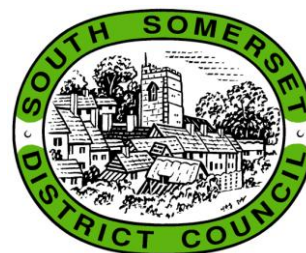


South Somerset District Council

Notice of Meeting



Regulation Committee

Making a difference where it counts

Tuesday 18th December 2012

10.00 am

Council Chamber Council Offices Brympton Way Yeovil

The public and press are welcome to attend.

Disabled Access is available at this meeting venue.



If you would like any further information on the items to be discussed, please ring the Agenda Co-ordinator, **Jo Boucher** on Yeovil (01935) 462462
email: democracy@southsomerset.gov.uk, website: www.southsomerset.gov.uk

This Agenda was issued on Monday 10th December 2012

Ian Clarke, Assistant Director (Legal & Corporate Services)



2007-2008
Neighbourhood and
Community Champions:
The Role of Elected Members
2006-2007
Improving Rural Services
Empowering Communities
2005-2006
Getting Closer to Communities

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INVESTOR IN PEOPLE

Regulation Committee

Chairman

Peter Gubbins

Mike Best
Tim Carroll
Nick Colbert
Tony Fife
Ian Martin

Terry Mounter
Shane Pledger
Ros Roderigo
Sylvia Seal
Gina Seaton

Angie Singleton
Linda Vijeh
William Wallace

Please remember to car share whenever possible



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Information for the Public

Public Participation at Committees

This is a summary of the Protocol adopted by the Council and set out in Part 3 of the Council's Constitution.

Public Question Time

The period allowed for participation in this session shall not exceed 15 minutes except with the consent of the chairman of the committee. Each individual speaker shall be restricted to a total of three minutes.

Planning Applications

Comments about planning applications will be dealt with at the time those applications are considered, rather than during the Public Question Time session.

Comments should be confined to additional information or issues, which have not been fully covered in the officer's report. Members of the public are asked to submit any additional documents to the planning officer at least 72 hours in advance and not to present them to the Committee on the day of the meeting. This will give the planning officer the opportunity to respond appropriately. Information from the public should not be tabled at the meeting. It should also be noted that, in the interests of fairness, the use of presentational aids (e.g. PowerPoint) by the applicant/agent or those making representations will not be permitted. However, the applicant/agent or those making representations are able to ask the Planning Officer to include photographs/images within the officer's presentation subject to them being received by the officer at least 72 hours prior to the meeting. No more than 5 photographs/images either supporting or against the application to be submitted. The Planning Officer will also need to be satisfied that the photographs are appropriate in terms of planning grounds.

At the committee chairman's discretion, members of the public are permitted to speak for up to 3 minutes each and where there are a number of persons wishing to speak they should be encouraged to choose one spokesperson to speak either for the applicant or on behalf of any supporters or objectors to the application. The total period allowed for such participation on each application shall not normally exceed 15 minutes.

The order of speaking on planning items will be:

County Council, Town or Parish Council Representative

Objectors

Supporters

Applicant/Agent

Ward members, if not members of the Regulation Committee, will speak after the town/parish representative.

If a member of the public wishes to speak they must inform the committee administrator before the meeting begins of their name and whether they have supporting comments or objections and who they are representing. This must be done by completing one of the public participation slips available at the meeting.

In exceptional circumstances, the Chairman of the Committee shall have discretion to vary the procedure set out to ensure fairness to all sides.

If a Councillor has declared a Disclosable Pecuniary Interest (DPI) or a personal and prejudicial interest

In relation to Disclosable Pecuniary Interests, a Councillor is prohibited by law from participating in the discussion about the business on the agenda that relates to this interest and is also required to leave the room whilst the relevant agenda item is being discussed.

Under the new Code of Conduct adopted by this Council in July 2012, a Councillor with a personal and prejudicial interest (which is not also a DPI) will be afforded the same right as a member of the public to speak in relation to the relevant business and may also answer any questions, except that once the Councillor has addressed the Committee the Councillor will leave the room and not return until after the decision has been made.

Regulation Committee

Tuesday 18th December 2012

A g e n d a

1. Minutes of the meeting held on Tuesday 17th July 2012
2. Apologies for Absence
3. Declarations of Interest
4. Public Question Time

Page No.

5. Land At Witches Way Holywell East Coker 8

6. Date of Next Meeting

The date of the next meeting is scheduled for Tuesday, 15th January 2013 in the Council Chamber, Brympton Way at 10.00 a.m.

South Somerset District Council

Draft Minutes of a meeting of the **Regulation Committee** held on **Tuesday 17th July 2012** in the Council Chamber, Council Offices, Brympton Way, Yeovil.

(10.00am – 12.00 noon)

Present:

Peter Gubbins (Chairman)

Mick Best	Ros Roderigo
Tim Carroll	Sylvia Seal
Nick Colbert	Gina Seaton
Tony Fife	Angie Singleton
Ian Martin	Linda Vijeh
Terry Mounter	William Wallace
Shane Pledger	

Also Present:

Cllr John Calvert
Cllr Derek Yeomans
Cllr Jimmy Zouche, SCC Ward Member

Officers:

Jo Boucher	Committee Administrator
Adrian Noon	Area Lead North/East
Alex Skidmore	Planner
Amy Cater	Solicitor

7. Minutes (Agenda Item 1)

The minutes of the meeting of the Regulation Committee held on Tuesday, 15th November 2011, copies of which had been previously circulated, were approved as a correct record and signed by the Chairman.

8. Apologies for Absence (Agenda Item 2)

There were no Apologies for Absence.

9. Declarations of Interest (Agenda Item 3)

There were no Declarations of Interest.

10. Public Question Time (Agenda Item 4)

There were no questions or comments from members of the public.

11. 12/00875/OUT Outline application for the erection of a dwellinghouse – Island House Stembridge Martock

Prior to the Planning Officer presenting details of the application the Area Lead clarified to members the consideration given to the relevant ST3 policy provided in the current Local Plan. He explained the requirements and timescales of the emerging Core Strategy policy SS2 but that this is not relevant to the proposal at this time.

The Planning Officer then presented the report as set out in the agenda and informed members that the site is located outside of defined development area and that little weight should be given in comparison to sites at the nearby development area of Kingsbury Episcopi.

With the aid of a powerpoint presentation, the Planning Officer then proceeded to highlight to members:

- Location plan
- Existing and proposed site plan including proposed streetscene and floor plan
- Various photographs including:
 - existing properties within the area
 - existing lane and access to site
 - bungalow adjacent to the site
 - proposed site area
 - aerial view of Stembridge and Kingsbury Episcopi
- Latest proposed plans

The Planning Officer referred to the key considerations to be taken into account being the location of the site outside of any development area and the planning history of Stembridge where there was a consistency of dismissed appeals, referring to the relevant plan included within her powerpoint presentation.

In response to members' questions the Area Lead clarified that:

- ST3 policy seeks to protect rural areas from unjustified development
- uncertain when adjacent bungalow was built but would not have been subject to current policies
- the existing outbuilding adjoining to the lane would have similar restrictions should planning permission be sought
- slightly different development boundary in Kingsbury Episcopi than Stembridge
- a "Grampian condition" is a planning condition that prevents the start of a development until off-site highways works have been completed and in this case would therefore provide a requirement to the applicant to carry out improvements to the access road prior to the development
- a form of hardstanding is located to the rear of the proposed site
- the majority of objection letters received were not from local residents
- Kingsbury Episcopi has a development limit but Stembridge does not
- exceptions to justify develop to building outside development limits include barn conversions, affordable housing, agricultural dwelling

Councillor Derek Yeomans, ward member, spoke in support of the application. He informed members of the facilities now available in Kingsbury Episcopi including a thriving shop, pub and primary school. He referred to Stembridge having deliberately been kept separate from Kingsbury Episcopi so that the two villages did not run as one.

He referred to the proposed dwelling being situated between two existing houses and although the access lane was in a poor state of repair, the applicant has indicated that he would be prepared to do some remedial work to it and therefore beneficial to the local public and users of the lane. He concluded that the dwelling was in a sustainable location for a new residential development, that the site was situated between existing houses and not in open countryside and would therefore cause no harm to residential amenity.

Mr Mike Williams, agent also spoke in support of the application. He referred to the comments made by the parish Council and Area North Committee who were in support of the application. He explained that the applicant's family were long standing members of the community, indicating that the dwellinghouse would be used within the family, details of which he explained to the committee. He felt the proposed site was an in-fill plot in a cul-de-sac and therefore in a sustainable area and also why he felt that the application could be granted in policy terms. He referred to the applicant being willing to improve the lane from which the property was accessed and if approved would enable the applicant to prepare detailed plans for a dwelling, which would enable an extended family to live in the village and provided a dwelling of a smaller size.

During members' discussion, several points were raised including the following:

- Stembridge was a sustainable location for a new residential development
- appreciate the site is situated outside of the development limit, however this proposed dwelling is situated between existing houses and not in open countryside and would therefore cause no harm to residential amenity
- that the lane had to be traversed to reach some Yarlinton homes and therefore the proposal of remedial works to the access lane would benefit the local community
- noted that the majority of objections received had not been submitted by people who lived locally
- support to provide a dwelling of a smaller size
- noted the facilities now available within Kingsbury Episcopi and felt additional housing would only help support these local facilities
- raised concern over the maintenance of the access road
- transport and sustainable policy guidance was impracticable in this case
- support for family life in rural settlements
- definite in-fill site and therefore would not be setting a precedent if minded to approve application

In conclusion, members voiced their full support for the application and following clarification from the Area Lead and Solicitor proposed and subsequently seconded, that planning permission be approved for reason that:

'Although the site is outside of any defined development area and, in planning policy terms Stembridge benefits from the same degree of protection as the open countryside, the specific location and setting of the proposed development – land locked and not adjacent to open countryside – justify an exemption to Policy ST3 of the South Somerset Local Plan, STR6 of the Somerset and Exmoor National Park Joint Structure Plan and the policies set out in Chapters 4 and 6 of the National Planning Policy Framework'

Plus conditions to include the following:

1. Standard outline and reserve matters conditions

2. Grampian condition for the agreement of improvements to the access track prior to commencement and implementation prior to occupation of dwelling

On being put to the vote this was carried unanimously.

RESOLVED:

That application reference 12/00875/OUT be approved subject to:-

01. Approval of the details of the layout, scale, appearance, access and landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than the expiration of three years from the date of this permission. The development hereby permitted shall be begun, not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

SUBJECT TO THE FOLLOWING:

1. Standard time
2. Approved plans
3. Levels
4. No work in connection with the development hereby approved shall be carried out until such time a scheme for the improvement of the access from the site to the junction with the main road has been submitted to and approved in writing by the local planning authority. Once approved such improvements shall be fully implemented prior to the occupation of the dwelling hereby approved.

(Voting: unanimous)

12. 12/01058/FUL Erection of a new bungalow and garage as a private dwelling for subsequent disabled use (GR: 352864/129479) – Plot adjoining Higher Sandpits, Sandpits Lane, Charlton Mackrell

The Planning Officer presented the report as set out in the agenda updating members that 13 additional letters of support had been received since the Area East Committee.

With the aid of a powerpoint presentation, the Planning Officer then proceeded to highlight to members:

- Location plan outlining in red the proposed site and access lane
- Elevation drawings
- Development area of Charlton Mackrell
- Aerial view of site
- Various photographs including:
 - Proposed site
 - Adjacent neighbouring property
 - View along access lane
 - Access and junction to lane

The Planning Officer referred to the key considerations to be taken into account reaffirming her recommendation to refuse the application. She explained that although the application was to accommodate a local disabled person, if approved it would be impossible to impose a condition to keep the dwelling in perpetuity for a disabled person. She felt an exceptional need for a dwelling in this location had not been demonstrated to overcome strong policy objection against new build residential development outside designated development areas. The proposal would also impact upon highway safety and does not accord with the established pattern and character of built development in the locality.

SCC Councillor Jimmy Zouche spoke in support of the application. He reported he had known the applicant for more than twenty years and had supported the community greatly. He explained the dwellinghouse was needed for the applicant and his wife, details of which he explained to the committee. He also referred to the Area East minutes included within the agenda, referring to the statement made by the Area Lead indicating that if Policy SS2 had already been in place the application would not have had to be recommended to Regulation. He felt however this would be a waste of resources and officer's time should members refuse this application.

In response the Area Lead explained that Planning Policy SS2 was different to that of the existing ST3 policy and would in future give more onus for the applicant to support outside settlements. Once in this position it is likely that more applications would be determined by Area Committee's, however this was not the only reason for refusal in this case.

Councillor John Calvert, Ward member, spoke in support of the application. He felt this proposal was merely an in-fill site as houses already surrounded the site. He appreciated the highway issues but had used the lane many times and never had a problem leaving the lane.

Mr David Lane, representative from Charlton Mackrell Parish Council also spoke in support of the application. He reiterated the Ward members' comments regarding the access to the lane, as he too had never encountered any problems. He informed members that a turning point would be included with the site and felt this was merely in-fill as houses already surrounded the site.

Mr C Horridge, the applicant addressed members and explained he and his wife had lived locally all their lives, the dwelling was needed for his disabled wife and although the plot was only just outside the development line there was a strong boundary hedge between the site and the open countryside. He referred to the number of letters of support from the local community and his doctor. He said that the access point in question was used daily with no issues and indicated that he would be prepared to do some remedial work to the access lane and therefore beneficial to the local public and users of the lane.

During members' discussion, several points were raised including the following;

- Concern over the very narrow single track which is already shared with other properties where there are very few passing opportunities
- Location of the site was outside development limits and in this case was not land locked by other dwellings so did not warrant exception to policy
- Proposed development could generate a significant number of additional vehicular movements to the land and existing access
- Concern about the level of visibility at the junction onto a classified road

- Appreciated the applicants situation but personal circumstances were not a planning consideration
- Appreciated the huge local support to the application
- Some weight should be given to the local resident's and Parish Council's views of support
- Could be considered to be an infill site
- Should look to help and support local residents to continue to be able to live in the village they were born in
- Appreciated the remedial works to the lane to be undertaken by the applicant
- Referred to the forthcoming change in Planning Policy and appreciated applicant could re-apply once new policy comes into force next year; unsure what the advantage would be to refuse application now

Following a short discussion, it was then proposed and subsequently seconded, that planning permission be approved for reason that:

'Although the site is outside of any defined development area evidence has been submitted to demonstrate that there is a need for the proposed dwelling in this local area, and is therefore considered to be a sustainable location for a new residential development of this type. Justification has therefore been given to over-riding of planning policy ST3 of the South Somerset Local Plan, STR6 of the Somerset and Exmoor National Park Joint Structure Plan and the policies set out in Chapters 4 and 6 of the National Planning Policy Framework'.

Plus conditions to include the following:

1. Standard Conditions
2. Detail to require all external materials to be typical of locality
3. Landscape condition to retain hedge
4. Standard timescales and approval of plans
5. Levels of site
6. Parking & turning area to be provided and maintained
7. Scheme of lane - Grampian

On being put to the vote this was lost by 6 votes in favour, 7 against.

The Officer's original recommendation to refuse the application, as set out in the agenda report, was then proposed and subsequently seconded and on being put to the vote was carried by 7 votes in favour and 6 against.

RESOLVED:

That application reference 12/01058/FUL be refused for the following reason:

01. The proposal seeks a new build residential dwelling on a greenfield site located in the open countryside which offers no benefit to economic activity, will neither maintain or enhance the environment and, due to its location remote from most day to day services, is likely to foster the growth in the need to travel. Insufficient justification has been provided to overcome these sustainability concerns and the proposal is therefore considered to be contrary to the aims and objectives of the National Planning Policy Framework (Parts 4, 6 and 10), Policy STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan (1991-2011) and Policies ST3 and ST5 of the South Somerset Local Plan 2006.

02. The proposed development will generate a significant number of additional vehicular movements and result in the intensification in use of the existing substandard access on to Kingweston Road, which has restricted visibility for emerging vehicles, and an increase in conflicting traffic movements along this very narrow access track where there are few passing opportunities, to the detriment of highway safety and contrary to the aims and objectives of the National Planning Policy Framework (Part 4), Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review (April 2000) and Policy ST5 of the South Somerset Local Plan 2006.
03. The proposal is contrary to the single plot linear settlement pattern that predominates in the immediate vicinity and is therefore considered to be at variance with the established pattern and character of built development in the area and contrary to the aims and objectives of National Planning Policy Framework (Part 7) and Policy ST5 of the South Somerset Local Plan 2006.

(Voting: 7 votes in favour, 6 against)

13. Date of Next Meeting (Agenda Item 7)

Members noted that the next meeting of the Committee would take place on Tuesday, 21st August 2012 at 10.00am in the Council Chamber, Council Offices, Brympton Way.

.....
Chairman

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

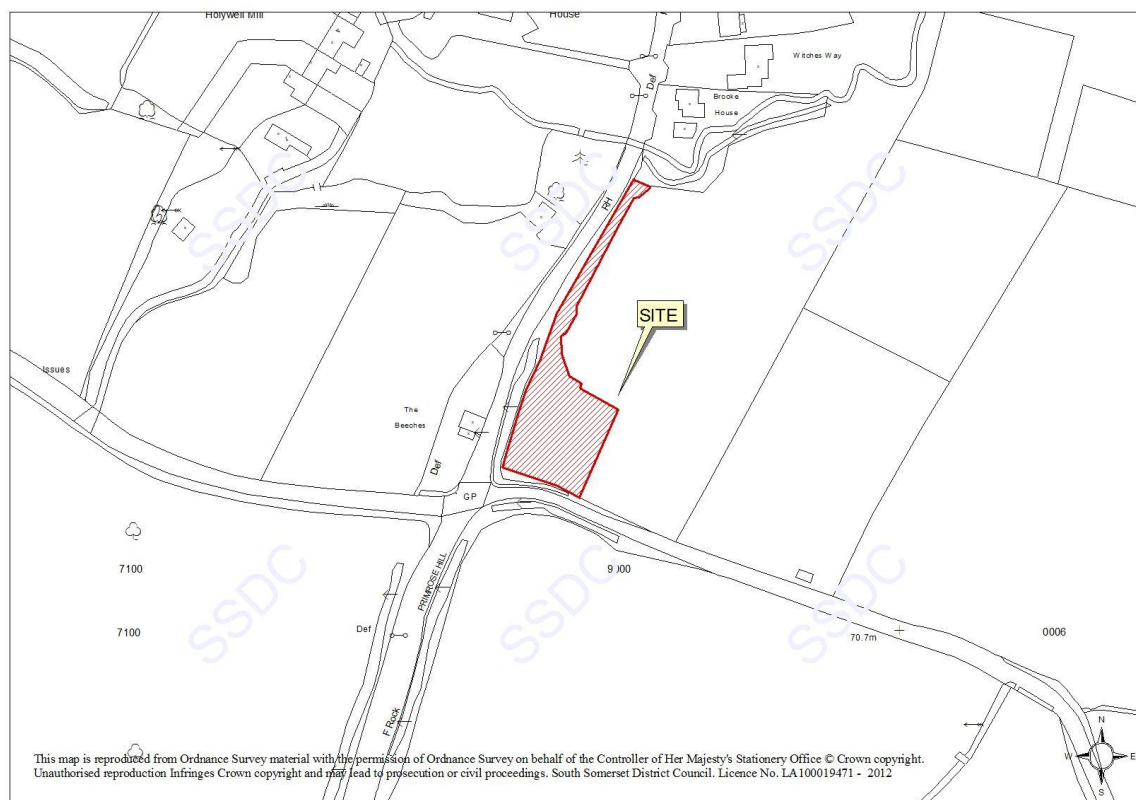
Reason for Referral to Regulation Committee

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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Appendix A

Extract from Area South Committee minutes – 7th November 2012

12/03202/OUT** – Outline application for the erection of a dwelling (GR 352898/113152), Land at Witches Way Holywell East Coker – Mr & Mrs Miller

(Having earlier declared a Personal & Prejudicial Interest Councillors Peter Gubbins and Tony Fife left the room during consideration of this item. Councillor David Recardo deputised as Chairman for this item).

The Chairman explained that this application was 2 starred because if approved contrary to officer's recommendation, it could have district wide implications and therefore would have to be referred to the Regulation Committee.

The Planning Officer then presented the report and with the aid of slides highlighted to members:

- Location Plan and nearest property known as 'Brooke House'
- Indicative Site Plan
- Plan showing residential curtilage
- Map showing site located between East and West Coker
- Flood Zone Area
- Various photographs including:
 - Aerial view of site
 - Varying street views from site
 - Existing gate and vehicular access
 - Alignment of highway from site
 - Varying levels of site
 - Applicants current residence known as 'Witches Way'

He reported to members that the site was approximately 5 metres above street level and although appreciated the special circumstances he did not consider these outweighed the planning reasons as set out in his agenda report and therefore his recommendation was to refuse the application.

Mr Brian Rousell then addressed the committee and spoke in support of the application. He said that as Mr & Mrs Miller were in their twilight years they wanted to safeguard the future care and accommodation for their son to ensure that he can continue to live in the local community that he justifiably needs. He hoped that members would support this application.

Mr Philip Crowther, the applicant's solicitor, also spoke in support of the application. He felt that the applicant's son Paul, who had a significant medical condition, should be able to continue to live in his local community. He felt this would not set a precedent as this was a very rare case and therefore should be classed as a significant consideration.

Mrs Moira Brunt, an independent advocate, addressed the committee. She explained the health issues associated with Aspergers Syndrome and that routines were extremely important for the sufferer, as were safeguarding their familiar surroundings and that any changes to these would have a huge impact on their mental health. She also explained the need for a large network of support and because of Paul's condition any changes in these matters would have a huge impact for him should he be forced to move away. She

also supported the positive steps his parents were taking now in order to safeguard and provide for their sons long term future care.

Mr Dudley Miller the applicant then addressed the committee. He enlarged on the severe mental health issues his son suffers and his intention to provide a home for Paul to live in long term. He explained the objective was to sell their existing home in order to fund the build and secure a trust fund for their son's future.

Councillor Cathy Bakewell, Ward member sympathised with the applicant's situation. She felt these were special circumstances and would not set a precedent should this application be approved. She agreed that the applicants existing dwelling cannot meet their needs and therefore the best alternative was to erect suitable accommodation within the grounds of their own property. She referred to Highways comments as set out in the agenda report over concerns that the site was remote from adequate services but reported that the village had an hourly bus service and therefore she would support this application.

Councillor Gina Seaton, Ward member reiterated and fully agreed with the previous Ward member's comments and would also look to support the application.

During members' discussion, several points were raised including the following:

- These are special circumstances and at present the existing dwelling cannot meet the needs of the applicant
- Appreciate the sons condition and the health issues of Aspergers Syndrome and understand the need for him to stay within the local community and familiar surroundings
- Encourage the dwelling to be built to a high standard and of an innovative design
- Site is within a sustainable location and did not agree with Highways comments that the site was remote from adequate services and facilities
- Planning policies should be put aside if circumstances merit it
- Appreciated the applicant's circumstances but should be mindful to follow planning policy guidance
- May set a precedent for future applications located outside development limits

The Development Control Manager also informed members that it would not be reasonable to limit the occupation of the dwelling to the applicant/applicant's son through either a legal agreement or a planning condition and therefore once built, the dwelling could be sold on the open market.

The Solicitor also clarified to members that personal and financial circumstances were material considerations that members were entitled to take into account.

It was then proposed and seconded that the application be refused as per the Officer's recommendation as set out in the agenda report. On being put to the vote this was lost by 6 votes in favour and 7 against. Members noted that the application would therefore be referred to the Regulation Committee for determination.

RESOLVED:

That Planning Application 12/03202/OUT ** be referred to the Regulation Committee with a recommendation to approve, contrary to the officer's recommendation, on the basis that:

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).

(Voting: 6 in favour, 7 against, 0 abstentions)

APPENDIX ONE

Somerset Partnership
NHS Foundation Trust



Glanville House
Church Street
BRIDGWATER
Somerset TA6 6AT

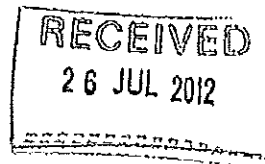
01278 720220
Direct Line: 01278 720288

www.sompar.nhs.uk

Our ref: KG/JH/A023254
Your ref: pc/sw/098545.1

25 July 2012

Mr P Crowther
Associate Solicitor (Planning)
Baltens Solicitors Limited
Mansion House
54-58 Princes Street
YEOVIL
Somerset
BA20 1EP



Dear Mr Crowther

Re Paul Miller – Wilches Way, East Coker

I am writing in response to your letters dated 30 May 2012 and 2 July 2012, in which you asked for more information regarding Paul Miller.

I am a Registered Mental Health Nurse (RMN) and at present working in the Aspergers Team as a Community Psychiatric Nurse (CPN) specializing in Aspergers. I have a good understanding of Autism and Aspergers evolving over the past twenty years.

I have Care co coordinated Paul for over a year, we are making slow but steady progress, however it appears we have a good working relationship as Paul will now see me on his own and is less distressed after my visits.

Paul has Aspergers Syndrome, which is a lifelong disability that affects how a person makes sense of the world, processes information and relates to other people. Aspergers Syndrome is mostly a 'hidden disability', which means that you can not tell that someone has the condition from their outward appearance. People with the condition have difficulties in the following area.

Social Communication, Social Interaction, Social Imagination. These are often referred to as the Triad of Impairment. Paul has difficulties in each area.



Somerset
Partnership



Specialist
Services

A health and social care organisation, in partnership with Somerset County Council
Chairman: Linda Nash Chief Executive: Edward Coates

Paul is, at times, very disabled by this diagnosis, and without support he would not be able to function. This is mainly around his daily living skills. He would also more than likely stay in his room, or his bed. At present, his parents provide this support, this can be twenty four hours, seven days a week. As both parents are at retirement age they can no longer cope with the demands that Paul puts on them. They have to think of future plans they need to put in place to keep Paul safe. This has to include him always having some kind of support.

People with Aspergers do like not like CHANGE. Keeping Paul in an environment that he knows would lessen his anxieties. Paul has always lived in Witches Way, surrounding neighbours are also aware of Paul's needs and would be able to provide further support, if needed, as on occasions they have been able to this already. Keeping Paul in the surroundings he is used to will help him stabilise to his new life quicker and lessen anxieties, which are a major problem to people with Aspergers.

Providing Paul with a home that is especially adapted for his needs would be beneficial as Paul's present home, with his parents, would be far too big to manage. He would struggle with the financial side of things and up keep.

Witches Way is an ideal situation for someone with Aspergers as they tend to like to live in a quiet environment the less people about is ideal, as noise and people they do not know can cause huge problems for them. Witches Way provides this environment for Paul. Changing this would probably cause Paul great anxiety and stress. He would isolate himself. This would cause great strains on his health and wellbeing.


Paul does manage to go to work, at a local night club collecting glasses and refilling the bottles. This is morning work. Paul would like to work more hours. This again is only workable if Paul is supported.

Paul will always need support. He needs constant reminding to do things, he would not be able to manage his medication and he would fall vulnerable to his peer group. Paul cannot see the consequence of any of his actions.

Providing a home which would incorporate living quarters for supporters to live in, would be an asset to Paul. It would also give him some independence. Keeping the home within the surroundings he knows will also provide Paul with some stability of his past, and of things that feel safe and are a comfort for him.

Yours sincerely

Ms K Griffin
Aspergers Specialist Team



If you are interested in mental health or learning disability services or issues and would like to become a prospective member of our Trust, please contact the NHS Foundation Trust Office on 01278 - 432073 or visit our website on www.somerset.nhs.uk/sonpar.