 of the NPPF by advocating a dwelling of exceptional quality or innovative design. The indicative plans clearly do not show this approach and without any details of how these very demanding criteria will be met it is advised this is given very little weight. This is also true for any projected eco-standards that may be suggested.

The comments of the Landscape Architect are noted and furthermore with no landscaping details to attempt landscape integration or mitigation this view there remains strong landscape reasons against this proposal.

It is considered the proposal fails to comply with the relevant criteria of policies ST5, ST6 and EC3 of the Local Plan.

Highways and Parking

'Access' is also reserved for later approval and so no determination will be made on this although the Highway Authority has disclosed its requirements. The impact of the visibility splay has not been assessed in terms of its achievability or its visual impact on the roadside hedge.

It is assumed given the extent of the red line that sufficient parking will be provided; therefore there is no reason at this stage to suggest the application, in principle, is contrary to the relevant criteria of policies ST5 and TP7 of the Local Plan and policy 49 of the Structure Plan.

Flooding

The blue-line site does adjoin a flood zone, by the red-line area is just outside. The application site is sloping, where the access point is much lower than the site for the dwelling. The EA has raised no objections.

RECOMMENDATION

Refuse permission for the following reasons:

01. The proposal would represent a new isolated home in the countryside for which an overriding essential need has not been justified. The application site is remote from services, facilities, education, employment opportunities and sufficient public transport links, and will therefore increase the need for journeys to be made by private vehicles. The proposal would, in addition, represent an unjustified and undesirable intrusion into an attractive area of open countryside to the detriment of the visual appearance and character of the landscape and would not represent sustainable development and is therefore contrary to The National Planning Policy Framework and policies ST5 and EC3 of the South Somerset Local Plan (adopted April 2006).
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