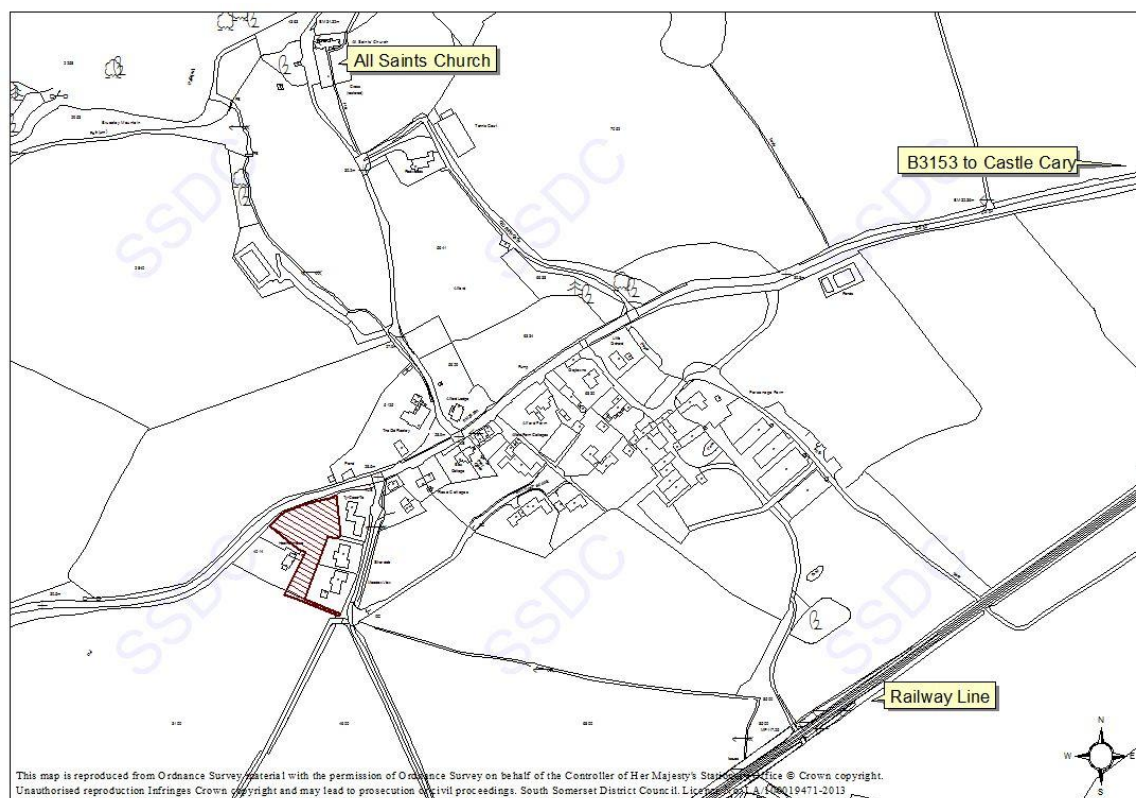


5. Land adj Heather House, Alford, Lovington – Application No. 12/04730/FUL

ADDENDUM REPORT

| | |
|---------------------------------------|--|
| Proposal: | Erection of a new house and garage (GR: 360433/132172) |
| Site Address: | Land Adjacent Heather House Alford Lovington |
| Parish: | Alford |
| CARY Ward (SSDC Member) | 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 |

SITE LOCATION



At its meeting on 16 April 2013, Regulation Committee considered the attached report (Appendix A) and resolved that the application be deferred to:

1. Allow agent to clarify the suggested occupancy restrictions that would ensure that the

- amended proposal meets the intended need in perpetuity
2. Request an updated comment from the EA and invite them to attend the next meeting.

The applicant was approached, through her agent, to provide:

1. A draft unilateral undertaking, setting out in legal terms what exactly was proposed by way of restrictions on any dwelling to be permitted on this site, in order to retain the dwelling in perpetuity for use as a 'specialist dwelling' for the 'local community'
2. Further clarity on the flood zone issue affecting the site, and whether there is a need for the LPA to give consideration to the Sequential and Exception Tests set out in the NPPF.

Additional information challenging the site's status within Flood Zone 3 has been provided; and the applicant's agent has set out the suggested restrictions on the proposed dwelling.

In this latter respect, the applicant has suggested a mechanism whereby the value of the property would be reduced and occupancy would be restricted to those with a local connection as follows:-

- *Subsequent usage: The property at each point of sale will be offered for sale in a hierarchy beginning with a Registered Social Landlord for local use [and then if not required], a qualifying resident of Alford or member of their family [and then if not required], expanding rings of rural population. The value to be determined by the open market but with a reduction as determined by the point below:*
- *Reduced value: The sale price will be reduced by a sum equal to 50% of the plot value element of the open market value at the time of future points of sale determined by independent valuation and reviewed by the District Valuer*

Mathematical examples of the way the reduced value will work:

Point of sale by Mrs Harley - open market value

£250,000

Point of sale plot value reduced by 50%

£40,000

Sale to qualifying person

£210,000

Point of sale by second owner - open market value

£300,000

Point of sale plot value reduced by 50%

£55,000

Sale to qualifying person

£245,000

The reduced plot value is to be repeated on subsequent sales.

The intended outcomes of these two controls are:

- *The dwelling should be used by local rural dwellers who have a particular need for this type of housing stock [partially disabled, aged or the first time house buyer]*
- *The dwelling sale value will be held artificially low to increase the affordability of the property*

This information has been subject to consultations and is considered below.

CONSULTATIONS

Council's Engineer – acknowledges the additional information and whilst it is conceded that the site may not be in Flood Zone 3 (or 2) the applicant needs to formally challenge the Council's Strategic Flood Risk Assessment (SFRA) to resolve this issue. His full comments are attached to this report at Appendix B.

Environment Agency – accept that the submitted information may call into question the accuracy of the Flood Map in the Alford area. However this needs to be taken up through a flood map challenge to the Council's SFRA. In the absence of an agree challenge the submitted information would suggest that the site is at worst in zone 3a rather than 3b. Accordingly the Agency have declined to amend their maps. Their full comments are attached at Appendix C.

CONSIDERATIONS

Flooding

Whilst there may be a case to reclassify the flood risk to this site the applicant has declined to formally pursue this avenue of challenge. Accordingly the site remains in Flood Zone 3, and the comments in the original report remain pertinent and the Sequential and Exception Tests are still considered to apply. For the reasons set out in the Officer Report, it remains the view that development should not be encouraged in Flood Zone 3. As no exceptional need is considered to have been met in this application, the recommendation remains as previously: that the proposal is contrary to the relevant Government advice in respect of flooding.

Retention of Dwelling for 'Local Need'

No evidence has been submitted that would indicate that any RSL would be interested in acquiring a single house, of this design in this locality. It is doubtful that this would be the case, especially as the house would not be of any standard design suitable for maintenance and letting purposes.

Clarification of who would qualify as a resident of Alford' has been sought. The applicant's agent has responded:

"Typically, qualifying purchasers/ occupiers would be people requiring this sort of accommodation but not necessarily restricted to a single group as the accommodation would be suitable for a small family or as is increasingly common: someone looking after an aged parent. Typically, they would be living in Alford [or ever increasing distances from Alford], being local rural dwellers. The Applicant has in mind that people with close links to Alford would also qualify including those with previous links to the village who would wish to return [those born in the village or who have lived there or who have familial ties to the village]."

Unfortunately this gives little clarity and if anything raises further queries as to the definition of a 'small family'; 'local rural dwellers'; 'close links to Alford'; 'previous links to the village'. It is not clear how such terms would be resolved. Furthermore no information has to who would be responsible for monitoring and enforcing such restrictions.

Affordability

As regards the 'affordability' of the property, it is not clear why the arbitrary amount of a 50% reduction (on only the plot value) has been selected. A clearer alternative would be a simple reduction of the market value of the property as a whole, to, say 70% or 80% of market value, in the manner that would be adopted by an RSL. The proposal has not in any way been related to an assessment of normal RSL plot price levels (the applicant was asked to provide this) or market values in the area. No suggested market price for this dwelling has been put forward, or for a building plot within Alford.

Whilst it is suggested that the District Valuer could over-see any agreed valuation mechanism it is not clear who would cover this cost.

Mechanism to Achieve these objectives

The need for a clear, legally drafted undertaking was emphasised, so that the matter could be assessed by the Council's Solicitor for workability. The applicant has declined to submit such an undertaking. There has been an exchange of correspondence in which the applicant has set out, in broad terms, that the intention would be to impose 'two levels of control in perpetuity'.

In the absence of a clearly drafted undertaking, what appears to be proposed is a cumbersome set of parameters, requiring an unreasonable amount of assessment by future officers of the LPA each time the property changes hands. The workability of such an undertaking - and its possible relevance and enforcement under S106 of the Planning Act - cannot be assessed unless it is suitably framed in legal terms.

Of more immediate concern, the Regulation Committee is being asked to approve an application subject to an undertaking by the applicant which is extremely vague. This will place officers negotiating an agreement in a difficult position, having to make judgements on what each of these terms might mean, as compared to the intentions of the Committee - probably necessitating further referrals back to Committee.

Conclusion

It is not considered that the applicant has addressed the issues raised at the previous meeting of the Regulation Committee in any way that would alter the previous recommendation. The proposal is therefore recommended for refusal, for the following reasons:

THE REFUSAL REASONS GIVEN IN THE REPORT:

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.
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