

South Somerset District Council

Minutes of a meeting of the **Regulation Committee** held on **Tuesday 16th April 2013** in the Council Chamber, Council Offices, Brympton Way, Yeovil.

(10.00am – 1.30pm)

Present:

Peter Gubbins (Chairman)

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

Officers:

Jo Boucher	Committee Administrator
Adrian Noon	Area Lead – East/North
Andrew Collins	Planning Officer
Nick Head	Planning Officer
Paula Goddard	Senior Legal Executive
Andrew Tucker	Conservation Officer
Robert Archer	Principal Landscape Officer

19. Minutes (Agenda Item 1)

The minutes of the meeting of the Regulation Committee held on Tuesday, 19th February 2013, copies of which had been previously circulated, were approved as a correct record by the Chairman.

20. Apologies for Absence (Agenda Item 2)

There were no Apologies for Absence.

21. Declarations of Interest (Agenda Item 3)

There were no Declarations of Interest.

22. Public Question Time (Agenda Item 4)

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

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

The Planning Officer presented the report as set out in the agenda and updated members that since consideration at the Area East Committee two additional letters had been submitted although there was no further information to report.

He also referred to the issue regarding the Housing requirement within the village, informing members that the proposal had not been supported by a local needs survey and had not proved to meet an identified housing need.

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

- Aerial View of the site
- Location Plan
- Proposed Site Plan
- Proposed layout Plan and new parking
- Cross section drawing showing old building and proposed new build design
- Various photographs including:
 - Existing structure already on site
 - views showing varying ground levels of site
 - Current streetscene and existing surrounding houses

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

Councillor Mike Beech, Ward member then addressed the committee. He felt there was no reason to believe that the application was unsustainable as the town of Bruton was closeby. He did not consider the proposal would have an effect on the setting of the Listed Building situated nearby and fully supported the application which was also supported by Brewham PC.

Councillor Tony Capozzoli, a member of the Area East Committee then addressed the committee. He felt the Parish Plan should be taken as relevant and there to help local residents and would support the application if he could.

Councillor Anna Groskop, spoke on behalf of Brewham Parish Council. She reiterated the PC's comments as detailed in the agenda report and supported the application which would be an improvement to the area as the current building was redundant. She stated that the population of Brewham had reduced over the years and there was a need to safeguard and sustain local villages and move with the times.

Richard Walsh spoke in objection to the application. He felt this application was no different to the previous ones that had been refused and that the site was greenfield and not brownfield and would affect the Listed Building adjacent to the site. He then referred to photographs and drawings he had submitted to the Planning Officer showing the affect the proposed development would have on the surrounding area.

The Area Lead clarified to members that these photographs and drawings were purely submitted for information only.

John Shaw the agent then addressed the committee. 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 with no detrimental effect on rural surroundings and supported by the local community. His client wished to remain in a smaller house within the village and any issue of overlooking could be dealt with by condition.

In response to questions, Members were informed that:

- The application was '2 starred' as the proposal for a new dwelling in this rural location is contrary to policy and, if approved, could have district-wide implications
- The application was a full application therefore all reasons for refusal as set out in the report are relevant

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

- Sympathetic to the applicants needs but Personal Circumstances was not a reason to approve the application
- Appreciated the need for more affordable housing within villages but felt no special need for the dwelling had been justified
- Proposal would have a significant impact on the rural character of the area
- Did not consider it to be in a sustainable location as only limited facilities are available in North and South Brewham with poor transport links
- Could set a precedent for further development in this isolated area
- Outside the defined development limits and no proven justification to warrant an exception to policy
- Concerns over the design and layout which would harm the character and appearance of the area.
- A conversion of the current building could be an acceptable solution
- The majority of people within the parish were in favour of the development
- The information within the Parish Plan should be taken as relevant
- The design was good and as the current building was redundant the site would be improved
- The application was not in an isolated position and the village was a vibrant community
- Appreciated planning policies but danger of losing small communities and the need to help revive villages and help them develop
- Genuine infill plot with no detrimental effect on surrounding area or adjacent Listed Building

The Senior Legal Executive clarified to members that although personal circumstances maybe taken into account, clear reasons are needed as justification for exceptional circumstances.

The Conservation Officer clarified to members of the two main issues he had considered; 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. He reiterated the comments as set out in the agenda report and considered that the proposal would harm the setting of the listed building and the existing rural character and therefore his recommendation is for refusal.

The Area Lead also clarified to members the policy guidelines regarding sustainability. He believed this proposal was remote from shops and services, there was no regular bus service and no footpaths within the area, therefore the occupiers of the dwelling would be fully reliant on a motor car.

He also said that although the principal reason for refusal was sustainability the proposal was also detrimental by reason of the design, effect on the surrounding area and setting of the adjacent listed building and therefore the recommendation was for refusal.

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 7 votes in favour and 6 against.

RESOLVED:

Refuse permission for the following reasons:

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.

(Voting: 7 votes in favour and 6 against)

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

The Planning Officer presented the report as set out in the agenda and with the aid of a powerpoint presentation then highlighted to members:

- Aerial View of the site
- Location Plan
- Proposed Site Plan showing access to new dwelling and existing house
- Various photographs including:
 - Lane and current entrance to site
 - Existing house known as Heather House
 - Views showing proposed development site
 - Views from the B3153 road running alongside the site

In conclusion the Planning Officer detailed the Key Considerations for members; the Principle of a New Dwellinghouse (Sustainability), Flood Risk and Impact on the rural countryside surroundings. He considered that by virtue of its unsustainable location and in Flood Zone 3, where the erection of a dwelling house without passing the sequential and exception tests would be contrary to policy. He also referred to previous similar planning applications on the site that had been refused as detailed in the agenda report.

In response to questions, members were informed that:

- The site falls within Flood Zone 3 where the erection of a dwellinghouse without clear compliance with both the sequential and exception tests set out in the National Planning Policy Framework (NPPF) is unacceptable. This states that development should not be permitted unless a sequential test has been carried out which fails to provide other reasonable available sites appropriate with lower risk of flooding. He believed the proposal is not considered to have passed this test as required by the NPPF and therefore contrary to policy hence his recommendation for refusal.
- Although the SSDC Engineer's view is that the sequential test can be treated with flexibility, in the Planning Officer's opinion this test has not been passed and therefore at this point in time the SSDC Engineer's view is not supported.
- It is presumed that the Environment Agency (EA) advice is guided by the most recent and up to date information including the recently enhanced flood works upstream of Bruton.
- The building materials used will be of natural stone and render with some cladding and roof clay tiles
- Pre-application advice can be given to applicants although in this case no specific advice was pre-arranged

Councillor Henry Hobhouse, Ward member spoke in support of the application. He felt the upgraded flood defences carried out in Bruton in 2006 had dealt with any flooding issues and that the EA had not taken this into account. He also felt that the views of the

SSDC Engineer were relevant and believed the dwelling to be within a sustainable location.

Councillor Nick Weeks, Ward Member spoke in support of the application. He felt concern was due to issues with the new legislation and that local communities should be able to request small developments in their areas. He understood that the applicant was also willing to discuss any future local community use.

Martin Roberts of Cary Moor Parish Council addressed the committee. He referred to Policy ST3 and the supporting text that made allowance for sensitive infilling that may be acceptable depending on the character of the area. He believed the proposed dwelling would provide a specialist dwelling for disabled use within the village and was supported by the community. He did not feel this would set a precedent for further development and understood the applicant was happy to enter into a Section 106 Agreement for future community use.

Michael Hartley, brother in law of the applicant, spoke in support of the application. He said that there had never been any flooding on the site even during the recent severe flooding; the EA accepted the proposal for this site and even the SSDC Engineer could not see a justification to refuse the application based on flooding issues.

Ben Carlisle, the applicant's agent spoke in support of the application. He believed this application fits in well with the emerging local plan, care in the community and localism Act. He considered the proposed dwelling to be within a cluster of development and Alford having many local facilities including a church, school, nursery with a good bus service. He also reported that he had recently met with SSDC's Planning Officers indicating that a draft Section 106 Agreement had been compiled to put forward an amended proposal regarding future use of the building and did not understand why this had not been highlighted earlier.

In response to the Agents' comments, the Area Lead clarified that a meeting had taken place. However officers had not agreed to accept the agreement as part of the application at this late stage, particularly as it did not address any of the reasons for refusal and did not make a difference to the reasons for refusal of the application. Instead it had been suggested that the agent to introduce it as part of his presentation to the committee as it was felt that the document supplied had not been drafted in great detail.

Following a short discussion member's suggested that the application be deferred to allow the agent to put forward a Section 106 Agreement to clarify the applicant's amended proposal and request an updated comment from the EA and invite them to attend the next meeting.

This recommendation was then proposed and seconded and on being put to the vote was carried by 11 votes in favour, 0 against and 1 abstention.

RESOLVED:

That the application be deferred to:

- 1. Allow agent to put forward Section 106 agreement to clarify applicant's amended proposal**

2. Request an updated comment from the EA and invite them to attend the next meeting.

(Voting: 11 votes in favour, 0 against and 1 abstention)

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

The Planning Officer presented the report as set out in the agenda and with the aid of a powerpoint presentation the Planning Officer then highlighted to members:

- Aerial View of the site
- Location Plan
- Proposed Site Plan
- Floor Plan and cross section drawing
- Various photographs including:
 - Views of proposed site
 - Views from adjacent road

He then updated members on the slight policy change referred to on page 37 of the agenda report regarding a recent appeal decision at Pitney. He clarified that he had nothing more to add to the inspectors note and therefore his recommendation was for refusal.

In response to questions, members were informed that:

- Pitney had been referred to in the report as it was the closest village to Picts Hill
- The application should have been 2 starred in the Area North Committee agenda but this had been corrected at the meeting
- Appreciated the term Eco dwelling was open to interpretation, however did not consider this application to be of exceptional standard to warrant permission outside the settlement boundary
- It was believed that if approved the proposed dwelling would be built to sustainable code Level 5, Level 6 being the maximum grade which is classed as exceptional
- The recent development at Hamdon House was within close proximity which offers a pelican crossing for the area in order to facilitate walking
- Clarified site was near a main road with an hourly bus service

Frank Pengelly spoke in support of the application. 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. He referred to the support of the Area North Committee and felt this was a genuine infill site.

Mike Williams, the agent, addressed the committee. He believed the proposal to be of good design with eco level 5 grading and the site not a significant green space therefore considered it to have no impact on the area. He said the site was two minutes from the main road, 10 minutes to Kelways and only 20 mins from a school and supermarket. He also questioned the difference in this proposed development to that of the Hamdon House site previously approved.

In response the Area Leads reported that the Hamdon House development had been approved ten years ago prior to the current Local Plan and that this site had previously been utilised.

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

- Did not consider it to be in a unsustainable location as in local proximity to services with good transport links and the provision of good footpath links
- Sought clarification regarding the additional condition as recommended by the Area North Committee to stop future development of the site
- Appreciated the work the applicant had already undertaken with the PC and close neighbours
- Hard to refuse when a development across the road had been approved for 40 – 50 houses

In response the Area Lead explained to members that the condition to remove permitted developments rights for the application would tie it down considerably, however, this would not be protected should a third party come to buy it. A further application would have to be submitted should they wish to undertake further development and this would obviously be determined separately on its own merits.

The Area Lead then read out the reason for approval should members wish to support the application contrary to the officer's recommendation:

'This site, by virtue of its distance from shops and services, the availability of a regular bus service and the provision of footpath links, is a sustainable 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 and EC3 of the South Somerset Local Plan and the provisions of the National Planning Policy Framework'.

It was then proposed and seconded that the application be approved as for the reason stated by the Area Lead and subject to the 7 conditions as recommended by the Area North Committee. On being put to the vote this was carried unanimously.

RESOLVED:

GRANT PERMISSION FOR THE FOLLOWING REASON(S):

01. This site, by virtue of its distance from shops and services, the availability of a regular bus service and the provision of footpath links, is a sustainable 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 and EC3 of the South Somerset Local Plan and the provisions of the National planning Policy Framework

SUBJECT TO THE FOLLOWING CONDITION(S):

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To accord with the provisions of section 91(1) of the Town and Country Planning Act 1990.

02. The development hereby permitted shall be carried out in accordance with the following approved plans: 345(00)08, 07, 05D, 01D, 06D received 3 December 2012.

Reason: For the avoidance of doubt and in the interests of proper planning.

03. Visibility splays based on co-ordinates of 2.4m x 120m in each direction to the nearside carriageway edge within no obstruction greater than 900mm.

Reason: In the interests of highway safety further to policy 49 of the Somerset and Exmoor national Park Joint Structure Plan and policy ST5 of the South Somerset Local Plan.

04. A recessed entrance 3m wide shall be constructed 4.5m back from the carriageway edge provided for each dwelling.

Reason: In the interests of highway safety further to policy 49 of the Somerset and Exmoor national Park Joint Structure Plan and policy ST5 of the South Somerset Local Plan.

05. Before the development hereby permitted is commenced surface water drainage details to serve the development, shall be submitted to and approved in writing by the Local Planning Authority and such approved drainage details shall be completed and become fully operational before the development hereby permitted is first brought into use. Following its installation such approved scheme shall be permanently retained and maintained thereafter.

Reason: In the interests of highway safety further to policy 49 of the Somerset and Exmoor National Park Joint Structure Plan and policy ST5 of the South Somerset Local Plan.

06. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any order revoking and re-enacting that Order with or without modification), there shall be no extensions to this building without the prior express grant of planning permission.

Reason: In the interests of character and neighbour amenity further to policies ST5 and ST6 of the South Somerset Local Plan.

07. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any order revoking and re-enacting that Order with or without modification), no additional windows, including dormer windows, or other openings (including doors) shall be formed in the building, or other external alteration made without the prior express grant of planning permission.

Reason: In the interests of character and neighbour amenity further to policies ST5 and ST6 of the South Somerset Local Plan.

(Voting: unanimous)

26. Date of Next Meeting (Agenda Item 6)

Members noted that the next meeting of the Committee would take place on Tuesday, 28th May 2013 at 10.00am in the Council Chamber, Council Offices, Brympton Way.

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Chairman