

**5. Tern House, Charlton Musgrove, Wincanton – Application No. 12/03627/FUL**

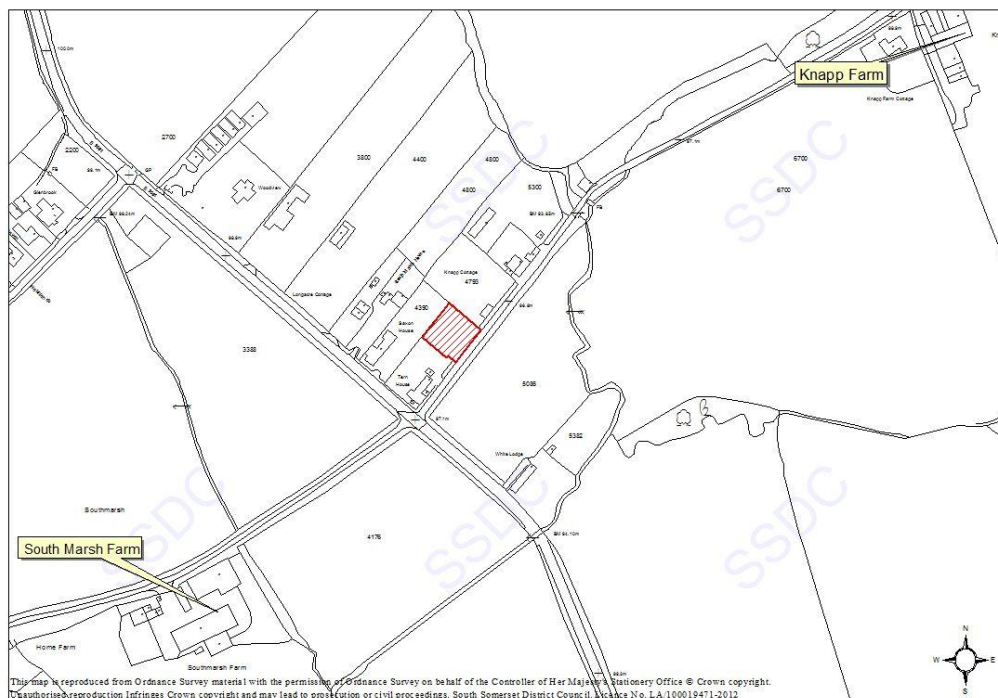
<b>Proposal :</b>	Erection of a dwelling in part of garden (GR: 373449/130872)
<b>Site Address:</b>	Tern House Charlton Musgrove Wincanton
<b>Parish:</b>	Charlton Musgrove
<b>TOWER Ward (SSDC Member)</b>	Cllr Mike Beech
<b>Recommending Case Officer:</b>	Nicholas Head Tel: (01935) 462167 Email: nick.head@southsomerset.gov.uk
<b>Target date :</b>	5th November 2012
<b>Applicant :</b>	Mr C Ricketts
<b>Agent: (no agent if blank)</b>	Mr Michael Lawson The Square Gillingham Dorset SP8 4AS
<b>Application Type :</b>	Minor Dwellings 1-9 site less than 1ha

The report was considered by Area East Committee at its meeting on 12 December 2012, when it was resolved:

That Planning Application 12/03627/FUL \*\* be referred to the Regulation Committee with a recommendation to approve, contrary to the officer's recommendation, on the grounds that this is a sustainable location for residential development; the proposal would not be detrimental to highways safety and would not adversely affect the local character.

The following officer's report has been amended to include comments from a local resident received after the matter had been considered by Area East Committee.

**SITE DESCRIPTION AND PROPOSAL**



The site is located outside the defined development area, just off the intersection of Brickhouse Farm Lane and the B3081 (Charlton Musgrove to Leigh Common Rd). It forms part of the rear garden of an existing dwellinghouse (Tern House) which has a site of about 1500 sq m. The south-western boundary of the site is formed by Brickhouse Farm Lane, a narrow, unclassified highway. This boundary is marked by a deep drainage ditch. To the north-west is an existing horticultural business. To the north-east of the site is the garden of the neighbouring dwellinghouse, Saxon House. Tern House is one of a group of four detached dwellings fronting onto the B3081, and each has a long rear garden of similar length.

An application for the erection of a single dwellinghouse on the site, taking access off Brickhouse Farm Lane, was refused (application 12/01732/FUL). A revised application has now been submitted.

## **HISTORY**

12/01732/FUL – Erection of a dwelling in part of garden – refused, 21 June 2012, for the following reasons:

01. The proposed development would be unsustainably located outside of the defined development area where it is remote from adequate services, employment, educational and other facilities, and public transport. It would foster growth in the need to travel by private vehicles and is contrary to the aims and objectives of the NPPF and Policy ST3 of the South Somerset Local Plan, 2006.
02. The junction of Brickhouse Farm Lane and the B3081 by reason of its restricted visibility is considered unsuitable to serve as a means of access to the proposed development. Furthermore, on the information currently available, the Local Planning Authority is not convinced that a safe means of access together with adequate provision for parking and turning can be achieved. The proposal is therefore prejudicial to highway safety, and contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review, (Adopted April 2000) and Policy ST5 of the South Somerset Local Plan, 2006.
03. The proposal fails, in terms of design, density and layout, to preserve and complement the key characteristics of the location. It does not satisfactorily respect and relate to the form and character of its surroundings and this rural setting. Although the intention to incorporate existing mature trees into the proposal is stated, no practical means of doing this has been demonstrated within the proposed design. The proposal is therefore considered to be contrary to the aims and objectives of Policies ST3, ST5 and ST6 of the South Somerset Local Plan, 2006.
04. The proposal, by reason of overlooking of private garden and amenity space, would harm the level of amenity currently enjoyed by the occupiers of adjoining residential development, contrary to Policy ST6 of the South Somerset Local Plan, 2006.

## **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

decisions must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

For the purposes of determining current applications the local planning authority considers that the relevant development plan comprises the saved policies of the Somerset and Exmoor National Park Joint Structure Plan Review and the saved policies of the South Somerset Local Plan.

The policies of most relevance to the proposal are:

Saved policies of the Somerset and Exmoor National Park Joint Structure Plan (April 2000):

STR1 – Sustainable Development  
STR6 – Development Outside Towns, Rural Centres and Villages  
Policy 5 – Landscape Character  
Policy 9 – The Built Historic Environment  
Policy 48 – Access and Parking  
Policy 49 – Transport Requirements of New Development

Saved policies of the South Somerset Local Plan (April 2006):

ST3 – Development Areas  
ST5 – General Principles of Development  
ST6 – The Quality of Development  
EC3 – Landscape Character  
TP5 – Public Transport  
TP7 – Residential Parking Provision

Policy-related Material Considerations

National Planning Policy Framework (March 2012):

1. Building a strong, competitive economy
2. Ensuring the vitality of town centres
3. Supporting a prosperous rural economy
4. Promoting sustainable transport
6. Delivering a wide choice of high quality homes
7. Requiring good design
8. Promoting healthy communities
11. Conserving and enhancing the natural environment

South Somerset Sustainable Community Strategy

Goal 1 - Safe and Inclusive  
Goal 2 - Healthy and Active  
Goal 3 - Healthy Environments  
Goal 4 - Quality Public Services  
Goal 5 - High Performance Local Economy  
Goal 7 - Distinctiveness  
Goal 8 - Quality Development  
Goal 9 - Homes  
Goal 10 - Energy  
Goal 11 – Environment

## CONSULTATIONS

**Parish Council:** Recommends approval subject to the following conditions:

1. Erected dwelling should not detract from or impinge on the privacy of next door.
2. The hedge at the entrance should be removed in order to improve visibility onto the B3081.

**Highways Authority:** Recommends refusal of the application for the following reasons:

- The site is unsustainable in that it would promote growth in the need to travel.
- The junction of Brickhouse Farm Lane and the B3081 by reason of its restricted visibility is considered unsuitable to serve as a means of access to the proposed development.
- On the information currently available, the Highways Authority is not convinced that a safe means of access can be provided.

Reference has also been made to the parking layout. Although this is not considered optimal in terms of entering and exiting the site, it has not been quoted as a reason for refusal, as access is taken onto an unclassified highway.

**SSDC Area Engineer:** Surface water disposal via soakaways.

**SSDC Planning Policy:** A policy objection is raised: the proposal is not considered to constitute sustainable development.

*This proposal is a re-submission of planning application 12/01732/FUL which was refused planning permission on 21 June 2012. As you are aware the validity of saved South Somerset Local Plan Policy ST3: Development Areas has recently been called into question with regards to housing supply, therefore currently, housing applications should be considered in the context of the presumption in favour of sustainable development as set out in the National Planning Policy Framework, 2012 (NPPF). Saved Local Plan Policies ST5 and ST6 remain relevant.*

*The NPPF identifies the three dimensions of sustainable development - it is expected to perform an economic, a social and an environmental role, paragraph 8 is clear that sustainable development consists of a combination of all three elements. As I stated in my response to the previous application dated 29 May 2012, from an economic perspective this proposal will only bring about benefit to the owners of Tern House. In terms of a social role the proposal will potentially provide an additional home in Charlton Musgrove but in a location that is not accessible to local services. The Rural Parish Facilities Survey 1991 to 2010 shows that in terms of facilities Charlton Musgrove has only a pub, there is no shop or post office nor does the settlement have a school. In terms of an environmental role the proposal will not contribute to enhancing the environment or improving biodiversity. On this basis I am of the view that this proposal does not constitute sustainable development. I would refer you to my previous comments regarding the NPPF's approach to developing residential garden land.*

*Since my previous response the Proposed Submission South Somerset Local Plan 2006 - 2028 (June 2012) has been placed on deposit for a 6 week period of consultation, this document includes emerging Policy SS2 which has yet to be Examined and remains the subject of outstanding objections; therefore in this instance it can be afforded little*

*weight. However, I would also refer you to my comments regarding this policy as set out in my response of 29 May.*

*In summary, it is my view that this proposal, by virtue of its rural location and lack of economic role, does not constitute sustainable development and as such is contrary to the NPPF. I note also that the previous application was refused because it was contrary to saved Policies ST5 and ST6 and I understand from our discussion earlier today that the issues of design and access have not been adequately addressed by the revised proposal therefore a planning policy objection is raised.*

**SSDC Tree Officer:** The submitted tree protection plan and arboricultural method statement are satisfactory, and any development should incorporate appropriate conditions. No objection is raised.

## **REPRESENTATIONS**

Three letters have been received, objecting to the proposal for the following reasons:

- a new dwelling would exacerbate existing poor drainage conditions
- a negative impact on residential amenity/privacy for the adjoining garden area(s)
- the loss of trees
- inadequate parking
- harm to the character and appearance of the area
- a bad precedent will be set
- dangerous access onto both the land and the B3081 – highway safety concerns

*Subsequent to consideration of the matter by Area East Committee, an additional letter of representation was received, making the following points:*

- *Incorrect references were made to properties using the access lane: Brick House Farm is not a farm but a private residence; Knapp Farm is no longer a farm in its own right and now takes access at a different point on the B3081; Longacre Nursery conducts 95% of its business via mail order and is open to the public by appointment.*
- *The only business traffic using the lane and the access point is tractors, lorries and delivery vans, high enough to see over hedges and remove some of the safety hazard.*
- *There appeared to be no reason for ignoring the Highways Officer recommendation, or the recommendation of the Council's Policy Officer.*
- *It is felt that there was no opportunity to refute statements made by members at the Committee meeting.*

## **CONSIDERATIONS**

The proposal is a resubmission of an earlier proposal which was refused for the clear reasons set out above. The primary consideration, therefore, is the degree to which the previous reasons for refusal have been overcome.

### **Sustainability**

The Policy Officer has clearly set out the view that the proposal fails the sustainability tests set out in the NPPF. The site is remote from services and facilities and would foster growth in the need to travel – in addition to being unsustainable in the broader sense.

Note: Although the Policy response refers to there being a pub in the village, it is noted that this has been inoperative for some time, and application has previously been made for its conversion to a dwellinghouse (11/04779/COU – refused 25 January 2012).

It is not considered that the first reason for refusal has been overcome.

### **Trees**

The issue of trees has been satisfactorily dealt with in the re-submission, and there is not considered to be any reason for refusal of the application related to tree protection.

### **Design and Appearance**

The proposal is for a modest cottage in stone, with tiled roof. The design and appearance are not considered incongruous or at odds with the general architectural character of the locality.

### **Impact on Setting and Local Character**

The principal site is one of a small group of dwellinghouses fronting onto the B3081. Development is dispersed and at a low density. The insertion of an additional dwellinghouse into this backland situation would not respect this established character, and create an intrusive presence on the quiet rural character of Brickhouse Farm Lane. In this respect the proposal is considered contrary to saved Policy ST6 of the South Somerset Local Plan.

### **Impact on Residential Amenity**

The orientation of the building has been slightly altered; and one upper-storey window has been removed, on the elevation facing the neighbouring garden.

Neighbours have continued to raise concerns that the proposed dwelling would overlook rear gardens. It is accepted that this is the case, although the degree of overlooking (from an upper storey bedroom window, a bathroom and a bedroom rooflight) is not severe, and does not involve unacceptable direct window-to-window overlooking. Given the changes made in the resubmission, this impact is now considered marginal, and not to constitute a reason for refusal of the application.

### **Highways Issues**

The current access from Brickhouse Farm lane onto the B3081 is substandard, with very poor forward visibility. The proposal has shown a splay (not within the red-line area of the application), and referred to the possibility of 'covenants' to secure this splay (in one direction only). The Highways Officer has commented that an adequate splay provision has not been demonstrated. Even if the splay were to be of the appropriate dimensions, it cannot be secured by covenant. On the basis of what has been submitted, it is not considered that an adequate visibility splay can be achieved or secured.

The detailed site access has also not adequately addressed the safety concerns raised in the previous application, although the provision of on-site parking has improved.

It is not considered that the revised submission has adequately overcome the highway safety and access concerns raised previously, and the proposal is accordingly recommended for refusal on this basis.

## **Pre-Application Advice**

It is noted, that despite the clear reasons for refusal of the previous application, the applicant did not take the opportunity of seeking pre-application advice before submitting a further application.

## **Parish Council Comments**

The Parish Council has recommended approval, subject to two conditions. The first condition is not practical or enforceable, requiring that the development (presumably in the form applied for) 'should not detract from or impinge on the privacy of next door'. However, the issue of residential amenity has been dealt with above.

The second condition relates to land not within the red-line area. The removal of the hedge could only be secured by way of a legal agreement – a condition would not secure visibility in perpetuity.

## **Neighbour Concerns**

Drainage: It is not considered that any drainage concerns would justify a refusal of the application, as these matters could be covered by appropriate conditions requiring solutions to the problems.

Trees: This is dealt with above and by the Council's Tree Officer: it is considered that this concern has been overcome in the resubmission.

Precedent: It is not considered that this alone would warrant a refusal, as applications should be dealt with on their individual merits.

## **Additional Letter of Representation Subsequent to Area Committee Decision**

The comments are noted, and drawn to the Committee's attention. The statements about the nature and volumes of traffic are not considered to alter the recommendation - which is based on the concern that **any** additional traffic using this intersection would represent a highway safety hazard.

## **Conclusion**

The resubmission of the previously refused scheme has only partially overcome the four reasons for refusal. The primary and principal refusal reason still stands – i.e. that the proposal is considered to be unsustainable for the reasons set out above. In particular, the site is remote from services and facilities and would foster growth in the need to travel by private transport. The revised scheme does not improve the previously identified conflict with the character and appearance of the area. Whilst issues relating to retention of trees and residential amenity have been addressed in the resubmission of the proposal, access and highway safety issues have not been satisfactorily addressed.

The proposal is therefore recommended for refusal.

## **S.106 AGREEMENT**

Not relevant.

## **RECOMMENDATION**

Refuse.

### **SUBJECT TO THE FOLLOWING:**

01. The proposed development would be unsustainably located outside of the defined development area where it is remote from adequate services, employment, educational and other facilities, and public transport. It would foster growth in the need to travel by private vehicles and is contrary to the aims and objectives of the NPPF and Policy ST5 of the South Somerset Local Plan, 2006.
02. The junction of Brickhouse Farm Lane and the B3081 by reason of its restricted visibility is considered unsuitable to serve as a means of access to the proposed development, and the application has failed to demonstrate that the restricted visibility can be satisfactorily overcome. Furthermore, on the information currently available, the Local Planning Authority is not satisfied that a safe means of access can be provided. The proposal is therefore prejudicial to highway safety, and contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review, (Adopted April 2000) and Policy ST5 of the South Somerset Local Plan, 2006.
03. The proposal fails, in terms of design, density and layout, to preserve and complement the key characteristics of the location. It does not satisfactorily respect and relate to the form and character of its surroundings and this rural setting. The proposal is therefore considered to be contrary to the aims and objectives of Policies ST3, ST5 and ST6 of the South Somerset Local Plan, 2006.