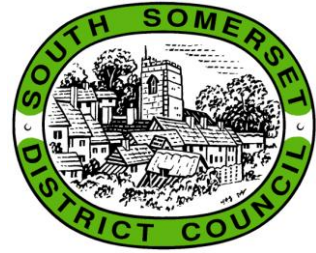


South Somerset District Council

Notice of Meeting



Regulation Committee

Making a difference where it counts

Tuesday 16th April 2013

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 8th April 2013

Ian Clarke, Assistant Director (Legal & Corporate Services)

This information is also available on our website
www.southsomerset.gov.uk



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

(The Quorum of this Committee is 5 Councillors)

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 16th April 2013

A g e n d a

1. Minutes of the meeting held on Tuesday 19th February 2013
2. Apologies for Absence
3. Declarations of Interest
4. Public Question Time

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5. Land adj Border Cottage, Border Lane, Brewham – Application No. 12/04736/FUL..... 5
6. Land adj Heather House, Alford, Lovington – Application No. 12/04730/FUL.....20
7. Land to the North of Banff, Picts Hill, High Ham – Application No. 12/04705/FUL.....32
8. Date of Next Meeting

The date of the next meeting is scheduled for Tuesday, 21st May 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 19th February 2013** in the Council Chamber, Council Offices, Brympton Way, Yeovil.

(10.00am – 10.45am)

Present:

Peter Gubbins (Chairman)

Tim Carroll	Shane Pledger
Nick Colbert	Sylvia Seal
Tony Fife	Gina Seaton
Ian Martin	Linda Vijeh

Officers:

Jo Boucher	Committee Administrator
Andy Cato	Area Lead - South
Nick Head	Planning Officer
Angela Watson	Legal Services Manager

13. Minutes (Agenda Item 1)

The minutes of the meeting of the Regulation Committee held on Tuesday, 18th December 2012, copies of which had been previously circulated, were approved as a correct record by the Chairman.

14. Apologies for Absence (Agenda Item 2)

Apologies for absence were received from Councillors Mike Best, Terry Mounter, Ros Roderigo, Angie Singleton and William Wallace.

15. Declarations of Interest (Agenda Item 3)

There were no Declarations of Interest

16. Public Question Time (Agenda Item 4)

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

17. **Erection of a dwelling in part of garden at Tern House, Charlton Musgrove, Wincanton – Application No. 12/03627/FUL**

The Planning Officer presented the report as set out in the agenda and explained to members that at the meeting of the Area East Committee on 12th December 2012 it was resolved that the application be referred to the Regulation Committee with the recommendation to approve contrary to the officer's recommendation.

He updated members that since consideration at Area East Committee an additional letter of representation had been received and he had included these comments on page 9 of his agenda report.

The Planning Officer also reported that planning permission had been previously refused on this site six months ago. He said that although this application presented a change in the orientation of the proposed dwelling, the locality, access and sustainability issues had not been addressed and therefore his recommendation was to refuse the application for reasons as set out in the agenda report.

With the aid of a powerpoint presentation the Planning Officer then highlighted to members:

- Aerial View of the site
- Location Plan
- Existing site plan
- Proposed Site Plan
- Proposed Plan and Elevations
- Various photographs including:
 - Varying views of site from lane
 - Proposed access to site
 - Varying views from highway and junction to lane

In conclusion the Planning Officer detailed the Key Considerations for members, this included the Principle of a New Dwellinghouse (Sustainability), Highway Safety and Impact on Locality. He considered that by virtue of its rural location and lack of local amenities that it did not constitute sustainable development and as such contrary to the National Planning Policy Framework (NPPF).

The Planning Officer also clarified to members that although a public house was located nearby this was not within the Parish and that there were no other local services and facilities.

Councillor Mike Beech, Ward member then addressed the committee. He felt there was no reason to believe the the application was unsustainable as the towns of Wincanton and Bruton were within a 2 mile radius. He did not consider the issues raised by the Highways Authority were a problem and was in full support of the application.

Hazel Mote spoke in objection to the application. She felt that none of the previous issues had been adequately addressed and therefore there was no reason to change the recommendation from refusal. She highlighted the issues regarding drainage within the area and that the development could only exacerbate these problems.

Mr C Ricketts, the applicant, believed the application to be in a sustainable location as the towns of Bruton, Wincanton and Gillingham were all close by. He said that the village pub was not the only one that had recently closed and that there was a local

village hall. He explained his wish that the family stay in Charlton Musgrove, but in a smaller eco-friendly house. There were already three businesses along the lane that created traffic and therefore did not feel the proposed dwelling would create any more traffic. The hedge would be moved back to alleviate any safety highways issues, he had organised a tree survey and would ensure that the site would be kept private from other houses within the area.

In response to questions, Members were informed that:

- There was a limited bus service for the area
- Although the drainage issue was a Building Control matter, it did not class as being a reason for refusal for this application and could be included as a condition should permission be granted

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

- Similar application passed recently so unsure why this one so different.
- Business already located down the lane so did not feel there was any traffic issues.
- Appreciated planning policies but danger of losing small communities and the need to help revive villages and help them develop.
- Site located outside the defined development area.
- Could set a precedent for future developments within the area.
- Site not within a sustainable location and remote from adequate services and facilities.
- Appreciated the Highway Authority concerns but was unsure whether this would be a reason to refuse solely on this purpose.
- Concerns over the design and layout which would harm the character and appearance of the area.

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 carried by 5 votes in favour and 4 against.

RESOLVED:

Refuse permission 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 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.

(Voting: 5 votes in favour and 4 against)

12. Date of Next Meeting (Agenda Item 6)

Members noted that the next meeting of the Committee would take place on Tuesday, 19th March 2013 at 10.00am in the Council Chamber, Council Offices, Brympton Way.

.....
Chairman

5. Land adj Border Cottage, Border Lane, Brewham – Application No. 12/04736/FUL

Proposal :	Demolition of existing storage building and erection of a detached three bedroom house with access and formation of vehicular access (GR: 373480/137085)
Site Address:	Land adj Border Cottage, Border Lane, Brewham
Parish:	Brewham
TOWER Ward (SSDC Member)	Cllr Mike Beech
Recommending Case Officer:	Andrew Collins Tel: 01935 462276 Email: andrew.collins@southsomerset.gov.uk
Target date :	6th March 2013
Applicant :	Mrs Heather Sweny
Agent: (no agent if blank)	Mr John Shaw, 8 Alexanders Close Meare Glastonbury Somerset BA6 9HP
Application Type :	Minor Dwellings 1-9 site less than 1ha

Reason for Referral to Regulation Committee:

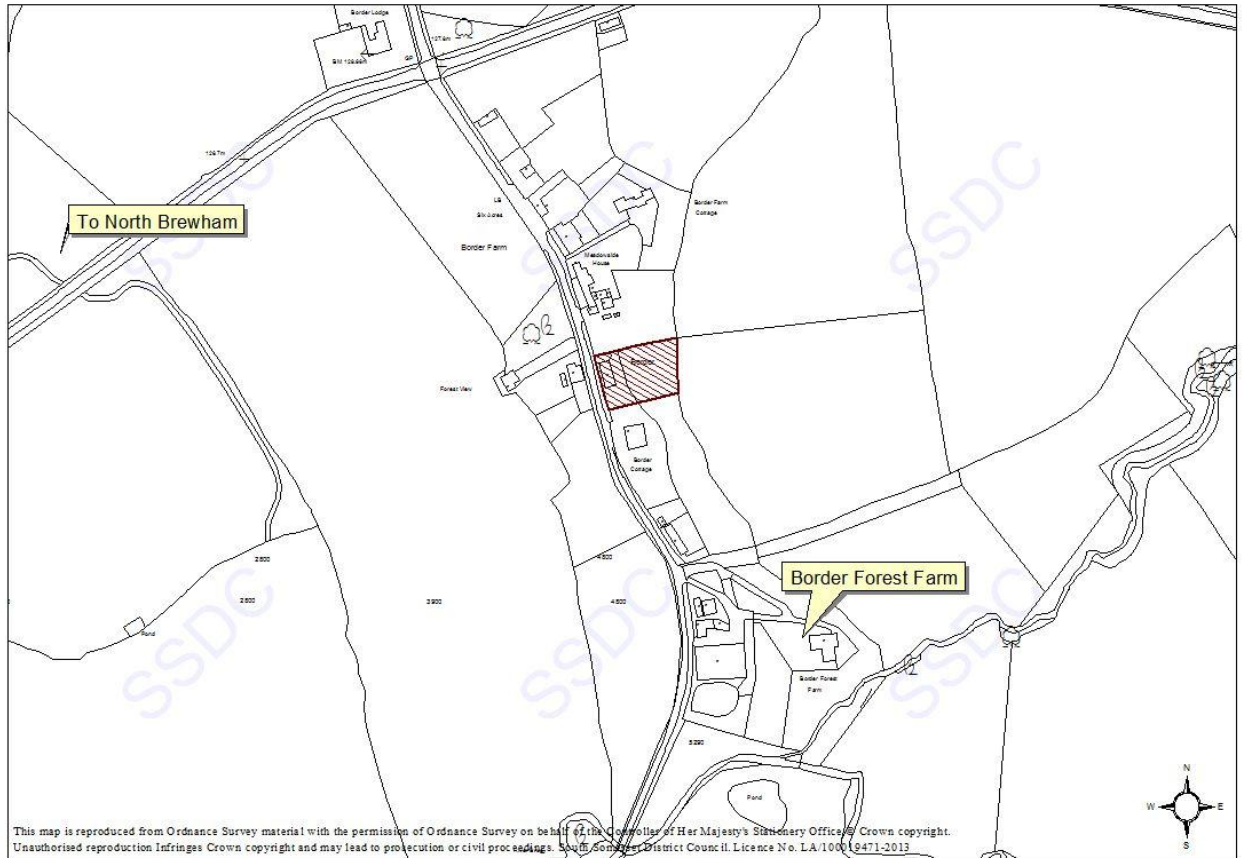
The report was referred to Area East Committee at the request of the Ward Member, with the agreement of the Area Chair, to enable a full discussion of the views of the local community and the Parish Council in relation to further development in this locality.

The application was '2-starred' (**) as the proposal for a new dwelling in this rural location, for which no reasonable justification has been put forward, is contrary to policy and, if approved, could have district-wide implications. Accordingly, Area East were advised that should the Committee wish to support the proposal contrary to the officer recommendation the application would need to be referred to the Council's Regulation Committee for consideration.

The Area East Committee on 13th March 2013 (Draft minute attached at Appendix A) unanimously resolved for the application to be approved contrary to the officer's recommendation with the understanding that it would be referred to the Regulation Committee for consideration.

Accordingly the application is now referred to the Regulation Committee for final determination. The report is as presented to the Area East Committee, but includes some updates detailed below.

SITE DESCRIPTION AND PROPOSAL



The site is located north of Border Cottage on Border Lane outside of the development area. Border Lane is characterised by loose linear roadside development with small ancillary agricultural, equestrian and domestic buildings interspersed by residential dwellings. The development site is bounded by a mixture of native and coniferous hedging to the north and west and is open to a paddock to the east. The main residence is located due south. The site is frontage by an open ditch, culverted where access is achieved into the site. The land to the east falls away to a drainage ditch c. 40m away.

It is proposed to demolish the existing storage building and erect a 3-bedroom chalet bungalow 15m to the East of the road and 6m from the back edge of the existing building on the site. It would partially sunk into the site by 1.5m. The building would be 16.5m by 11.5m with an eaves height of 2.2m and a maximum ridge height of 5.8m. It would be constructed of natural stone and larch timber cladding for the walls and clay double Roman tiles. Three parking spaces are proposed to the West of the dwelling on the site of the existing storage building. A new access would serve the dwelling. It is stated that the existing dwelling will be sold to finance the new dwelling.

The application is supported by a Design and Access Statement and Ecological Survey. An amended block plan has been provided.

RELEVANT HISTORY

07/02573/FUL - Planning permission refused for conversion of building to a dwelling (24/07/2007) for the following reasons:-

1. The proposal would result in an unacceptable unsustainable domestic incursion into the countryside outside the defined development limits, whilst proving harmful to the dispersed characteristic of the immediate environment and to the rural character and appearance of the general area. In addition the building proposed to be converted is not capable of conversion without major reconstruction. Therefore without a proven justification to warrant an exception to policy the proposal is considered to be contrary to the advice given in Planning Policy Statement 7, Policies STR1, STR6 and Policy 5 of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011 and Policies ST3, ST5, ST6, EH7 and EC3 of the adopted South Somerset Local Plan 2006.

2. The application fails to adequately accurately demonstrate that the setting of the adjoining Listing Building will not be adversely affected and is therefore contrary to policy EH5 of the adopted South Somerset Local Plan (2006).

3. The proposed development site is remote from any urban area and therefore distant from adequate services and facilities, such as, education, health, employment, retail and leisure. In addition, public transport services are infrequent. As a consequence, occupiers of the new development are likely to be dependent on private vehicles for most of their daily needs. Such fostering of growth in the need to travel would be contrary to government advice given in PPG13 and RPG10, and to the provisions of policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted: April 2000).

05/01660/OUT - Outline permission refused for erection of dwelling (15/08/2005). Subsequent appeal dismissed. The Inspector noted (para. 6):-

"I judge that any dwelling on the site, even if set further back, would have a significantly greater impact on the appearance of the area, unacceptably damaging its essentially rural character."

At Paragraph 7 sustainability arguments were raised. The inspector said;

"I do not share the appellant's view that the site could be regarded as being within a rural village. Only limited facilities are available in North and South Brewham and I consider that for almost all day-to-day needs the occupants of the proposed dwelling would need to travel as far as Bruton which is over 3 miles away and with poor transport links."

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.

For the purposes of determining current applications the local planning authority considers that the relevant policy framework is provided by the National Planning Policy Framework and the saved policies of the South Somerset Local Plan 2006 and the Somerset and Exmoor National Park Joint Structure Plan Review 2001.

The policies of most relevance to the proposal are:

Saved policies of the Somerset & 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
EH5 - Development Proposals Affecting the Setting of Listed Buildings
EC3 - Landscape Character
EC8 - Protected Species
TP5 - Public Transport
TP7 - Residential Parking Provision

Reference has been made to Policy SS2 of the emerging local plan. However this is an innovative, draft policy that has not been tested by the Planning Inspectorate and as such can only be given limited weight.

National Planning Policy Framework (March 2012)

Chapter 1 - Building a strong, competitive economy
Chapter 2 - Ensuring the vitality of town centres
Chapter 3 - Supporting a prosperous rural economy
Chapter 4 - Promoting sustainable transport
Chapter 6 - Delivering a wide choice of high quality homes
Chapter 7 - Requiring good design
Chapter 8 - Promoting healthy communities
Chapter 11- Conserving and enhancing the natural environment
Chapter 12 - Conserving and enhancing the historic environment

South Somerset Sustainable Community Strategy

Other Relevant Documents

Somerset Parking Strategy
Our Brewham Parish Plan

CONSULTATIONS

Brewham Parish Council - Support the application. They feel that replacement of the redundant building by a modest dwelling would be legitimate in filling on what is a brownfield site, but they would prefer the dwelling to be clad entirely in natural stone rather than the proposed mix of stone and timber cladding.

The redundant building has been used at different times for rearing poultry, milking cows and storage. If it were to revert to agriculture it would generate more noise and traffic movements than the proposed dwelling.

There is ample space between Border Cottage and Meadowside House to accommodate the proposed dwelling without appearing cramped and they could not see how locating it

further back from the road would affect the setting of the listed Meadowside House any more than the redundant building does, particularly as the roof of the house would be no higher than the existing roof.

Appreciate that to allow the development would be a departure from the local plan but feel that the NPPF is a material consideration in that the proposal will help sustain the Brewham community. Brewham's population of 995 in 1831 has shrunk to 430 today and members would be pleased to see a modest increase to sustain the vitality of the parish.

Highway Authority - Recommends refusal for the following reason:

The proposed development is outside of any development limit and is located where it is remote from adequate services, employment, education, public transport. The development, if approved, will increase the reliance on the private car and foster a growth in the need to travel, contrary to advice given in the National Planning Policy Framework (NPPF), RPG10 and Policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan (Adopted April 2000) and the South Somerset Local Plan.

In terms of site specific considerations it is noted the layout plan (A3 scale of 1:100), does not denote what is actually representative of the adjoining highway. Border Lane outside of the site, is a single width carriageway, with grass verge either side. Whilst new sightlines have been shown they have not been shown in relation to what is available to the running carriageway edge and have only been shown to the extremities of the site.

A parking space should measure 2.4m x 4.8m. Whilst 3 cars have been shown on the submitted plans, this area does not meet the appropriate size requirement and will need enlarging. In addition vehicles will have to reverse from/onto the adjoining highway and given the narrowness of the highway the provision of a turning area would not seem unreasonable given that there is clearly space within the site to accommodate it.

Should the application be approved these issues must be addressed by the submission of amended plans.

Area Engineer - Surface water disposal via soakaways

Landscape Officer - Recommends refusal. "The site lays in open countryside within the hamlet of Border. Map regression indicates little change in the pattern of residential property over time, and the wider area is characterised by its sparse development form, where the folding topography and its overlain pattern of hedgerows and woodland are the prime landscape elements. Laying below the afforested western escarpment of the West Wilts AONB (area of outstanding beauty) the site can be regarded as being within the AONB's setting. Consequently it is clear that the site's context is sensitive, and distinctly rural.

The proposal intends to supplant a relatively unobtrusive utility building and its adjoining pasture with domestic form. The proposal includes a hard-surfaced drive and terrace, and implies some removal of the current roadside hedgerow to enable sightlines. These cumulatively will add to the development footprint, as well as detract from the character of the lane. It is also noted that the siting is contrary to the established pattern of development in this location. Whilst accepting that a building currently resides on the site, it is a non-domestic subservient structure to the current house, and the plot is

primarily grassland and thus agricultural in character. The introduction of a 1.5 storey domestic form, and the potential domestication of the current pasture land, will be contrary to the historic and settlement character, and subtly erode the spaciousness of the existing domestic plots along this lane. The introduction of nightlight associated with residential occupation is a further subtle erosion of local character. I view the sum of these impacts to be adverse, thus there is no landscape support for this proposal.

Conservation Officer - Recommends refusal. "There are two things for me to consider here; the effect the new building will have on the character of the adjacent listed buildings, and the effect of the proposal on the general character of the area.

There are two listed buildings in close proximity to the site. Forest View is a detached property set some distance away from the application site on the opposite side of the road at the end of a driveway. The proposed bungalow will not harm the setting of this listed building.

To the north of the site, and in closer proximity to it, is a second listed building known as Meadowside House and Meadowside Cottage. This property sits just back from the road with a long front elevation addressing the road and contributes significantly to the character of the streetscene due to its prominent position. The surrounding land and buildings give Meadowside a pleasant rural setting. Buildings are spaced out and loosely scattered along the east side of the lane. Although they vary in style and age they are all two storey and of a broadly traditional form, positioned with principle elevations facing the road and set a short distance back from the road edge. The current arrangement of buildings has seen little change since the first edition OS map of 1888.

The introduction of a modern bungalow into this context, in a position set back from the road edge is not acceptable. The design fails to respond to the existing character appropriately due to its form and position. A new dwelling in this context has the potential to have a harmful urbanising influence on the lane in any form or position, as referred to in the previous inspectors decision, and will damage the strong rural character that is a precious existing quality.

Therefore I do take the view that the proposal will harm the setting of the listed buildings to the north of the site, and will harm the existing rural character of the lane. As such I recommend refusal.

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

The application site is located outside of any Development Area in a location where development is strictly controlled and limited to that which benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel (Saved Policy ST3).

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 and the Council has accepted that it does not have a 5 year supply of housing land. However, Policy ST3 seeks to direct new housing development to sustainable locations, therefore proposals for open market housing at any settlement without a Development Area (such as Brewham) are considered to be unsustainable in principle. The onus in this instance is on the applicant to demonstrate why she believes the development is sustainable having regard to the National Planning Policy Framework (NPPF) paragraphs 7 -16. Brewham does not have any local facilities such as a shop

and I cannot see that a case has been made on this basis.

The South Somerset Local Plan 1991-2011 was adopted in April 2006; all but five of the policies and proposals within this plan were formally saved in April 2009. These policies remain saved until such time as they are replaced by any new policies adopted by South Somerset District Council. Department of Communities and Local Government have clarified that paragraph 214 does not apply to SSDC as our local plan policies were saved under another process. Paragraph 215 does apply in that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).

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. From an economic perspective this proposal will only bring about benefit to the applicant and those employed in the construction of that new dwelling. In terms of a social role the proposal will potentially provide an additional home in Brewham and accommodation to specifically meet the needs of the applicant but in a location that is not accessible to local services. From an environmental perspective the proposal will not be contributing to protecting or enhancing the natural or built environment or minimising the impacts of climate change.

Paragraph 14 of the NPPF deals with the presumption in favour of sustainable development, for decision taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

As stated above in planning terms the site is located in a countryside location, paragraph 55 of the NPPF is clear that new homes in the countryside should only be allowed in special circumstances such as being essential to the needs of a rural worker, making use of a redundant or disused building, being of exceptional design or making optimal use of a heritage asset, this proposal meets none of these exceptions.

With regards to emerging Local Plan Policy SS2: Development in Rural Settlements, whilst the supporting text of the Policy does refer to the potential provision of small bungalows for elderly local people it also starts from a premise of no development unless certain conditions are met (para 4.35). Paragraph 4.44 of the emerging Local Plan states that new housing development should only be located in those Rural Settlements that offer a range of services. The Local Plan has now been submitted to the Secretary of State however this is an innovative Policy which has yet to be tested at Examination therefore can be given little weight.

Whilst I understand the applicants desire to remain in the settlement she has lived in for many years and recognise that she has the support of her neighbours, due to the site's unsustainable location, from a planning policy perspective this application cannot be supported, therefore an objection is raised.

Ecologist - " I'm satisfied with the Ecological Survey report (Michael Woods Associates, Jan 2013) and I'm in agreement with its conclusions.

I agree the possibility of dormice using the short section of hedge required to be removed for the access is low but can't be ruled out. The amount and quality of hedge removal required isn't sufficient to have any longer term impacts on dormouse conservation in the area. However, I support the consultant's recommendation that as a precautionary measure the hedge removal should take place outside of the dormouse hibernation season (winter months). I therefore recommend a condition that limits hedge removal to the period of May to September inclusive."

REPRESENTATIONS

41 letters of support from 23 different addresses have been received. They make the following comments:-

- One more cottage will make little impact upon the area.
- The proposal is regarded as infill with surrounding properties.
- The applicant is well known, lived in Border Cottage for over 25 years and it would be a shame if she had to move away as she is an asset to the community as is involved in community activities.
- The dwelling will look better than the existing shed.
- As the applicant is a widow she needs a smaller house and wish to remain within parish.
- The proposal would not be detrimental to the local environment.
- The selling of the existing dwelling will mean it will be available for a young family.
- No new land will be needed so supports Government policy in reusing land.
- A great deal of thought has gone into the design and position on the site.

12 letters from 7 different addresses have been received raising the following areas of concern:-

- Impact upon adjoining listed building.
- Narrowness of lane.
- The new dwelling will not fit in.
- Due to the dwelling's location would affect the amenity of the neighbouring property.
- No special need for the dwelling has been justified.
- The proposal will be a harmful domestic incursion into the countryside.
- Overlooking of neighbouring property.
- Dwelling will rise above hedge height of boundary between site and neighbouring dwelling.
- Could set an undesirable precedent.
- Impact upon wildlife.
- There has been a history of refusals on the site and this proposal is for a larger dwelling than the existing building on the site.
- The rural character of Border Lane, the listed buildings with views beyond would be adversely affected by the proposal.
- There have been a number of smaller properties for sale within Brewham recently to allow the applicant to stay locally.
- The proposal does not comply with the NPPF Paragraph 55.
- The proposal does not constitute infill.
- It is not clear if this is agricultural land.

APPLICANTS CASE

The Design and Access Statement says that the applicant has lived in Border Cottage for over 26 years. Border Cottage has a large garden area together with stables and a large field of approximately 1.2 hectares. The applicant's husband recently passed away and the land and maintenance of the house is becoming too onerous for the applicant to manage on her own.

In the conclusion of the Design and Access Statement, it is stated that;

"The hamlet of Border is acknowledged in the community document 'Our Brewham' consists of a loose knit group of dwellings including those running South along Border Lane. The site of the new house is between existing houses and will not therefore be an isolated dwelling. It is important to note that the national policy contained in the NPPF related to isolated dwellings. Space will remain between the new dwelling and existing ones sufficient to justify the description of 'loose knit' and the description of 'urbanisation' resulting from the proposal as previously used by the inspector is entirely inappropriate. The use of this large garden area to provide a home that meets the future needs of a resident who is very much part of the community and who wishes to continue to play her part in that community, that causes no harm to the living conditions of any nearby resident, or to the setting of any listed building and which respects the character and appearance of the area within which it is set is surely an example of common sense."

CONSIDERATIONS

Principle

The house is located outside of the defined development area, in a location with few local facilities and services. As set out by both the Policy and Highways Officers, the proposal would require the occupants of a new dwelling to travel for their daily needs (work, education, shops, services etc.). Furthermore the provision of services to future occupiers would also be costly in terms of environmental and economic costs. It is these aspects of the proposal that are considered to render the proposal unsustainable and therefore contrary to the core principle of the NPPF.

This is the third application for a dwelling house on this site, two previous applications having been refused in 2005 (also dismissed on appeal) and the conversion of the existing building in 2007. The applicant's justification is based on future personal circumstances. As set out by the policy officer this cannot justify setting aside long established planning policies.

Clearly the principle criterion for new residential development is whether or not it would be in a 'sustainable' location.

Paragraph 55 of the NPPF sets out the approach local planning authorities should take to promote sustainable development in rural areas and contains clear advice to avoid isolated new dwellings in unsustainable rural locations.

The inspector, in relation to the appeal against the 2005 refusal stated:-

"I do not share the appellant's view that the site could be regarded as being within a rural village. Only limited facilities are available in North and South Brewham and I consider that for almost all day-to-day needs the occupants of the proposed dwelling would need to travel as far as Bruton which is over 3 miles away and with poor transport

links."

It is not considered that there have been any changes to circumstance that could now justify the local planning authority concluding that this site is now a sustainable location for residential development. Furthermore acceptance that this is a sustainable location would set a clear precedent for further development in this isolated, rural part of Brewham.

Whilst paragraph 55 of the NPPF does allow for limited exceptions to the presumption to protect the countryside from unsustainable development it is not considered that this proposal meets any of the exception tests in that:-

- It does not to meet an essential need for a rural worker
- It is not necessary to safeguard a heritage asset
- It is not for the reuse of a redundant building;
- It is not of such exceptional design that a policy departure could be justified.

Accordingly it is not considered that the agents arguments that adding an additional house to an isolated rural cluster of loosely related dwellings strung out along this lane carries sufficient weight to off-set the clear policy presumption to protect the countryside from unsustainable development. Similarly the argument that the proposed dwelling would be no more unsustainable than the existing dwellings is not considered to carry any weight as the existing dwellings were either erected pre-1948 (i.e. not require planning permission) or benefited from a policy exception (i.e. barn conversion and agricultural workers dwelling).

It is not considered reasonable to accept, without appropriate justification, the addition of a new dwelling to such a loose and isolated cluster of houses on the basis that it would be no less sustainable than the existing houses. Such line of reasoning would ignore the clear advice of the NPPF and both the saved policies of the local plan and those of the emerging local plan. It would also set a very clear precedent for similar circumstance not just in this location, but also on a district wide basis.

Visual Impact

The site has an existing single storey storage building. This building is to be demolished and the new dwelling located further into the site. The land slopes to the East and the new dwelling is to be cut and filled into the site. The Landscape Architect considers that the site will be domesticized, the provision of a drive and new access will detract from the character of the lane. He also notes that whilst accepting that a building currently resides on the site, it is a non-domestic subservient structure to the current house, and the plot is primarily grassland, and thus agricultural in character. The introduction of a 1.5 storey domestic form, and the potential domestication of the current pasture land, will be contrary to the historic and settlement character, and subtly erode the spaciousness of the existing domestic plots along this lane. The introduction of nightlight associated with residential occupation is a further subtle erosion of local character. Therefore on this basis raises an objection to the proposals.

In considering the above concerns, the proposals are not considered to respect the area by eroding its rural character and therefore no accord with saved Policy EC3 of the South Somerset Local Plan.

Residential Amenity

The neighbours at Meadowside Cottage, the dwelling to the North have raised concerns over the overlooking of their property and the dwelling would appear over the boundary hedge. The boundary hedge between the application site and Meadowside Cottage is currently at approximately 2m in height and has been well maintained. The submitted plans in relation to the boundary hedge and trees show a degree of artistic licence.

The agent has stated that there would not be any overlooking of Meadowside Cottage. However a rooflight, is proposed on the Northern roofslope. In considering the submitted section this window would be at eye level and result in direct overlooking of the private garden area of Meadowside Cottage. As such the proposal is contrary to saved Policies ST5 and ST6 of the South Somerset Local Plan.

Layout / Design

The proposed dwelling is to be set back from the road by a minimum of 14m to the front of the porch. This does not respect the general form of dwelling along the lane, which is mainly road frontage. In order to minimise amenity concerns, the dwelling has been designed as a 1 and a half storey chalet bungalow. This approach is contrary to current residential dwellings within the lane. Residential dwellings within the lane are two storey but a dwelling at two storey would further exacerbate amenity concerns.

The use of timber cladding and external chimneys are also incongruous features within the area and exacerbate the unacceptable design. As such the proposal fails to comply with saved Policies ST5 and ST6 and the aims and requirements of the NPPF.

Setting of Listed Buildings

Two listed buildings border the site to the North and West. Forest View, the dwelling to the West is not considered to be affected by the proposals.

To the north of the site, is a listed building known as Meadowside House and Meadowside Cottage. This property sits just back from the road with a long front elevation addressing the road and contributes significantly to the character of the streetscene due to its prominent position. The surrounding land and buildings give Meadowside a pleasant rural setting. Buildings are spaced out and loosely scattered along the east side of the lane. The introduction of a modern bungalow into this context, in a position set back from the road edge, the Conservation Officer does not consider is acceptable. The design fails to respond to the existing character appropriately due to its form and position. A new dwelling in this context has the potential to have a harmful urbanising influence on the lane in any form or position, as referred to in the previous inspectors decision, and will damage the strong rural character that is a precious existing quality.

Ecology

An Ecological Assessment has been submitted with the application. This concludes that no protected species are evidenced on the site. The roadside hedge is species poor, being dominated by Rhododendron with large gaps that feature along its length due to driveway openings. Due to the very low suitability of the habitat and lack of connecting habitat it is considered to be highly unlikely that dormice would be present. However, it concludes that before works to the hedgerow are undertaken, as a precautionary measure, works are not undertaken within the hibernation season. If not possible it is recommended that a survey is undertaken by a qualified ecologist. The Council's Ecologist concurs with this recommendation and concludes that the proposal would not

have any longer term impacts upon dormouse conservation in the area. An examination of nesting birds is also recommended. In assessing the above it is considered that protected species would not be adversely affected.

Highways Issues

The Highways Authority are concerned about the proposed parking and turning on the site on the grounds of insufficient space. This could be addressed by the submission of amended plans and as such it would not be reasonable to cite this as a reason for refusal. Should the applicant be minded to appeal against a refusal or resubmit, an informative could remind them of the need to address this issue.

Other Issues

'Our Brewham the future of our Parish' Parish Plan was adopted in July 2011. In the housing chapter reference is made to the South Somerset emerging Core Strategy. It states that in the Core Strategy, Brewham is classified as a rural settlement within open countryside where development is strictly controlled and limited to that which justifies a rural location. It further states;

" However, it allows for development that meets an identified housing need, particularly for affordable housing, where the number and type of housing can be justified based on the evidence from a local needs survey."

This proposal is not supported by a local needs survey and it has not been demonstrated to meet an identified housing need. The Parish Plan can be given limited weight and the proposal is not considered to comply with the document.

Conclusion

Whilst the applicant's personal circumstances are understood, it is not considered that they would outweigh the sustainability concerns associated with the site, which is remote from services and facilities, and would require future occupants dependent to travel for their day-to-day needs. Additionally, the proposed siting is considered contrary to the character of the area and detrimental to the setting of the adjoining listed building; its design, with external chimneys and the use of timber cladding would add to the incongruity of the proposal. Finally the rooflight to bedroom 3 would result in direct overlooking of the neighbouring property to the detriment of their amenity.

RECOMMENDATION

Refuse permission for the following reasons.

SUBJECT TO THE FOLLOWING:

01. The erection of a new dwelling in this rural location, remote from adequate services, employment, education and public transport, has not been justified on the basis of any exceptional circumstance or community benefit that would outweigh the longstanding policy presumption to protect the countryside from unwarranted and unsustainable development. As such the proposal is contrary to the aims and

- objectives of the NPPF (in particular paragraphs 14 and 55), and saved Policies ST2, ST3 and ST5 of the South Somerset Local Plan, 2006.
02. The proposal by reason of the rooflight to bedroom 3 would result in direct overlooking of the neighbouring property (Meadowside Cottage) and their private garden area to the detriment of residential amenity. As such the proposal is contrary to saved Policy ST6 of the South Somerset Local Plan and the aims and objectives of the NPPF.
 03. The proposal by reason of the design and materials of the dwelling, particularly the external chimneys and timber cladding, the form of the dwelling at one and a half storeys, and its position within the site, would result in an incongruous form of development to the detriment of visual amenities of the area and would adversely affect the setting of the adjacent listed building. As such the proposal is contrary to saved Policies EC3, EH5, ST5 and ST6 of the South Somerset Local Plan and the aims and objectives of the NPPF.
 04. The proposal by reason of the proposed parking layout's size and location is insufficient to serve the development and would result in parking of the highway to the detriment of highway safety. As such the proposal is contrary to saved Policy ST5, of the South Somerset Local Plan, Policy 49 of the Somerset and Exmoor Joint Structure Plan and the aims and objectives of the NPPF.

Informatives:

01. You are reminded of the concerns raised by the County Highways Officer with regard to:
 - i) on-site turning and parking spaces. Should you appeal against this decision or resubmit the proposal you should seek to address these concerns.
02. In accordance with paragraphs 186 and 187 of the NPPF the council, as local planning authority, takes a positive and proactive approach to development proposals focused on solutions. The council works with applicants/agents in a positive and proactive manner by:
 - i) offering a pre-application advice service, and
 - ii) as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

It is noted that there is a planning history on this site for refusals, the applicant/agent did not take the opportunity to enter into pre-application discussions and there were no minor or obvious solutions to overcome the significant concerns caused by the proposals.

Appendix A

Extract from Area East Committee Minutes – 13th March 2013

Planning Application: 12/04736/FUL Demolition of existing storage building and erection of a detached three bedroom house with access and formation of vehicular access (GR: 373480/137085) at Land adj Border Cottage Border Lane Brewham for Mrs Heather Sweny.**

The Planning officer explained that this application was 2 starred and if members were minded to approve the application it would have to be referred to the Regulation Committee for determination.

He updated members on comments from the agent regarding comments from Planning Policy these included the following:

- There are 2 pubs in Brewham;
- The parish has an active church community;
- Brewham has a twice weekly bus service to Wincanton, Bruton and Frome;
- A nearby railway station in Bruton;
- The NPPF had been misquoted by omitting the word 'isolated' from the text in the report;
- The importance of social sustainability should be taken into account;
- Reference was made to Cooks Farm Lane this is an error and the road is Border Lane;
- The report says that a window is the only window to bedroom 3. This is also incorrect. The Applicant would be prepared to remove the northern window from bedroom 3 if required;
- The landscape architect referred to the site being within an AONB setting. However the AONB Partnership were not consulted as the application does not fall within the consultation protocol and the setting of the AONB had not been raised as a reason for refusal;
- The Conservation Officer referred to the proposals impact upon Meadowside Cottage and Meadowside House. This was originally one dwelling and was made lawful under a certificate of lawfulness. Regardless of whether 1 or 2 the proposal would result in direct overlooking of the private amenity area of Meadowside Cottage.

The Officer confirmed his recommendation was to refuse the application and referred to the previous refusals of applications on the site as detailed in the agenda report.

Ric Rogers from Brewham PC reiterated the PC's comments as detailed in the report and supported the application which would be an improvement to the area. The site was not in open countryside and would remove the redundant building. Reference was also made to the Brewham Parish Plan.

Richard Walsh spoke in objection to the application on behalf of himself and 6 neighbours who felt this application was no different to the previous ones that had been refused. The site was greenfield and not brownfield, there were 2 Listed Buildings adjacent to the application site that would be affected, if this application was approved more developers would want to follow suit.

The Agent John Shaw thanked the Planning Officer for correcting the errors in the report regarding Planning Policy comments. He did not understand the 2 star treatment of the

application and did not think this application was an exception to policy but was a genuine infill plot, sensitive to the area. Brewham has a vibrant community where his client wished to remain in a smaller house with a smaller garden, the issues regarding the bedroom windows could be dealt with by condition or by removing it from the plan.

Ward Member Cllr Mike Beech referred to the 2 starrng of the application, he supported the application which was also supported by Brewham PC and by the contents of the Parish Plan that sets out the requirements of the parish.

During discussion members made the following comments:

- The information within the Parish Plan should be taken as relevant and approve the application;
- The design was good, the windows appeared to be suitable approve the application;
- The current building was redundant and the site will be improved;
- This application was not in an isolated position and would not be the last house in the parish, as the dwelling would be in a hollow, overlooking would not be an issue;
- The majority of people within the parish were in favour of development but preferred smaller dwellings as there was not a need for large houses.

In response to a question the Legal Services Manager replied that, in general terms, any relevant information within a Parish Plan could factor into members' assessments of planning applications. However, being unaware of the content of Brewham's Parish Plan, she could not advise members more specifically about the weight to be accorded to it.

A proposal was made and seconded to approve the application contrary to the officers' recommendation with the understanding that it would be referred to Regulation Committee for consideration. The vote was carried unanimously.

RESOLVED:

That Planning Application: 12/04736/FUL be approved contrary to the officers recommendation with the understanding that it will be referred to Regulation Committee for consideration.**

(Voting: Unanimous in favour)

6. Land adj Heather House, Alford, Lovington – Application No. 12/04730/FUL

Proposal :	Erection of a new house and garage (GR: 360433/132172)
Site Address:	Land adjacent Heather House, Alford, Lovington
Parish:	Alford
CARY Ward (SSDC Members)	Cllr Nick Weeks Cllr Henry Hobhouse
Recommending Case Officer:	Nicholas Head Tel: (01935) 462167 Email: nick.head@southsomerset.gov.uk
Target date :	6th February 2013
Applicant :	Mrs Dawn Harley
Agent: (no agent if blank)	Mr Ben Carlisle, Carlisle Jessop LLP 23 Union Street Wells Somerset BA5 2PU
Application Type :	Minor Dwellings 1-9 site less than 1ha

The report was referred to Area East Committee at the request of the Ward Member, with the agreement of the Area Chair, to enable a full discussion of the views of the local community and the Parish Council in relation to further development in this locality.

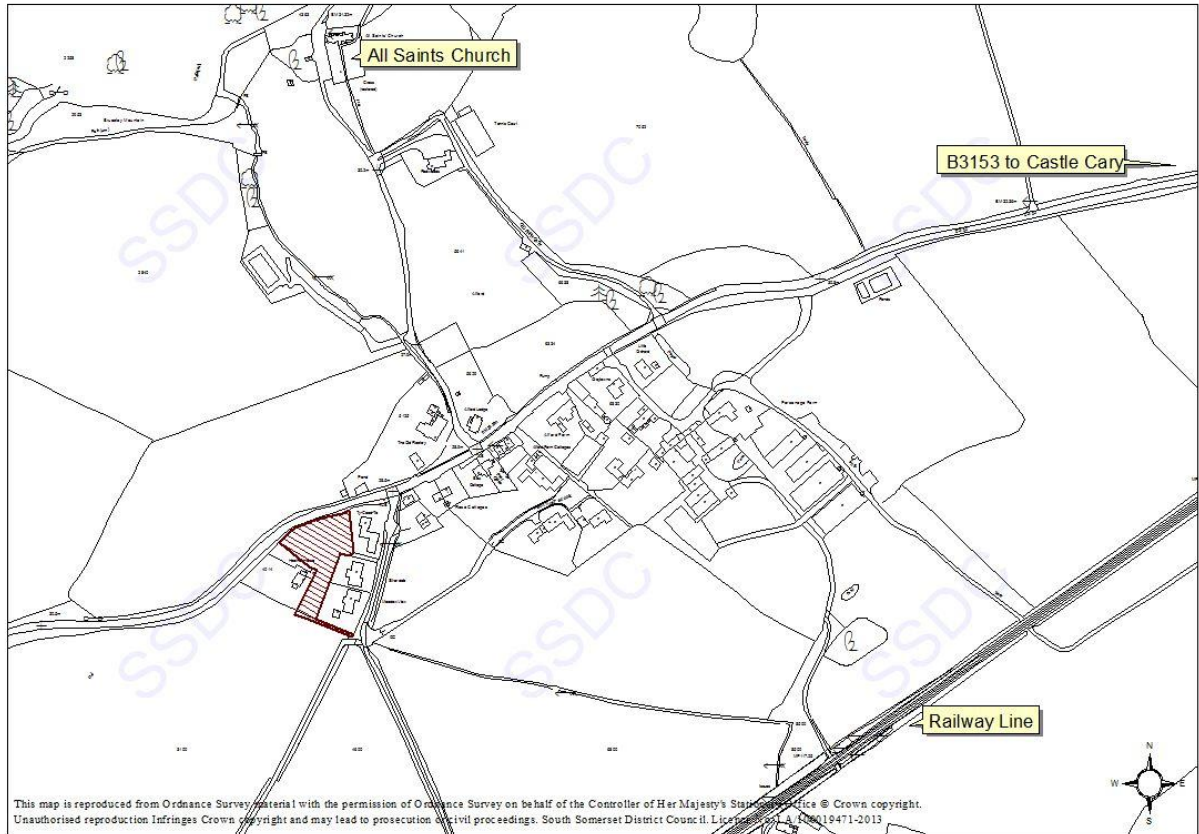
The application was '2-starred' (**) as the proposal for a new dwelling in this rural location, for which no reasonable justification has been put forward, is contrary to policy and, if approved, could have district-wide implications. Accordingly, Area East were advised that should the Committee wish to support the proposal contrary to the officer recommendation the application would need to be referred to the Council's Regulation Committee for consideration.

The report was considered by Area East Committee at its meeting on 13 March 2013 (Draft minute attached at Appendix A), when it was resolved:

*That Planning Application: 12/04730/FUL** be referred to the Regulation Committee with the recommendation that it be approved, contrary to the officer's recommendation.*

Accordingly the application is now referred to the Regulation Committee for final determination.

SITE DESCRIPTION AND PROPOSAL



The site is located outside of the defined development area at the western edge of the village of Alford, on the south side of the B3153. It is situated immediately north of the curtilage area of Heather House, a two-storey dwelling with direct access onto the B3153. The site has been used as ancillary garden area for some years, for which a certificate of lawfulness was granted in 2008. To the east of the site are three newer, single-storey dwellinghouses, fronting onto Alford Well Farm Lane. Heather House currently enjoys an additional means of vehicular access onto this same lane.

The site falls within Flood Zone 3a.

Permission is sought for a new dwellinghouse and garage, taking access via the existing access onto Alford Well Farm Lane.

HISTORY

89/00001/OUT - Outline permission refused for bungalow. Subsequent appeal dismissed.

05/01397/OUT - Outline permission refused for bungalow and double garage.

08/02810/COL - Certificate of Lawfulness issued for use of land as garden.

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 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

National Planning Policy Framework (March 2012):

Achieving Sustainable Development:

- The presumption in favour of sustainable development
- Core planning principles

4. Promoting sustainable transport
6. Delivering a wide choice of high quality homes
7. Requiring good design
8. Promoting healthy communities
10. Meeting the challenge of climate change, flooding and coastal change
11. Conserving and enhancing the natural environment

Policy-related Material Considerations

Technical Guidance to the National Planning Policy Framework, Dept of Communities and Local Government, March 2012

South Somerset Sustainable Community Strategy

CONSULTATIONS

Cary Moor Parish Council: Supports the proposal and recommends approval subject to conditions, including:

- detailed planting proposal;
- existing access from Heather House onto Well Farm Lane to be closed to prevent intensification of use of this access.

Highways Authority: Recommends refusal of the application for the following reason:

The proposed development would be located where it is remote from adequate services, employment, education, public transport, etc, and will therefore increase the need for journeys to be made by private vehicles which is unsustainable in transport terms and in

conflict with government advice.

In the event of approval, it is recommended that no access be allowed from the site directly onto the B3153, and that the existing field gate be stopped up. In addition, the parking and turning area would need to be extended to allow for the parking of 3 vehicles; cycle storage would also be recommended.

Area Engineer: *Reference to the attached extracts from the PPS25 Practice Guide regarding the Sequential Test would suggest that there is some scope for flexibility in respect of this application and in my view the comments in the submitted Flood Risk Assessment are reasonable grounds for the application to be considered for approval. Likewise the Exception Test set out in the FRA seems to satisfy the requirements.*

I note the comments in the EA's letter about compensatory flood storage on a level for level basis and perhaps the applicant can respond to this – there may be an area within the owner's control where this can be provided. I would however make the point that since the EA have apparently accepted that the site is with Flood Zone 3a (at high risk of flooding) rather than Zone 3b (functional flood plain) I am uncertain about their requirement for compensatory flood plain.

The proposed floor level of the dwelling at 30.32m AOD is sufficiently above the maximum flood level of 30.00 to provide some assurance that the property will not be at risk of flooding and the incorporation of flood resilience measures in the construction is an additional safeguard. Reference to the FRA indicates that the access road is to be at 30.15m AOD.

On the basis of the above I would find it difficult to justify a refusal on the basis of flooding issues.

Landscape Officer: No objection, subject to conditions

Planning Policy Officer: *The application site is located outside of any Development Area in a location where development is strictly controlled and limited to that which benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel (Saved Policy ST3). 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 and the Council has accepted that it does not have a 5 year supply of housing land. However, Policy ST3 seeks to direct new housing development to sustainable locations, therefore proposals for open market housing at any settlements without a Development Area (such as Alford) are considered to be unsustainable in principle. The onus in this instance is on the applicant to demonstrate why she believes the development is sustainable having regard to the National Planning Policy Framework (NPPF) paragraphs 7 -16. Alford does not have any local facilities such as a shop or a pub and I cannot see that a case has been made on this basis.*

The application site also lies within Flood Zone 3 and the supporting Flood Risk Assessment states that the Environment Agency have confirmed that it is within Flood Zone 3a (Appendix D – Letter dated October 2010). Whilst the sites location within Flood Zone 3a is implied within this letter by reference to the Sequential Test, it does not actually explicitly state that this is the case. However, assuming that it is, the Sequential Test as submitted does not appear to consider any alternative sites outside of the Flood Plain therefore, I cannot see how this test can have been met (NPPF, Paragraph 101). Paragraph 102 of the NPPF refers to the Exception Test and the need to demonstrate

that the development will bring about wider sustainability benefits to the community and to demonstrate that the development will be safe for its lifetime, again this test does not appear to have been met...

Whilst I understand the applicants desire to remain in the settlement she has lived in for many years, sympathize with her health issues and recognise that she has the support of her neighbours, due to the sites unsustainable location and flooding issues, from a planning policy perspective this application cannot be supported, therefore an objection is raised.

Tree Officer: No objections. If approved, tree protection measures required.

Environment Agency: *We note that the FRA refers to Sequential Test discussions with your Authority. Whilst we have no comments to make on the acceptability of any information submitted, your Authority should be satisfied that there are no reasonably available alternative sites at a lower flood risk prior to approving any planning permission. In the event that the sequential test is satisfied there should be the provision of a compensatory flood storage area on site.*

APPLICANT'S CASE

The application is justified on the following basis:

- the applicant has lived in the village for 36 years;
- she is a widow, living alone, and wishes to remain in the village;
- the applicant is experiencing health issues;
- a choice is faced about future care: being at home or ultimately being care (this appears to be a future scenario, not an issue currently being faced by the applicant);
- the applicant's existing house is unsuitable – a single storey new dwelling would be preferable
- provision of alternative accommodation for a local resident represents 'sustainable development' in terms of the NPPF in that it increases community cohesion and vibrancy, allows social inclusion;
- the development would sustain the communities and facilities of adjacent villages (these are not detailed);
- the proposal is in accordance with policies in the Draft Core Strategy;
- there are precedents to support the application.

REPRESENTATIONS

Two letters have been received in response to the application:

- One supporting the application, subject to controls limiting the use of the existing access onto Alford Well Lane and implementation of landscape planting;
- One observing it will be dangerous to insist on the occupants of Heather House using the access to the B3153 – which was the reason the new access to the lane was permitted.

The applicant included 13 letters of support for the application from local residents. The proposal is supported for various reasons including:

- the applicant is a long-standing resident, wishing to remain in the village;
- ill-health requires the applicant to move to a more suitable (single-storey) dwelling

- which would include space for a carer;
- the design and layout are considered appropriate;
- the additional house will increase the future viability of Alford.

CONSIDERATIONS

Principle of Development

The house is located outside of the defined development area, in a location with few local facilities and services. As clearly set out by both the Policy and Highways Officers, the proposal represents unsustainable development, requiring occupants of a new dwelling to travel for their daily needs (work, education, shops and services). In principle, therefore, there is a clear policy objection to the proposal.

Previous Decisions

This is the third application for a dwellinghouse on this site, two previous applications having been refused in 1990 (also dismissed on appeal) and 2005. The most recent application was refused for the following reasons:

1. The proposed development would constitute an unacceptable intrusion into the open countryside and as such is contrary to Policy STR6 - development outside towns, rural centres and villages, of the South Somerset and Exmoor National Park Joint Structure Plan Review and ST3 - Development Areas, of the South Somerset Local Plan (proposed modifications) 2004.

2. The proposed development site is remote from any urban area and therefore distant from adequate services and facilities, such as, education, employment, health, retail and leisure. In addition, public transport services are infrequent. As a consequence, occupiers of the new development are likely to be dependent on private vehicles for most of their daily needs. Such fostering of growth in the need to travel would be contrary to government advice given in PPG13 and RPG10, and to the provisions of policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011.

This decision is a significant material consideration. Approval of any development on the site would be dependent on overcoming these reasons for refusal.

Visual Impact

The site is large, with notable mature vegetation around most sides. It is noted that the previous application was refused on the basis that "The proposed development would constitute an unacceptable intrusion into the open countryside..." Whilst the siting of the proposed dwelling would relate to the existing character and grain of the local settlement, in that it is not isolated from other houses, the concern remains that this is a low-density area with large gaps to the road frontage, preserving an essentially rural appearance. The insertion of a new dwelling here would represent an unwelcome visual intrusion.

Comment on Applicant's Justification for Development: Policy Position

The proposal is based on the applicant's future personal circumstances, and a detailed view on the policy position. The applicant's detailed submission on policy considerations has been carefully assessed together with the Council's Policy Planning Officer. The Policy Officer has clearly set out the policy position as follows:

Alford is not a sustainable location for new development; it is not listed in saved **Policy ST2: Villages** as a settlement that is in principle a suitable location for development and is therefore located in the open countryside and as I stated in my previous response, does not have any local facilities such as a shop or a pub.

The South Somerset Local Plan 1991-2011 was adopted in April 2006; all but five of the policies and proposals within this plan were formally saved in April 2009. These policies remain saved until such time as they are replaced by any new policies adopted by South Somerset District Council. Paragraphs 214 and 215 of Annex 1: Implementation, of the National Planning Policy Framework (NPPF) address the issue of weight to be afforded to existing Local Plan policies. Clarity regarding South Somerset District Council's (SSDC) position has been sought from Communities and Local Government (CLG) regarding this issue. CLG have clarified that paragraph 214 does not apply to SSDC as our local plan policies were saved under another process. Paragraph 215 does apply in that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).

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. From an economic perspective this proposal will only bring about benefit to the applicant and those employed in the construction of that new dwelling. In terms of a social role the proposal will potentially provide an additional home in Alford and accommodation to specifically meet the needs of the applicant but in a location that is not accessible to local services. From an environmental perspective the proposal will not be contributing to protecting or enhancing the natural or built environment or minimising the impacts of climate change and is in fact located in Flood Zone 3a.

Paragraph 14 of the NPPF deals with the presumption in favour of sustainable development, for decision taking this means:

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out of date, granting permission unless:*
 - i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - ii) specific policies in this Framework indicate development should be restricted.*

Paragraph 100 of the NPPF states:

Inappropriate development in areas of risk from flooding should be avoided by directing development away from areas at highest risk.....

The NPPF also expects the Sequential and Exception Tests to be applied and met.

I believe the Environment Agency have raised an objection to the proposal and that the requirement to carry out a Sequential Test has not been met. There are therefore specific policies within the NPPF which development should be restricted.

Saved Policy ST5: General Principles of Development states that development will be

considered against a number of criteria, criterion 6 includes:

The proposal avoids placing people and property at risk from flooding.....

As stated above in planning terms the site is located in a countryside location, paragraph 55 of the NPPF is clear that new homes in the countryside should only be allowed in special circumstances such as being essential to the needs of a rural worker, making use of a redundant or disused building, being of exceptional design or making optimal use of a heritage asset, this proposal meets none of these exceptions.

With regards to emerging Local Plan Policy SS2: Development in Rural Settlements, whilst the supporting text of the Policy does refer to the potential provision of small bungalows for elderly local people it also starts from a premise of *no development unless certain conditions are met* (para 4.35). Paragraph 4.44 of the emerging Local Plan states that *new housing development should only be located in those Rural Settlements that offer a range (i.e. two or more) of the following services.....* Alford does not have two or more of the listed services. The Local Plan has now been submitted to the Secretary of State however this is an innovative Policy which has yet to be tested at Examination therefore cannot be given full weight.

To conclude the proposal is contrary to saved Local Plan Policies ST2 and ST5; to paragraphs 14, 55 and 100 of the NPPF and Policy SS2 of the emerging Local Plan therefore a planning policy objection is maintained.

Whilst reference to the applicant's future needs are noted, it is not considered that they can be given sufficient weight to overcome the considerable policy objection to development on this site.

Impact on Residential Amenity

Concerns have been raised by local residents along the Lane that traffic of both Heather House and the new dwelling would use the existing access onto the lane. The proposal seeks use of the Lane access only by occupants of the new dwelling, which would accord with these concerns.

The design and layout of the buildings are not considered to present any other amenity issues in relation to the occupants of neighbouring houses, and there is not considered to be any amenity reason for refusal of the application.

Flood Risk

Government policy, as set out in the NPPF, Para 100, states that:

Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

The site falls within Flood Zone 3. In an initial consultation response, the EA has objected to the proposal. This objection has been lifted subsequent to the receipt of additional information. However, as pointed out by the EA, Government guidance requires all development to be steered towards Flood Zone 1. To achieve this, a 'sequential test' is embodied in the policy guidance:

The aim of the Sequential Test is to steer new development to areas with the lowest

probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

Clearly there are other sites, outside of Flood Zone 3, that are reasonably available for development, even if not in the ownership of the applicant. The proposal is not considered to have passed the sequential test as required by the NPPF, and is therefore contrary to Government policy advice.

The applicant has made provision, as requested by the EA, for a compensatory retention basin on the site, as a measure to avoid the increase of flood risk elsewhere; measures are also included in the design to ensure that occupants of the dwelling would not be subjected to personal risk from flooding (i.e. raising the floor level to a suitable degree). However, neither of these measures overcomes the basic clear policy position that development should be subject to a sequential test, and that development should be avoided in Flood Zone 3.

The Council's Engineer has taken a view that the sequential test can be treated with 'some flexibility'. The EA has advised that 'reasonably available' does not restrict the exploration of sites to land owned by the applicant. In a decision dated 7 April 2009, an appeal inspector noted that:

It is not sufficient, for the purposes of the sequential test, to limit the area of search to land that is already in the appellants' ownership; that approach is too narrow. The need is to consider the availability of sites on which a bungalow could be built.

Both the EA and the Council's Policy Team advise that the sequential test has not been passed. The Council's Engineer's view is therefore not supported. Whilst it might be the case that occupants of the dwelling might not be placed in a life-threatening position, the risk of flooding and consequent amenity and property damage cannot be overlooked, and the policy guidance is clear that applications under these circumstances should be refused.

Highways Issues

The Highways Authority raises issues should the application be approved:

- the new dwellinghouse should not take any access onto the B3153;
- the existing field gate onto the B3153 should be stopped up;
- the parking and turning area should be re-configured to enable three cars to park and turn within the site.

These issues could all be covered by condition.

Previous Decision: Reasons for Refusal

As set out in this report, although there have been some policy changes in the period since the refusal of a previous application (05/01397/OUT), it is not considered that either reason for refusal has been overcome. The proposed dwelling is considered to represent an unacceptable intrusion in this countryside locality; and the locality of the site would result in unsustainable development.

Conclusion

Whilst the applicant's personal circumstances are understood, it is not considered that they would outweigh the sustainability concerns associated with the site, which is remote from services and facilities, and would make the future occupants dependent of private motor vehicle transport for their day-to-day needs. In addition, the site is within Flood Zone 3, where erection of a dwellinghouse without clear compliance with both the sequential and exception tests set out in the NPPF would be contrary to Government policy and the aims of the local plan in steering development away from high flood risk areas. As determined at the time of the previous refusal, the proposal represents an unacceptable intrusion into the open countryside. Neither reason for the refusal of the previous application has been satisfactorily addressed or overcome. Refusal of the application is accordingly recommended.

RECOMMENDATION

Refuse Planning permission.

SUBJECT TO THE FOLLOWING:

01. The erection of a new dwelling in this rural location, remote from adequate services, employment, education and public transport, has not been justified on the basis of any exceptional circumstance or community benefit that would outweigh the longstanding policy presumption to protect the countryside from unwarranted and unsustainable development. As such the proposal is contrary to the aims and objectives of the NPPF (in particular paragraphs 14 and 55), and saved Policies ST2, ST3 and ST5 of the South Somerset Local Plan, 2006.
02. The proposed dwelling would be located within Flood Zone 3 where residential development that would result in people and property being at risk from flooding is only acceptable in exceptional circumstances. No such circumstances have been demonstrated and furthermore it has not been demonstrated that, sequentially, there are no other suitable sites available that would not be at risk of flooding. Accordingly the proposal is considered to fail the required Sequential Test and in these respects, the proposal is contrary to the aims and objectives of the NPPF (in particular paragraphs 14, 55, 100 and 101), and saved Policy ST5 of the South Somerset Local Plan, 2006.
03. With the loss of this open gap and the increase of built density adjacent to the public highway, the proposal would constitute an unacceptable intrusion in this countryside locality, contrary to the countryside protection aims of Policy STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review, 2000 and Policies ST3 and ST6 of the South Somerset Local Plan, 2006.

Informatives:

01. In accordance with paragraphs 186 and 187 of the NPPF the council, as local planning authority, takes a positive and proactive approach to development proposals focused on solutions. The council works with applicants/agents in a positive and proactive manner by;
 - offering a pre-application advice service, and
 - as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case there were no minor or obvious solutions to overcome the significant concerns caused by the proposals.

Appendix A

Extract from Area East Committee Minutes – 13th March 2013

Planning Application: 12/04730/FUL** Erection of a new house and garage at Land adjacent to Heather House, Alford, Lovington for Mrs Dawn Harley

The officer presented the report as detailed in the agenda, with the aid of a power point presentation he showed the design of the application; Google views of the secluded site and photos of the road /lane from different views.

The officer confirmed his recommendation was to refuse the application which was in an unsustainable location and in Flood Zone 3 where the erection of a dwelling house without a sequential and exception test would be contrary to Government policy. He also referred to the previous similar planning applications on this site that had been refused as detailed in the agenda report. He reminded members that this application was 2 starred and if members were minded to approve the application it would have to be referred to the Regulation Committee for determination.

Martin Roberts of Cary Moor PC addressed committee members as he did not think the reasons that the PC supported the application had been fully explained in the agenda report. He referred to Saved Policy ST3 and the supporting text that made allowance for sensitive infilling that may be acceptable depending on the character of the area. The PC believed that the design was sensitive infilling development of a single dwelling for disabled use. There had been no flooding of the site in living memory and would benefit from the recently enhanced flood works upstream of Bruton.

Mr M Harley, brother in law of the applicant, spoke in support of the application. He considered that Alford was sustainable; internet shopping was becoming the norm; the Nippy bus company ran 6 buses a day to and from the village; South West Coaches had 5 services weekly. The village of Alford would fade away if no new dwellings were ever allowed. There had never been any flooding on the site even during the recent severe flooding; the River Brue had been in no danger of flooding, even the SSDC Engineer could not see a justification to refuse the application based on flooding issues.

Ben Carlisle, the architect /agent, spoke in support of the application; although he did not wish to see building in open countryside without control he did not feel this was open country side; local consultations met a critical requirement; there were already good public transport links. He felt that the issue with this application was Planning Policy which was complicated because of the transition period between old policies and the NPPF. If this application was refused traffic movement would increase if his client moved to nearby Castle Cary as her friends and family would have to travel further to visit. Any move away from the village of Alford would make his client socially reclusive, he urged members to approve the application as this was a particular application serving a particular need.

Ward Member Cllr Henry Hobhouse understood why the application had been 2 starred as it went against the written policy but he said every policy had an exception which this application did, the applicant needed a home more suitable to her needs in the village; the flood defences in Bruton had dealt with any flooding concerns.

Ward Member Cllr Nick Weeks felt the concern was due to issues with new legislation, local communities should now be able to request small developments in their area.

In response to Cllr Colin Winders question the Development Manager explained that development areas currently still existed and would do until new the Local Plan was adopted.

During discussion members raised the following points:

- Concerned that the applicant having paid a planning fee was unaware that the application may be considered by members of the Regulation Committee who were not local to the area;
- Local people know better than anyone if an area flooded;
- One member had lived in the area all of his life and had never known it to flood;
- Applicants should be enabled to stay in the community that they were comfortable in and to be able to look after themselves for as long as possible;
- Did not understand how an application previously decided at AEC was approved outside a development area in order to preserve an historic house but may not be approved to help a person.

The Legal Services Manager corrected a point regarding the Localism Act, advising that although it did give local communities more of a say there was still a process in place that had to be followed. Both the legislation and recent cases made it clear that the requirements of a community had generally to be in accordance with the development plan. The NPPF also had to be heeded. The marking of applications as 2 starred was carried out in accordance with the requirements of the Council's Constitution. If members were unhappy with that process they would have to formally propose amendments to be agreed by Councillors at Full Council.

The Chairman commented that the recommendation to 2 star an application had already been made before he saw the reports.

A proposal was made and seconded to approve the application contrary to the officer's recommendation and as such would need to be referred to the Regulation Committee for consideration.

On being put to the vote the proposal was carried 9 in favour; 2 against and 1 abstention.

RESOLVED:

That Planning Application: 12/04730/FUL be referred to Regulation Committee with the recommendation that it be approved, contrary to the officer's recommendation.**

(Voting: 9 in favour; 2 against and 1 abstention.)

7. Land to the North of Banff, Picts Hill, High Ham – Application No. 12/04705/FUL

Proposal :	Erection of two eco-dwellings with outbuildings and formation of vehicular accesses (GR: 343386/127772)
Site Address:	Land to the North of Banff, Picts Hill, High Ham
Parish:	High Ham
TURN HILL Ward (SSDC Member)	Cllr S Pledger
Recommending Case Officer:	Lee Walton Tel: (01935) 462324 Email: lee.walton@southsomerset.gov.uk
Target date :	28th January 2013
Applicant :	Gillian Pengelly & Richard Body
Agent: (no agent if blank)	Clive Miller And Associates Ltd (FAO: Mike Williams) Sanderley Studio Kennel Lane Langport Somerset TA10 9SB
Application Type :	Minor Dwellings 1-9 site less than 1ha

Reason for Referral to Regulation Committee

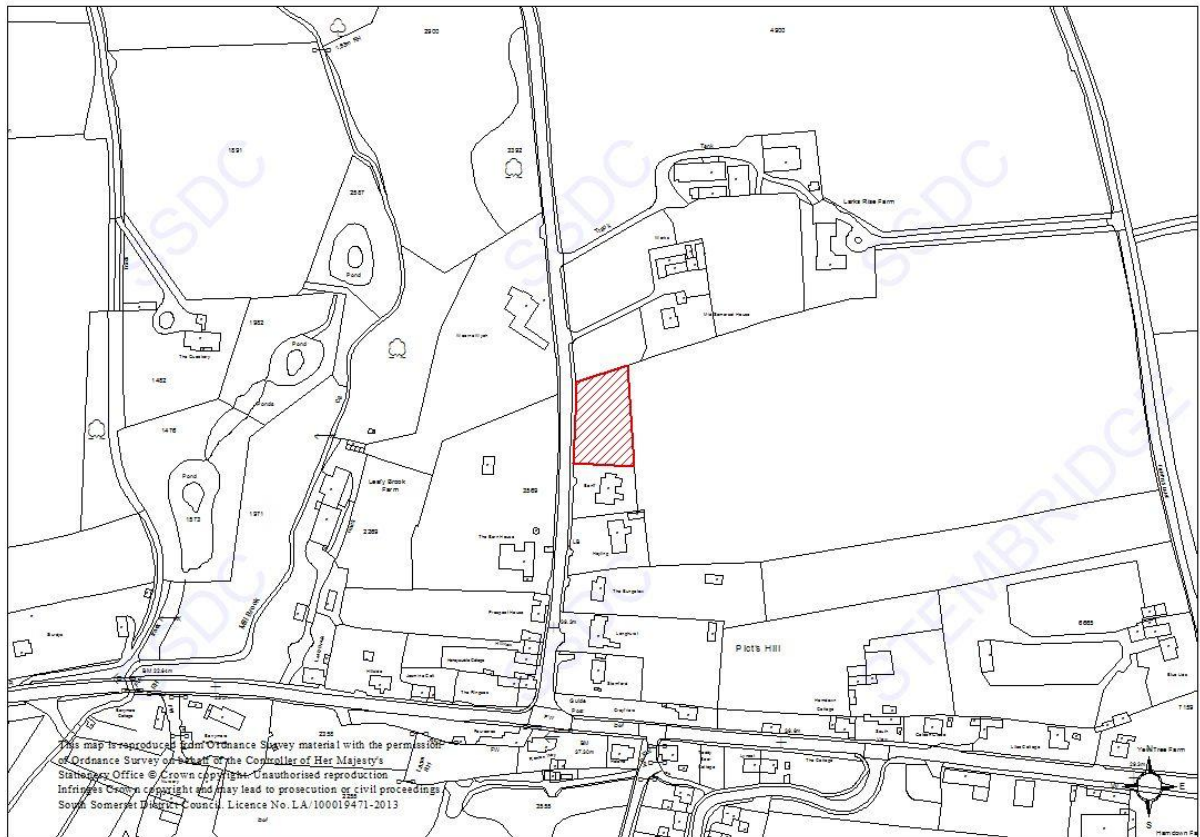
The report was referred to Area North Committee at the request of the Ward Member, with the agreement of the Area Chair, to enable a full discussion of the views of the local community and the Parish Council in relation to further development in this locality.

The application was '2-starred' (**) as the proposal for a new dwelling in this rural location, for which no reasonable justification has been put forward, is contrary to policy and, if approved, could have district-wide implications. Accordingly, Area North were advised that should the Committee wish to support the proposal contrary to the officer recommendation the application would need to be referred to the Council's Regulation Committee for consideration.

The Area North Committee on 28 February 2013 (Draft minute attached at Appendix A) unanimously resolved for the application to be approved contrary to the officer's recommendation with the understanding that it will be referred to the Regulation Committee for consideration. Members' asked that a site meeting should be held in the event Regulation Members were minded to support the Officer Recommendation.

The report is as presented to the Area North Committee, but includes some updates detailed below.

SITE DESCRIPTION AND PROPOSAL



The application site is part of a wider countryside setting, recognised not to be a sustainable location that would otherwise support new residential development. The site is at a peripheral location in the hamlet of Picts Hill where the built form is loose grained and dissolves with the countryside entering at the edge of the wider built form that consolidates itself south of the application site. The site is unimproved land, fenced off from the abutting agricultural field to the east; a small holding or possible paddock being types of acceptable use in this location.

On the north side of the application site is 'Mid Somerset House' that is set back some way from the road. Its grounds extend toward the roadside, and maintain a rural character that continues passed the application site towards Picts Hill becoming post war ribbon development that extends out from the junction with the main road that is 180m distant. The application site is 1.9km from Langport's town centre and Huish Academy.

Across the road on its west side traditional built form stands on land that gradually becomes more pronounced in falling away from the roadside with the last larger properties largely hidden within extensive grounds providing spacious greenery that is already established even before cessation of the last of the post war ribbon development across the road.

The proposal seeks 2(no.) three bedroom dwellings with a ridge height of 5.6m and eaves 2m, located on a rectangular shaped area of land. The frontage extends to 92m. The proposal includes the formation of vehicular accesses. It is proposed that the elevations would be local natural stone and timber cladding under a 25 degree pitch tiled roof. The drawings indicate a slight increase in ridge height over the ribbon development to the south.

HISTORY

12/01317/FUL – Erection of two eco-dwellings with outbuildings and formation of vehicular accesses. Withdrawn.

791877 – Outline: the erection of a bungalow on land adjacent to ‘Banff’. Refused.

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

For the purposes of determining current applications the local planning authority accords significant weight to 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:

Save policies of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011:

Policy STR1 - Sustainable Development

Policy STR6 - Development Outside Towns, Villages and Rural Centres.

Save policies of the South Somerset Local Plan:

Policy ST5 - General Principles of Development

Policy ST6 - The Quality of Development

Policy ST3 - Development Area

Policy EC3 - Landscape Character

Regard shall also be had to:

National Planning Policy Framework (March 2012):

Chapter 3 – Supporting a prosperous rural economy

Chapter 4 – Promoting Sustainable Transport

Chapter 6 - Delivering a Wide Choice of High Quality Homes

Chapter 7 - Requiring Good Design

Chapter 11 – Conserving and enhancing the natural environment.

South Somerset Sustainable Community Strategy

CONSULTATIONS

HIGH HAM PARISH COUNCIL – NO OBJECTION, in principle, to the application. However, that said, it is deemed prudent to place emphasis on the following supporting comment/ information for the benefit, and acknowledgement, of all parties with an interest in this application:

Over recent months, High Ham Parish Councillors have been fully involved in pre-application consultations with the applicants together with the architect and planning consultant acting on their behalf and, crucially, local residents to the site.

Whilst the Parish Council offers no objections to the application, in principle, it should be fully acknowledged, by all parties, that a key element to the decision reached relates to the assurance provided by the applicants to local residents, as stated in: ‘Section 2: The Proposal’ of the ‘Supporting Statement Incorporating Design and Access Statement Considerations.’

This states that: “They give an assurance, which can be legally binding, if necessary, that if permission is granted they will not subsequently submit a revised application for larger dwellings.”

The Parish Council confirms, therefore, that this legally binding assurance should be drawn up and introduced, to the satisfaction of local residents, as soon as possible in order to safeguard the interests of local residents in terms of any future ‘visual amenity’ impacts on them related to this site and specific to this application.

COUNTY HIGHWAY AUTHORITY – The development is distant from adequate services and facilities. In addition, public transport services are infrequent. As a consequence, occupiers of the new development are likely to be dependent on private vehicles for most of their daily needs. Such fostering of growth in the need to travel would be contrary to government advice.

PLANNING POLICY - The application site is located outside of any Development Area in a location where development is strictly controlled and limited to that which benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel (Saved Policy ST3). 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 and the Council has accepted that it does not have a 5 year supply of housing land. However, Policy ST3 seeks to direct new housing development to sustainable locations, therefore proposals for open market housing at any settlement without a Development Area (such as Picts Hill) are considered to be unsustainable in principle. The onus in this instance is on the applicant to demonstrate why they believe the development is sustainable having regard to the National Planning Policy Framework (NPPF) paragraphs 7 -16. Picts Hill does not have any local facilities such as a shop or a pub and I cannot see that a case has been made on this basis.

LANDSCAPE ARCHITECT - The proposal lies outside the development area of Langport and Huish Episcopi, and in a peripheral location relative to these settlements. However, I also note that the application plot lies between two residential plots (to north and south) and that the land on the opposite (west) side of the road is a large residential garden area. The site is contained to the east by an established hedgerow, with farmland beyond.

I consider the wider context of the site to be rural, as it lies at the town's fringe adjacent farmland, yet the immediate context of the plot, and character of the adjacent road, is of a leafy semi-residential nature. Whilst the development of this plot would clearly be an 'infilling' of the existing landscape pattern, I do not view it as either impacting upon a significant green space, nor being of sufficient scale to thus erode local landscape character. Consequently, whilst I appreciate there may be 'in-principle' policy grounds to reject this proposal, I do not offer landscape grounds for refusal.

AREA ENGINEER - No comment

REPRESENTATIONS

ONE LETTER OF SUPPORT has been received: I have no objection to this project.

TWO LETTERS OF OBJECTION have been received. These are from the occupants on either side of the application site:

- Highway safety
- Any construction should continue the building line and the country appearance. It is not fitting nor is it aesthetically pleasing to see this proposal in this idyllic

- location.
- Outside development boundary
- One dwelling is better suited to the site and more in keeping.

CONSIDERATIONS

Principle of Development:

The dwellings are located outside of the defined development area for Langport/ Huish Episcopi, in a location with few local facilities and services. As clearly set out by both the Policy and Highways Officers, the proposal represents unsustainable development, requiring occupants of a new dwelling to travel for their daily needs (work, education, shops and services). In principle, therefore, there is a clear policy objection to the proposal. Relevant Local Plan policies are consistent with the relevant core principles of the NPPF. Accordingly, the main considerations include character and appearance, sustainable location, highway safety, neighbour amenity and sustainable construction.

Character and Appearance:

The Council's Landscape Architect notes that this is a peripheral location, but is otherwise favourable towards the proposal and offers support for 'infilling' of the existing landscape pattern. This considers that located between two residential plots, working with the rear boundary (the boundary is of no great age and post-dates the 1950s) that continues from the backs of the post war ribbon development, and with residential on the north side and across the road from the application site; such features should be seen as supportive for 'infilling' of the existing landscape pattern. The planning officer remains concerned with the physical context of the application site.

The Design and Access Statement (section 3) states that 'Mid Somerset House' is 'set back some distance from the roadside', the more spacious residential plots at this point and across the road that remain largely informed by the surrounding countryside enjoy substantial road frontages that are contiguous, in the case of Mid Somerset House, with that of the application site and the roadside field hedging that continues north of 'Mid Somerset House'. Across the road where land falls away this even more spacious plot is set off in abundant planting and greenery that acts to distinguish these sites from the regularity of the built form to the south of the application site that continues on both sides of the road. The proposal both consolidates and extends development further north, continuing the post war ribbon of development.

As a 'gap' this roadside space needs to be 'read' in terms of the lack of proper physical containment. Mid Somerset House's hedgerow boundary is used by the Landscape Architect to contain development as much as the adjacent residential plot. However, the boundary is of no great age and extends to the side of Mid Somerset House, while had the built form of Mid Somerset House come nearer the roadside replicating a similar roadside character to the roadside dwellings to the south there would be a stronger case for 'infill'. While the owners have kept the grass cut and planted the land, this remains free of structures, forms a setting for the dwelling, but also retains a rural character with the adjacent agricultural land. The proposal simply seeks to extend the built form within this sensitive transitional edge of countryside location. The most recent infill definition that is given by central government refers to: 'sensitive infilling of small gaps within small groups of houses or minor extensions to groups may also be acceptable though much would depend on the character of the surroundings and the number of such groups in the area' (PPG3 para. 3.21). On this basis the proposal is not considered infill. There is both too great a gap involved with no definitive enclosure, while the roadside character changes abruptly at this point in the street scene and becomes, as it moves northwards, more rural in its character that makes a positive contribution to the character and

appearance of the area. Consequently the proposal would not maintain or enhance the environment and would cause unacceptable harm to the character and appearance of the area.

While each application needs to be considered on its own merit a too wide an interpretation of 'infill' is considered to set a precedent also with other potential sites in the locality. For instance, the frontage of Mid Summer House, through to the farm track located further north that might be considered to define a northern limit, should not be ruled out, with similar arguments for elsewhere within the Picts Hill area. Indeed, the view taken is that the current proposal, in effect, supports further infill, backfilling towards Langport's built form.

The proposal is considered has a detrimental effect on the immediate locality and would unacceptably change the character of the area that is considered otherwise a patchwork of abutting residential, fields and agricultural land that is often encountered towards the edge of the open countryside that forms the setting of the consolidated built form south of the application site. Indeed the planning history for the application site indicates that there have been previous applications for a dwelling in this location; the last application was refused in 1979, and before this appeals were dismissed for new dwellings in this location. These concluded no merit in a new dwelling, in favour of protecting the local environment from the extension of ribbon development. This remains as relevant today to local plan policy and the NPPF. The proposal is considered does not respect character, setting and local distinctiveness at this rural edge and is considered contrary to policies ST5, ST6 and ST3 of the South Somerset Local Plan. Neither does the proposal involve a community benefit, an exception to policy, enabling development, the re-use of a building or involves a dwelling considered of exceptional quality (para. 55 of the NPPF).

Sustainable Location:

Picts Hill is not a sustainable location for new development; it is not listed in saved Policy ST2: Villages, as a settlement that is in principle a suitable location for development and is therefore located in the open countryside (ST3) and does not have any local facilities such as a shop or a pub.

The South Somerset Core Strategy that currently attracts very limited weight indicates that development boundaries largely will be removed with an emphasis on securing sustainable development, restricting new dwellings away from sustainable centres. While Langport and Huish will remain a local focus for development the application site remains some distance from such anticipated centres. Although there is a pavement alongside the main road, this tends to be narrow, unkempt reducing its width; involves a series of dropped kerbs with slight tilting of the pavement surface; is poorly lit, while the pavement's course undulates and is therefore considered does not involve a particularly safe footfall for the majority of potential walkers and cyclists.

A recent appeal decision at Pitney (Land West of Clematis, dated 26 March 2013) considers that site unsustainable. This found that 'Although this policy (ST3) is now rather dated, its emphasis on sustainability is consistent with the NPPF and so I still give policy ST3 substantial, if not full, weight in this Decision.' In considering sustainability the Inspector opines: 'The nearest primary school, Post Office, health centre, substantial convenience stores and secondary school are all at least 2 miles away. The nearest bus stop... offers little more than hourly services. Consequently, I find that the village has few indicators of sustainability and that the future occupiers of the proposed dwellings would be likely to undertake most journeys by private car.' Notwithstanding that Picts Hill is closer to Langport it remains that there are more appropriate sites that support new

dwellings while the NPPF continues to support a pattern of development that reduces the need to travel. The proposal is considered contrary to ST3 and ST5 of the South Somerset Local Plan.

Highway Safety:

The Highway Officer raises no technical issue with the proposed accesses and parking and turning provision.

Neighbour Amenity:

The main openings are in the south elevations in relatively close proximity to Banff. Banff has a small rear garden; the dwelling is set back on site with limited or no openings that would be viewed from the application site. In dealing with single storey dwellings a solid boundary enclosure effectively removes concern of overlooking, although on summer days internal noise from the concentration of opened windows and doors is considered capable of disturbance, but the same openings effectively overlook the front of Banff rather than its back garden. It is considered that there is no significant harm that arises from the location of the development and its relationship to adjacent occupants.

The garden areas appear to be more limited that result from the orientation of the dwellings on site. While there is an element of privacy through retention and enhancement of the roadside hedgerow there remains limited privacy that is mostly contained within the side garden area. The dwellings have the potential to dominate their plots whereas Banff, Hayling, and the other dwellings further south generally enjoy more spacious settings. To some extent the effect arises from the larger footprints of the proposal, as well as the orientation of each dwelling. Notwithstanding, there appears to be no significant harm for future occupiers. The proposal is considered acceptable to policy ST6 (6).

Neighbour comments:

All neighbour objections received have been considered, and these have been included under the relevant headings of this report.

Sustainable construction:

The proposal refers to eco-dwellings with their orientation designed for solar gain, although this is to ignore the reliance on private means of travel and the locational factors that otherwise would not support development in unsustainable locations. The quality of eco build is primarily suited for sustainable locations. The goals that the application draws attention to should be read in conjunction with sustainable locations.

Parish Council's Response:

The Parish Council's response effectively objects to the proposal unless a legal obligation is entered into that seeks to control the site and prevent further applications with the objective of limiting any development to the current proposal only. It is considered that to enter into such an agreement that sought to limit the applicant's or future applicant's ability to seek to apply for planning permission fails the tests applied in using a S106 agreement, and would be unreasonable and thus unenforceable.

Concluding Remarks:

The scheme would do little to support economic growth in this rural area, as promoted by paragraph 28 of the NPPF, beyond the construction of two houses. Rather the proposal would foster growth in the need to travel and would be contrary to the presumption in favour of sustainable development in the NPPF, including paragraphs 14, 49 and 55 in particular.

RECOMMENDATION
REFUSE

SUBJECT TO THE FOLLOWING:

01. The proposal represents unsustainable development, erecting two dwellings for which no exceptional need has been demonstrated in a locality remote from adequate services, employment, education and public transport, which would foster growth in the need for travel by private motor vehicle contrary to the aims and objectives of the NPPF (in particular paragraphs 14 and 55), and saved policies ST2, ST3 and ST5 of the South Somerset Local Plan. The unsuitability of the proposal is compounded by the undesirable northward extension of the existing ribbon development, having a detrimental impact by virtue of the adverse effect on the form, character and setting causing unavoidable harm to the locality. The proposal is contrary to the aims and objectives of the NPPF (in particular paragraphs 14, and 55) and saved policies ST2, ST3, ST5 and ST6 of the South Somerset Local Plan.

Informatives:

01. In accordance with paragraphs 186 and 187 of the NPPF the council, as local planning authority, takes a positive and proactive approach to development proposals focused on solutions. The council works with applicants/agents in a positive and proactive manner by;
 - offering a pre-application advice service, and;
 - as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case there were no minor or obvious solutions to overcome the significant concerns caused by the proposals.

Appendix A

Extract from Area North Committee Minutes – 27th February 2013

Planning Application: 12/04705/FUL Erection of two eco-dwellings with outbuildings and formation of vehicular accesses (GR: 343386/127772) at Land to the North of Banff, Picts Hill, High Ham for Gillian Pengelly and Richard Body.

The Area Lead explained that this application, for two new dwellings in open countryside, should have been marked as a 2 starred application which indicates that the application would have to be referred to the Council's Regulation Committee should members wish to support the proposal contrary to the officers recommendation.

The Planning Officer asked members to note a correction to the number of letters of objection received from three to two, and the deletion of the first two bullet points in the agenda report.

With the aid of a power point presentation the officer showed views of the road junction, views to Langport and Somerton, and the planned elevations etc. As the proposal represented an unsustainable development, and would have an adverse effect on the local character with the possibility that a precedent could be set, the officer confirmed his recommendation was to refuse the application.

Frank Pengelly spoke in support of the application and gave a brief history of the site; he explained that during the process of drawing up the plans the applicant had worked closely with the parish council and close neighbours. After a suggestion from the PC a private agreement would be drawn up to prevent any variation to the scheme.

Mike Williams, the agent, addressed members and commented that it would be wrong to presume that the PC had objected to the application subject to the signing of a private legal agreement. The infill plot would be sustainable as it was close to a bus stop and was within walking distance to the local school and shops etc, the design was good and he urged members to approve the application.

Ward Member Cllr Shane Pledger understood that the applicants had spent 18 months working on the plans; he felt the design of the two houses on the small piece of land was very good; schools and shops were all in close proximity. He commented that each application had to be judged on its own merit and supported this application.

In response to a question regarding the number of letters received in support of the application, the Area Lead explained that 7 letters in support had been submitted to the Council in the bundle of papers with the application form. He also referred to the PC comments regarding the requested assurance that the applicant would not submit a revised application for larger dwellings those comments were caveated by assurance.

He also reiterated that Picts Hill was not considered sustainable, if this application was to be deemed sustainable and approved it could set a precedent to justify the development of other potential sites in the locality and theoretically on land between Picts Hill and Langport.

During discussion the following comments by members were made, some of which included:

- A similar application had been refused in 1979, and prior to that appeals were dismissed for new dwellings in that location, therefore this application should be refused as nothing had changed since then;
- This application would not be unsustainable there is a development of 40 to 50 houses across the road from this application site;
- Unhappy that this application was 2 starred at the last minute;
- The site is currently an eyesore this application would be a welcome improvement;
- The Eco design is of a high standard;
- Hard to refuse when applications across the road have already been approved;
- Could understand officers concern.

It was proposed and seconded to approve the application contrary to the officers' recommendation with conditions as suggested by the officer, however when discussing the conditions several members felt that the suggested removal of permitted development rights (PDR) was unreasonable and unfair.

In response the officer replied that a condition to remove PDR's had been suggested because of the Parish Council's request for no further development on the site. Due to the close proximity between the proposed dwellings any extension would mean they would be too close to each other.

The Principal Legal Executive explained that although there was no specific legal agreement covering the point, the Parish Council was concerned about any future increase in size of the proposed dwellings.

The only other way that could be restricted would be with a s106 agreement, but it would not be appropriate for this application, which was why the removal of PDR had been suggested meaning another planning application would have to be submitted if an extension was required.

The reasons why members wished to approve the application were reiterated namely that it is not considered to be an unsustainable location for development and the site is reasonably capable of accommodating the proposed development without harm to residential or visual amenity or highways safety.

Members understood that if approved, the application would be referred to the Councils Regulation Committee for determination. Ten members voted in favour with one abstention.

A suggestion was then made that the Regulation Committee visit the site prior to consideration.

RESOLVED:

That Planning Application 12/04705/FUL be referred to the Regulation Committee with a recommendation to approve, contrary to the officer's recommendation, on the grounds that this is not considered to be an unsustainable location for development and the site is reasonably capable of accommodating the proposed development without harm to residential or visual amenity or highways safety. As such the proposal complies with policies ST5, ST6, ST3 and EC3 of the South Somerset Local Plan and the provisions of the National Planning Policy Framework.

If approved should be subject to conditions:-

1. Standard time limit
2. Approved plans list
3. Visibility splays based on 2.4m x 120m
4. Access in accordance with approved drawings
5. Surface water drainage to be agreed
6. Removal of permitted development rights for extensions
7. Removal of permitted development rights for additional windows.

(Voting 10 in favour: 1abstention)
