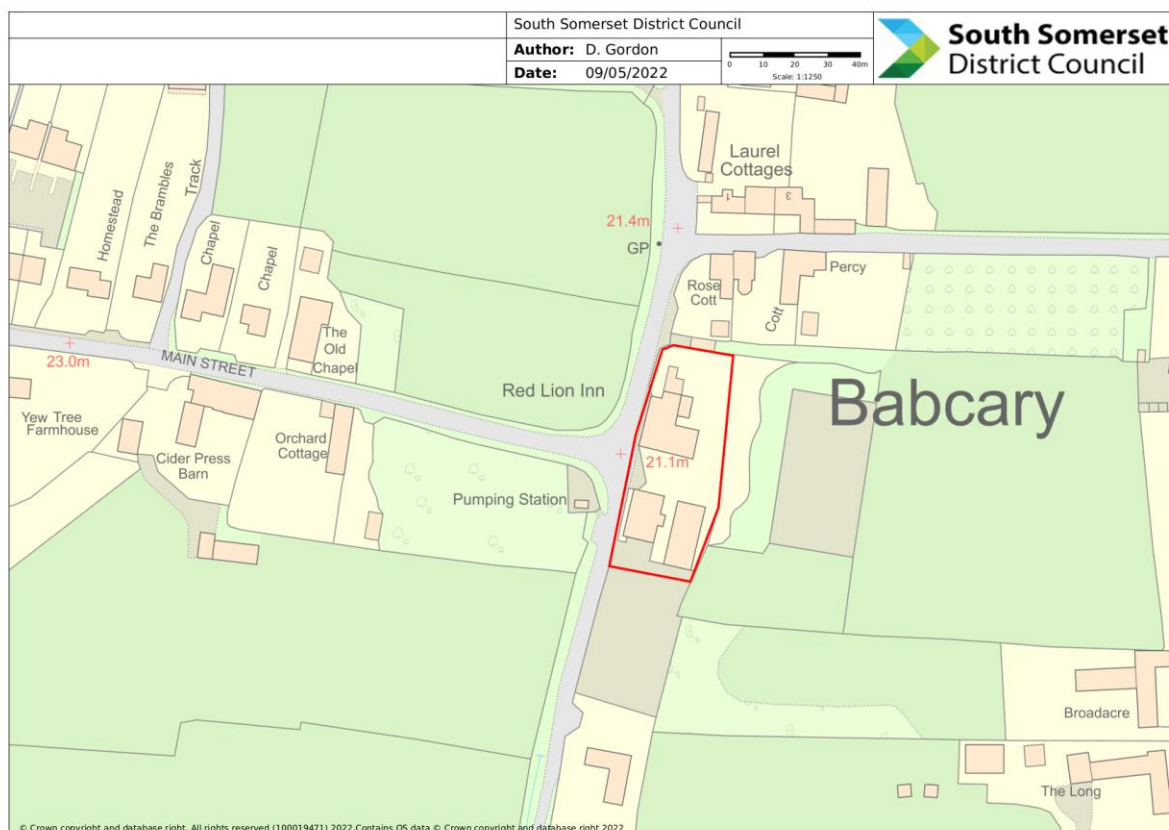


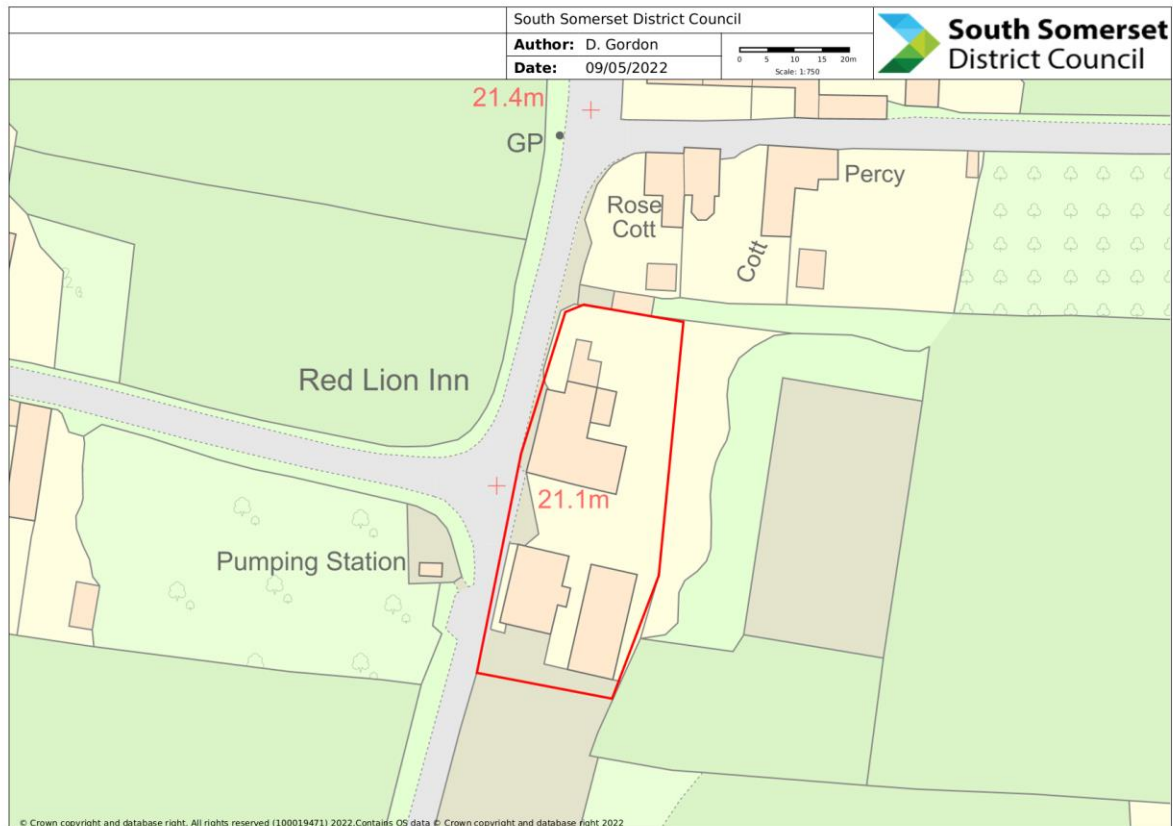
Officer Report On Planning Application: 21/01051/FUL

Proposal :	Changes of use of the existing outbuildings from 6 short term letting units and garden/function room/store currently used in connection with the adjoining public house into a single independent, self-contained dwelling unit and ancillary annex accommodation to that dwelling unit, and provision of new vehicular access and relocation of public house car park to the rear of the public house.
Site Address:	The Red Lion Inn , Main Street, Babcary, Somerton, TA11 7ED
Parish:	Babcary
CARY Ward (SSDC Member)	Cllr K Messenger Cllr H Hobhouse
Recommending Case Officer:	David Kenyon (Principal Specialist) Tel: 01935 462091 Email: david.kenyon@southsomerset.gov.uk
Target date :	13th July 2021
Applicant :	Mr & Mrs C Garrard
Agent: (no agent if blank)	Mr Jonathan Lovelace Della Valle Architects Lake View Charlton Estate Shepton Mallet BA4 5QE
Application Type :	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL

This application is referred to the Ward Members as the officer recommendation is contrary to the views received from third parties in support of the proposal and does not fully reflect all the reasons set out by the Parish Council and those third parties who are raising objections to the application.





SITE DESCRIPTION AND PROPOSAL

This application seeks full planning permission for the changes of use of the existing outbuildings which lie in close proximity to the Red Lion public house from 6 short term letting units and garden/function room/store currently used in connection with the adjoining public house into a single independent, self-contained dwelling unit and ancillary annex accommodation to that dwelling unit, and provision of new vehicular access and relocation of public house car park to the rear of the public house.

The Red Lion is designated as a Grade II Listed Building and lies at the eastern end of Bab Cary, opposite the junction of Main Street and North Street, which are the two main thoroughfares through the village. The western end of Main Street merges onto Church Street where the Church of the Holy Cross is located, a Grade II* Listed Building.

Immediately to the east of the main public house building is the open 'beer garden' with a small timber shed in situ.

Immediately to the south, and in close proximity to The Red Lion Inn, are located two buildings, comprising a recently modernised building with letting rooms associated with the public house (known as 'The Barn') and another recently modernised building used to provide functions at the public house (known as 'The Den'). 'The Barn' is a two storey building with a pitched roof containing 6 bedrooms used as guest accommodation in association with the public house.. External finishing materials comprise a mix of natural stone and timber cladding with clay roof tiles. 'The Den' is a single storey building with a high, steeply pitched roof, with external finishing materials of timber clad walls over a low stone wall and clay roof tiles. A marquee has been pitched alongside 'The Den'.

Further to the south of these outbuildings lies the main public house car park with a compacted hardened surface, accessed off North Street, and to the south of the car park lies the dwelling known as 'Bab Cary House' which is resided in by the applicants.

There is a public right of way (public footpath L 2/21) recorded on the Definitive Map that runs from North Street immediately to the south of the two outbuildings to the eastern boundary of the site, then runs in a southerly direction along part of the eastern boundary before crossing the boundary and heading in an easterly direction.

To the north, the public house borders two residential garages while there is open land beyond the eastern boundary.

Immediately to the west of the car park on the opposite side of North Street lies open agricultural land. Outline planning permission (with all matters reserved except access) has been granted on 8th April 2020 for the erection of three dwellings on this land (application ref. 19/03381/OUT). At the time of compiling this report, a reserved matters application has been submitted pursuant to this grant of outline permission to include details of appearance, landscaping, layout and scale for the erection of three dwellings, but has yet to be determined (application ref. 20/03299/REM).

On 14th July 2020, Babcary Parish Council applied to the District Council to have the Red Lion Inn listed as an Asset of Community Value (ACV) under section 87 of the Localism Act 2011. Having assessed the nomination, the Council added the building and its associated land to its list on 3rd September 2020. An appeal against this listing by the applicants was subsequently dismissed on 1st July 2021, the Tribunal Judge concluding that The Red Lion Inn, including the public house, the Barn, the Den, the marquee area, the garden including the outside pizza area and the whole car park, was correctly listed as an ACV.

The application proposal comprises two specific elements, namely the conversion of 'The Barn' and 'The Den' to become a self-contained and separate dwelling with associated curtilage and parking/turning provision, and the relocation of the public house car park to the north with a new vehicular entrance.

The detached accommodation unit ('The Barn'), currently containing six letting rooms, would be converted into a 3-bedroom dwelling, and the existing detached function room ('The Den') would be converted into a garden room associated with that newly converted dwelling. The scale of the buildings would remain as existing, with no extensions to the footprint or volume proposed. Visual alterations to the surfaces of the buildings would be limited to the addition of a conservation rooflight to the rear east elevation roof pitch of 'The Barn' in order to provide additional natural light to the entrance hall. The marquee would be removed and the land used as a private garden for this proposed dwelling.

In addition, the public house car park would be repositioned to the north of the site, with a new vehicular access proposed off the Main Street immediately to the north of the public house building. The car park would be located in part of the existing beer garden and would provide for 12 car parking spaces and turning space. A further 4 parking spaces associated with the public house business would be created to the south of the main building, between that building and 'The Barn'. The access to the existing car park would be retained (but with visibility improvements carried out) and would be used to serve further parking spaces and turning area, comprising 4 spaces in association with the public house and 3 spaces associated with the proposed dwelling conversion. Also, a further 8 parking spaces would be provided in this area and served off the existing improved access; those 8 spaces would be associated with a separate planning application proposal for the erection of two new dwellings on the existing car park area (subject to a separate outline planning application ref. 21/01053/OUT).

Overall therefore, in respect of this particular application proposal, the public house would be provided with 20 parking spaces and the converted dwelling would be allocated three parking spaces.

The existing public footpath would be diverted and would run along the western and southern boundaries of the existing car park.

The site is not within a designated Conservation Area and is not subject to any specific protective designations, such as SSSI, SAC, Wildlife Site, Green Belt, AONB, Flood Zone, Special Landscape Area, nor are there any trees on the site itself which are subject to TPO designations.

Included within the application submission are the following documents:

Design and Access Statement (March 2021) prepared by Della Valle Architects
A Heritage Statement (26 November 2020) prepared by C1 Context One Heritage and Archaeology
Bat Roost Assessment (January 2021) prepared by Country Contracts
Arboricultural Impact Assessment, Arboricultural Method Statement, Tree Protection Plan Revision A (August 2021) prepared by Hillside Trees Ltd, Arboricultural Consultancy F1574/ Tree Planting Schedule/ Rev.A (04.10.2021)
Expert Witness Report (3 November 2020) prepared by Fleurets Ltd
Phosphate Calculations
Flood Risk Assessment (2 November 2021) prepared by RMA Environmental

The following drawings have been submitted:

Drawing no. F1574/LocPlan1: Location Plan
Drawing no. F1574/001/A: Existing Site Survey
Drawing no. F1574/002: Existing Plans and Elevations - The Barn
Drawing no. F1574/003: Existing Plans and Elevations - The Den
Drawing no. F1574/100/E: Proposed Site Plan and Street Elevation
Drawing no. F1574/101A: Proposed Plans and Elevations - The Barn
Drawing no. F1574/102B: Proposed Plan and Elevations - The Den
Drawing no. F1574/013: Existing and Proposed Street Scene - New Entrance

Three other applications have been submitted in respect of the Red Lion Inn and its curtilage. Whilst each are to be considered on their own merits, they are nevertheless 'linked' in various ways. These other three concurrent applications are as follows, and are subject to separate officer reports and recommendations.

21/01052/LBC. Partial re-building and partial re-alignment of front boundary wall adjoined to the north end of the west elevation of the Red Lion Inn.

21/01053/OUT. Outline application for the erection of 2no. detached new dwellings within the Red Lion Inn car park and adaptation of existing vehicular access, with some matters reserved except for access, layout and scale.

21/01054/DPO. Application to vary the Section 106 Agreement dated 7th October 2011 between South Somerset District Council and The Red Lion Inn (Babcary) Ltd in association with planning permission 10/05151/FUL to remove the requirements for (i) the outbuildings to be used in connection with the adjoining public house, and (ii) for purposes solely limited to short term letting rooms and as a garden/function room/store.

HISTORY

02/02225/FUL & 02/02228/LBC. The demolition of toilet blocks and the erection of an extension to form dining room and new toilet facilities
Planning permission and Listed Building consent granted 29.10.2002.

09/01417/LBC: Listed building consent granted (21/05/09) for the re-thatching of front and side roof with combed wheat and re-ridge.

Listed Building consent granted 21.05.2009.

10/05151/FUL. Demolition and re-building of existing outbuilding to provide six en-suite letting rooms, construction of garden function room/store, and erection of staff/manager's dwelling. Planning permission granted 11.10.2011 subject to several conditions. Conditions 03, 04 and 05 state:

03. The occupation of the dwelling hereby approved at the southern end of the site shall be restricted to those employed by the Red Lion public house, as part of the day to day running of the public house, and their dependents.

Reason: To prevent unsustainable, permanent occupation that would be contrary to policy ST3 of the South Somerset Local Plan and the countryside policies as set out in PPS7.

04. The occupation of the letting units hereby permitted shall be restricted to short term lets to bona fide guests of the public house and this accommodation shall not be occupied as a person's sole or main residence. The site operator or owner shall maintain an up to date register of the names of all occupiers of this accommodation, their main home addresses and the duration of their stay and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: To prevent unsustainable, permanent occupation that would be contrary to policy ST3 of the South Somerset Local Plan and the countryside policies as set out in PPS7.

05. Upon first occupation of the managers dwelling hereby permitted the permanent residential use of the staff quarters on the first floor of the public shall cease and thereafter this accommodation shall be restricted to holiday purposes only. This accommodation shall not be occupied as a person's sole or main residence. The site operator or owner shall maintain an up to date register of the names of all occupiers of this accommodation, their main home addresses and the duration of their stay and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: To prevent unsustainable, permanent occupation that would be contrary to policy ST3 of the South Somerset Local Plan and the countryside policies as set out in PPS7.

To be read in conjunction with this permission is a Section 106 Agreement dated 7th October 2011. The Agreement requires, inter alia:

- the six letting rooms to be available for and not to be occupied at any time other than for short term lettings (defined as occupation by bona fide guests of the public house for individual periods not exceeding four weeks in total in any period of twelve weeks),
- the manager's dwelling shall not be occupied at any time other than by a person or persons solely or mainly employed to provide services in connection with the operational running of the business at the Red Lion Inn and his or her resident dependents,
- not to use any of the public house for residential use except this shall not prohibit the staff flat (i.e. the living accommodation located on the first floor of the public house) being used for short term letting,
- all buildings forming part of the property (defined as the public house with its staff flat, the letting rooms, the manager's dwelling and the garden function room/store) shall be used in conjunction with the business run from the property and for no other purpose whatsoever so as to prevent the sub-division of the property as a single planning unit run from the site,
- neither the staff flat, the letting rooms nor the manager's dwelling to be sold, let, occupied under licence or any other disposition made such that it would result in the staff flat, the letting rooms or the manager's dwelling being owned, occupied or used separately from the public house (unless otherwise agreed in writing with the Council), and
- an accurate register of all guests of the public house occupying the letting rooms and the staff flat for short term lettings shall be maintained and be made available for inspection by the Council at all reasonable times.

10/05155/LBC. Demolition and re-building of existing outbuilding to provide six en-suite letting

rooms, construction of garden function room/store, change of use of first floor staff flat to family letting suite and erection of staff/manager's dwelling.
Listed Building consent granted 27.07.2011.

14/01868/FUL. Erection of a dwelling.

Refused 27.06.2014.

Subsequent appeal dismissed 7th November 2014. In essence this proposal sought the erection of a dwelling to the south of the public house car park as per the planning permission 10/05051/FUL but without any tie restricting occupation to the public house business. In dismissing the appeal, the Inspector stated:

...given my conclusions as to the poor sustainability of the proposed development, I conclude that the proposed development would not meet the criteria of Policy SS2 of the emerging Local Plan and would not be sustainable in the wider terms set out by the Framework.

In concluding as I have above, a fundamental and critical distinction must be drawn between the previous permission, tied as it was to the continued viability of the public house, and the current appeal which has no such explicit link. I acknowledge the appellant's future intention to live in the proposed dwelling. Nevertheless, without the tie provided by the condition as imposed on the previous permission and the subsequent s.106 agreement, the link that justified the previous proposal in terms of its community benefit cannot be guaranteed. A range of circumstances - even if unforeseen at present - could lead to the proposed development being severed away from the public house. The outcome would be a dwelling that would be contrary to existing and emerging planning policy and to the principles of sustainable development as set out in the Framework.

15/01007/FUL. Erection of a dwelling and village shop.

Planning permission granted 19.01.2016.

To be read in conjunction with this permission is a Section 106 Agreement dated 13th January 2016. The Agreement requires, inter alia:

- not to occupy the dwelling until the shop has been completed and opened for business,
- the shop to be kept open for business, seven days a week for a minimum of two hours per day for so long as it is viable to do so,
- on the occasion of the business becoming unviable, details of accounts for the preceding twelve months to be provided to the Council, and
- if agreed by the Council the owner will be released from the obligation under this agreement.

NOTE: On 19th February 2018 the Council confirmed in writing that, following receipt of the profit and loss accounts and additional information requested by virtue of the Section 106 Agreement, it was satisfied that the shop was unviable. Therefore, as per the relevant paragraph of that Agreement, the owner was formally released from the obligations under that agreement.

16/00780/S73. S73 application to vary condition 2 of approval 15/01007/FUL, to allow the substitution of plans. Amendments to the design of the dwelling. Revision of the access way to ensure the orientation of the dwelling maximizes amenity space, and privacy for the pub users and occupants of the dwelling.

Planning permission granted 18.04.2016.

20/01967/OUT. Outline application with some matters reserved for the erection of 3 No. detached new dwellings within Red Lion Inn car park, conversion of 2 No. buildings into dwellings (5 No. total), provision of new vehicular access and relocating car park associated with Red Lion Inn.

Withdrawn.

20/03350/PREAPP. Proposed residential development of 3 dwellings (1 conversion and 2 new building), creation of replacement car park and new vehicular access and general consolidating of Public House.

21/01052/LBC. Partial re-building and partial re-alignment of front boundary wall adjoined to the north end of the west elevation of the Red Lion Inn.
Pending consideration.

21/01053/OUT. Outline application for the erection of 2no. detached new dwellings within the Red Lion Inn car park and adaptation of existing vehicular access, with some matters reserved except for access, layout and scale.
Pending consideration.

21/01054/DPO. Application to vary the Section 106 Agreement dated 7th October 2011 between South Somerset District Council and The Red Lion Inn (Babcary) Ltd in association with planning permission 10/05151/FUL to remove the requirements for (i) the outbuildings to be used in connection with the adjoining public house, and (ii) for purposes solely limited to short term letting rooms and as a garden/function room/store.
Pending consideration.

OTHER RELEVANT HISTORY

19/03381/OUT. Outline application with all matters reserved except access for the erection of 3 dwellings. Land OS 3461, Adjacent North Street, Babcary
Outline planning permission 08.04.2020.

20/03299/REM. Reserved Matters application (pursuant to Outline application 19/03381/OUT) to include details of appearance, landscaping, layout and scale for the erection of 3 dwellings.
Pending consideration.

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12 and 47 of the NPPF state that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 imposes a general duty on local planning authorities when determining planning applications as respects listed buildings and states:

"In considering whether to grant planning permission, or permission in principle, for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

For the purposes of determining current applications the Local Planning Authority considers that the adopted development plan comprises the policies of the South Somerset Local Plan 2006-2028 (adopted March 2015).

Policies of the South Somerset Local Plan (2006-2028)

SD1 - Sustainable Development

SS1 - Settlement Strategy

SS2 - Development in Rural Settlements

EP15 - Protection and Provision of Local Shops, Community Facilities and Services

TA1 - Low Carbon Travel

TA5 - Transport Impact of New Development

TA6 - Parking Standards

EQ2 - General Development
EQ3 - Historic Environment
EQ4 - Biodiversity
EQ7 - Pollution Control

National Planning Policy Framework - July 2021

Chapter 2 - Achieving sustainable development
Chapter 4 - Decision-making
Chapter 5 - Delivering a sufficient supply of homes
Chapter 6 - Building a strong, competitive economy
Chapter 8 - Promoting healthy and safe communities
Chapter 9 - Promoting sustainable transport
Chapter 12 - Achieving well - designed places
Chapter 14 - Meeting the challenge of climate change, flooding and coastal change
Chapter 15 - Conserving and enhancing the natural environment
Chapter 16 - Conserving and enhancing the historic environment

National Planning Practice Guidance, including National Design Guide - September 2019

Other material considerations

Somerset County Council Parking Strategy (SPS) (September 2013) and Standing Advice (June 2017)

CONSULTATIONS

Babcary Parish Council

A very detailed response dated 30th June 2021 was received from the Parish Council following its meeting on 14th June 2021 to discuss this particular application as well as the separate applications 21/01052/LBC, 21/01053/OUT and 21/01054/DPO. The one comprehensive response from the Parish Council applies to all four applications and has been included in full on the District Council's website for public consideration. The full response will not be reiterated in this report but specific extracts will be set out below to provide an indication and explanation of the Parish Council's objections to this proposal.

The specific objections are as follows:

- No new housing needed
- Contrary to SS4 of the emerging South Somerset Local Plan Review 2016-2036
- Flood risk
- Mains drainage problems and capacity
- Loss of employment
- Sustainability - introduces a new dwelling, whilst removing two part time jobs in a village community with very little employment and no viable public transport. By removing the B&B, the most profitable part of the pub operation, it would appear that either many more jobs will have to go OR the pub will have to become significantly less profitable.
- Listed building - gross over development and seriously detrimental to the rustic character and setting of the listed building and would put at risk its future as a working pub. Moving the car park to the north of the pub moves the noise and light of the car park into the middle of the village and is detrimental to the adjoining houses including Percy House, also Grade II listed.
- Section 106 agreement- the ownership and occupation of the B&B, den marquee and car park is tied to the pub by a Section 106 agreement signed by the owners as per planning application 10/05151/FUL. Removing them would require a demonstration of their unviability over a period of time, not in relation to short term events, and removal of the conditions would also be against Planning Policy. The purpose of the S.106 agreement

was to prevent the various parts of the site being sold off for development profit at a later date to the detriment of the community. This is exactly what is proposed so the S.106 must be retained

- Asset of Community Value - the entire Red Lion premises are registered as an Asset of Community Value and therefore cannot be broken up and sold off piecemeal.
- Unsatisfactory B&B dwelling - the proposal to create a residential dwelling out of the B&B building and the Den/marquee area creates a house that would be unsuitable for residential occupation. The B&B house would be surrounded by beer garden on one side and pub car parking on the other with the chimney of the pizza oven very close to the bedroom windows.
- Phosphate levels increase
- Proposed car parking is inadequate, contrived and unsafe
- Loss of amenities - the plans reduce the beer garden by approximately 25%, remove the children's play area, remove the disabled parking facilities and remove the B&B rooms
- Detrimental to the viability of the pub

The conclusion put forward by the Parish Council:

The Red Lion is the only pub in the village and is a vital community asset, central to village life. The village has only three public spaces; the church, the playing field and the pub. This plan would reduce the pub to a shadow of its former self as it could no longer function as a destination/gastro pub. The village itself is far too small to support the pub alone without outside visitors and, if this plan were allowed, the pub would inevitably spiral downhill and ultimately close. Once lost and built over the car park, B&B and marquee/den can never be replaced and the scaled down pub premises would make a highly desirable residential site were the pub to close.

Both CAMRA and CPRE share the view that this plan will be detrimental to the future of the Red Lion as a thriving pub.

The Six Pilgrims parishes (Alford, Babcary, Hornblotton, Lovington, N&S Barrow) used to have two pubs until very recently but now 'The Pilgrims Rest' is closed and lost to development; so we are fighting to save the last one. Charlton Mackrell have battled against the development of the car park of 'The Greyhound' and now its closure. The applicants' previous pub, 'The Mandeville Arms' at Hardington is also now closed. The Red Lion is registered as an ACV and the pub is at serious risk of decline and closure.

A further detailed response dated 25th November 2021 was received from the Parish Council following notification about receipt of a viability assessment carried out by a consultant on behalf of the District Council (Mr John Keane of Thomas E. Teague, Licensed Property Valuers, Rating Surveyors, Auctioneers, Brokers and Stocktakers) and a Flood Risk Assessment submitted on behalf of the applicants.

- Viability Assessment for SSDC by John Keane - The independent Viability Assessment commissioned by SSDC from John Keane of Thomas Teague completely vindicates what the Parish Council has been saying all along; that this plan would fundamentally undermine the long term viability of the Red Lion. The report is thorough and perceptive and rightly highlights the dangers of reducing (for ever) from four income streams down to two, the loss of the most profitable part of the business and the risks to the business of inadequate and contrived parking arrangements. The plans remove the long term future proofing which a rural pub in a small village needs in these uncertain times. The conclusion of the report (Section 28) is absolutely clear and unambiguous and it concludes in 28.8, "The implementation of the proposed scheme would be detrimental to the long term viability and future of the Red Lion." Given the duty on planning authorities to safeguard the future of rural pubs these applications should be rejected outright immediately.
- Flood Risk Assessment - The FRA submitted by RMA Environmental on behalf of the applicants is weak and crucially does NOT provide sequential testing as required and nor does it explain how the known flooding problem in Steart Lane will be mitigated. The Parish Council sets out in much detail responses to various paragraphs within the FRA and concludes that the FRA as submitted is wholly inadequate and should be rejected.

County Highway Authority

No objections subject to the imposition of conditions relating to the provision and retention of the parking and turning spaces and they being kept free from obstruction; no obstruction to visibility; provision for the accommodation of on-site surface water disposal so that none drains onto the highway and hardsurfacing of the proposed access.

As there are multiple applications on this site it will be imperative that the existing car parking for the commercial use is not lost prior to the creation of the new car parking area. The most appropriate way to secure this, given that the car parking and the residential elements are being sought under two different planning applications, would be by legal agreement.

County Public Rights of Way Team

The current proposal will obstruct the footpath L 2/21. The proposal either needs to be revised to prevent any obstruction or a diversion order applied for.

The County Council does not object to the proposal subject to the applicants being informed that the grant of planning permission does not entitle them to obstruct a public right of way.

A condition will be required in this respect with regard to timing.

In addition, it appears that the public footpath L 2/21 is already obstructed on land owned by the applicants and it would be entirely logical that any diversion order should seek to address those obstructions at the same time.

The footpath L 2/21 crosses a small timber sleeper bridge. If the diverted route for path L 2/21 uses the same bridge, the bridge should be improved by widening it. If a new crossing is required at an alternative location, the new bridge should have a clear width of one metre and suitable handrails, no steps on or off the bridge (as at present) and a self-closing gate if necessary. The bridge should sit no lower than the current structure and the applicant should seek consent to carry out the works from the appropriate flood risk authority if necessary. In addition the design of the bridge should be agreed with the Authority prior to a diversion and installation.

SSDC Conservation Specialist

Comments received from the Council's Conservation Specialist relate solely to that part of the proposal to allow the changes of use of the existing outbuildings from 6 short term letting units and garden/function room/store currently used in connection with the adjoining public house into a single independent, self-contained dwelling unit and ancillary annex accommodation to that dwelling unit. He concluded that the change would have no impact on heritage assets and offered no formal objection.

SSDC External Heritage Consultant

An external Heritage Consultant was appointed to act on behalf of the Council due to the Council's own Conservation Specialist being absent on long-term sick leave. Comments were sought about the application proposal as a whole, including that part of the application relating to the proposed new access and parking area with due regard being given to the various heritage documents and comments submitted on behalf of the applicants and also by or on behalf of third party objectors, including a Heritage Appraisal and Impact Assessment that was submitted to the Council, as an objection to the proposal (and also the other concurrent applications) on 1st July 2021.

Following a site visit carried out by the Heritage Consultant on 25th October, a detailed response dated 15th December 2021 was submitted to the Council. The recommendation was that "great weight" should be given to the safeguarding of the designated and undesignated heritage assets and their settings in any planning balance, as required under the NPPF. It was considered that the proposed scheme would contribute to a high level of less-than-substantial harm and the Heritage Consultant was unable to offer support from a heritage impact perspective.

South West Heritage Trust

There are limited or no archaeological implications to this proposal and therefore no objections

are raised on archaeological grounds.

County Ecologist

'The Den' has been characterised as a confirmed bar roost, likely for Serotine bats. 'The Barn' has been characterised as providing high potential for roosting bats. The confirmed roost is situated within the loft void. No internal works are proposed in either of the buildings. Whilst raising no objections to the proposal, in order to avoid disturbing roosting bats during construction works, conditions are recommended relating to timing of works; exclusion buffer zone to be created around 'The Barn' and 'The Den' during construction activities; submission and agreement of an external lighting scheme; protection of retained hedgerows; and the submission and approval of a Biodiversity Enhancement Plan.

In terms of phosphates, the applicants are seeking to combine the nutrient impacts of both application proposals together with the argument that the decrease resulting from one dwelling instead of six holiday lets (application ref 21/01051/FUL) will compensate for the increase resulting from the two new dwellings (application ref 21/01053/OUT). In that respect it is suggested that the development achieves better than nutrient neutrality, so the matter of phosphates has been resolved. Provided a S106 could be used to legally 'tie' the two application proposals together along the lines of ensuring the 'phosphate decrease' application would commence or be completed prior to commencement or occupation of the 'phosphates increase' application, then no objections are raised.

Natural England

If SSDC is confident that a S106 could be used to legally 'tie' the two application proposals together and ensure the 'phosphate decrease' application would be completed prior to commencement or occupation of the 'phosphates increase' application, in principle Natural England would be open to considering any appropriate assessment based off this approach. The applications would still need a Habitats Regulations Assessment, proceeding to an Appropriate Assessment to demonstrate that the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) have been considered by the LPA. Natural England must be consulted on any appropriate assessment the LPA may decide to make.

SSDC Tree Officer

Following receipt of an amended landscaping scheme and tree planting schedule, no objections are raised subject to the imposition of conditions relating to tree and hedgerow protection and implementation of the submitted revised landscaping scheme.

SSDC Environmental Health

No objections are raised but it is acknowledged that the moving from temporary accommodation to that of permanent homes introduces the possibility of noise nuisance from the public house. The EHO would encourage the applicants to consider suitable acoustic insulation in the design of the new homes. Informatives to this effect are suggested relating to construction site noise, noise and dust control and statutory nuisance.

Environment Agency

The EA confirms that its flood maps show this site to be in flood zone 1 at low flood risk. The sequential test and FRA requirements do not apply unless the site is over 1 hectare. If over 1 hectare, the FRA should relate to surface water only and the LLFA should advise on this. The site appears not to be over 1 hectare and the EA would have no comments to make on this proposal. Flood Zone 1 is the best place to develop in relation to flood risk.

SSDC Viability Assessor - Mr John Keane of Thomas E. Teague, Licensed Property Valuers, Rating Surveyors, Auctioneers, Brokers and Stocktakers

Following the proposed development, The Red Lion would still be a viable business but with a significantly reduced turnover and at a lower level of profitability. However, the implementation of the proposed scheme would be detrimental to the long-term viability and future of The Red

Lion.

Pub Protection Officer, Somerset CAMRA

An objection is raised because the proposal represents an overdevelopment of the site that would likely be severely detrimental to future viability of the Red Lion.

REPRESENTATIONS

This application ref. 21/01051/FUL (and the three other concurrent applications refs 21/01052/LBC, 21/01053/OUT and 21/01054/DPO) have attracted many letters/emails of representation from residents both within the village and from elsewhere, raising objections and offering support for the development proposals as a whole. All representations received can be viewed on the Council's website but can be summarised as follows, in no particular order:

Support

- Covid restrictions have not helped the viability of pubs on a national basis. The proposals are more than reasonable solutions to help preserve the Red Lion Inn as an on-going commercial asset for the long term future and to avoid its premature closure.
- The viability report submitted with the application shows the pub would be sustainable without the letting rooms and 'The Den'.
- The proposals seek to conserve the listed character of the Red Lion Inn.
- All villages are having to accommodate extra housing - this development is small and in line with current housing policy and is not unjustified.
- The current car park is very unsightly - its relocation and development would be a visual improvement.
- The proposals would result in no worse impacts on visual appearance and highway safety than the approved new housing on the opposite side of the lane.

Objections

- The Red Lion Inn is an important village asset and its viability and retention must be protected and preserved at all costs. The proposals would result in a material adverse impact on the viability of the public house business.
- The existing signed S106 Agreement must be honoured and retained to ensure continued viability of the public house.
- Reduction in size of the beer garden would be unacceptable and be less attractive to customers.
- The proposals will result in detriment to the character and appearance of the Listed Building and would detract from its significance.
- Overdevelopment of the site as a whole.
- There would be a material loss of employment.
- Unacceptable resultant impact on highway safety - poor visibility, insufficient on-site turning.
- Insufficient on-site parking being proposed. No safe on-street parking nearby.
- Unacceptable resultant impact on flooding and flood risk in the immediate and wider area.
- Inadequate sewerage system in village. Increased foul sewage problems as a result.
- Adverse resultant impact on residential amenities of neighbouring properties - construction traffic, additional noise, spill-over of cars, headlights and door slamming by users of proposed car park.
- Unsatisfactory living conditions for occupiers of the proposed converted dwelling due to proximity to public house.
- Adverse resultant impact on the local ecosystems and possible harm to habitats of protected species.
- Unacceptable diversion of public footpath.
- No need for further housing in the village.
- Non-compliance with economic, social and environmental objectives of sustainable

development.

- Phosphate restrictions.

CONSIDERATIONS

Principle of Development

The Council is required to make a decision in line with the Development Plan, unless material considerations indicate otherwise (Section 38(6), Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990). The National Planning Policy Framework (NPPF) is a key material planning consideration.

In policy context, national guidance contained within the NPPF sets out a presumption in favour of sustainable development. Paragraph 79 of the NPPF states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

Policy SD1 of the Local Plan also recognises that, when considering development proposals, the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the NPPF and seek to secure development that improves the economic, social and environmental conditions within the District. Planning applications that accord with the policies in the Local Plan will be approved without delay, unless material considerations indicate otherwise.

Policy SS1 highlights the areas where new development is expected to be focused, grouping certain towns and villages into a hierarchy, of settlements including the Strategically Significant Town (Yeovil), Primary Market Towns, Local Market Towns and Rural Centres. All other settlements are 'Rural Settlements', which Policy SS1 states "will be considered as part of the countryside to which national countryside protection policies apply (subject to the exceptions identified in Policy SS2)".

Policy SS2 states:

"Development in Rural Settlements (not Market Towns or Rural Centres) will be strictly controlled and limited to that which:

- Provides employment opportunities appropriate to the scale of the settlement; and/or
- Creates or enhances community facilities and services to serve the settlement; and/or
- Meets identified housing need, particularly for affordable housing.

Development will be permitted where it is commensurate with the scale and character of the settlement, provides for one or more of the types of development above, and increases the sustainability of a settlement in general.

Proposals should be consistent with relevant community led plans, and should generally have the support of the local community following robust engagement and consultation.

Proposals for housing development should only be permitted in Rural Settlements that have access to two or more key services listed at paragraph 5.41"

Those key services referred to in paragraph 5.41 of the Local Plan are local convenience shop, post office, pub, children's play area/sports pitch, village hall/community centre, health centre, faith facility and primary school.

Babcary is defined in the Local Plan as a Rural Settlement, where development will be strictly controlled. It has access to a church, a public house and a children's play area. As noted above, Policy SS2 restricts development in rural settlements other than in a limited number of circumstances and only where it is commensurate with the scale and character of the settlement. Policy EQ2 seeks to ensure new development, amongst other things, promotes

local distinctiveness, conserves, or enhances, local landscape character and respects local context.

However, elements of Policy SS2 must be considered out of date, as SSDC cannot currently demonstrate a five year supply of housing land. It is noted that Babcary is a broadly sustainable location, with basic facilities contained within the settlement. It has reasonable transport links. The principle of some limited residential development within the village must therefore be considered acceptable. As stated above, the Council accepts that it cannot currently demonstrate a five-year supply of deliverable housing sites and that, pursuant to paragraph 11 of the Framework, the weighted presumption in favour of sustainable development is engaged. The proposed development would make a contribution towards meeting the housing shortfall within South Somerset. This would be a social and economic benefit. There would also be a limited and temporary economic benefit during the construction phase. However, due to the small scale of the development, such benefits would be moderate in scale.

The Parish Council has cited Policy SS4 of the emerging Local Plan and has stated that this proposal is contrary to said emerging policy. However, as the emerging Local Plan Review is still at an early stage in its preparation and representations have yet to be considered, only extremely limited weight can be attached to it, as reflected in the guidance in paragraph 48 of the NPPF.

Viability of Public House

In considering proposals that would result in a significant loss of a site and/or premises currently used as a public house, Local Plan Policy EP15 is relevant.

Policy EP15 states " *Proposals that would result in a significant or total loss of site and/or premises currently or last used for a local shop, post office, public house, community or cultural facility or other service that contributes towards the sustainability of a local settlement will not be permitted except where the applicant demonstrates that:*

- *alternative provision of equivalent or better quality, that is accessible to that local community is available within the settlement or will be provided and made available prior to commencement of redevelopment; or*
- *there is no reasonable prospect of retention of the existing use as it is unviable as demonstrated by a viability assessment, and all reasonable efforts to secure suitable alternative business or community re-use or social enterprise have been made for a maximum of 18 months or a period agreed by the Local Planning Authority prior to application submission."*

The NPPF makes reference to the need for building a strong, competitive economy. To support a prosperous rural economy, paragraph 84 advises that planning decisions should enable various scenarios to occur, including the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship. This is re-emphasised in Chapter 8 of the NPPF "Promoting healthy and safe communities"; paragraph 93 d) stating that planning decisions should ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.

Having regard to the important material consideration relating to future viability of the public house, the application submission is accompanied by an 'Expert Witness Report' dated 3rd November 2020 prepared by Mr Stuart Parsons of Fleurets Ltd. Within that Report, reference is made to economic viability, the impact of coronavirus, the background and style of trade, the property (its location, description and accommodation, condition, rateable value, premises licence), trade potential, marketability of the Red Lion, and considerations of third party comments. Mr Parsons offers the following conclusions:

The Red Lion i.e. without the letting bedrooms and marquee/Den is a well configured business

with scope to provide c.90 covers, excellent ancillary facilities, accommodation for live-in owners or staff, external trading area and parking facilities for approximately 20 vehicles.

The Red Lion should be capable of providing an owner/occupier with an economically viable and sustainable business.

The reduced scale of the business will make it more marketable and as a consequence improve the long term sustainability.

By reducing the debt against the existing business the economic viability of the business for the applicants is improved.

It is not denied that the loss of the letting bedrooms and marquee/den will make the business less profitable at an operational level. However, when regard is had to the servicing of debt the reduced scale of the business and reduced debt improves the sustainability of the business.

In response to this Expert Witness Report prepared by Fleurets, another 'Expert Witness Report' dated 26th June 2021 has been prepared by Mr Michael Hughes of MJD Hughes Ltd on behalf of "concerned residents of Bab Cary". That report sets out similar issues and considerations as in the Fleurets Report, but provides a different conclusion. In his executive summary, Mr Hughes concludes:

The selling of the plot or developing the area with planning permission is a short-term gain for the current individual operator, offering no benefit to the business and creating only dangers to the long-term viability of the business. The expert witness report by Mr Parsons has failed to confirm the future viability of the Red Lion Inn and so cannot be considered as providing answers as to the suitability of the planning applications to not endanger the viability of the public house and ensure the long-term survival of the Red Lion Inn.

Comments have been sought from the Somerset Branch of CAMRA, and after due consideration, the Pub Protection Officer has registered an objection to the proposal, based on the following extracts of his submitted representation:

We consider that these proposals, should they be approved, would inevitably cause the pub to become unviable in the near future. A planning application for change of use of the public house premises to residential status would no doubt follow in short order. CAMRA believe the long-term future for pubs such as this is assured. The facilities at the Red Lion put them in an enviable position to survive and trade profitably in the short and medium-term. To consider removing very significant income streams at this stage is clearly detrimental to viability. CAMRA is finding growing evidence throughout the UK that the Covid situation is being cited as good reason for planning change to many licensed premises. We have requested that all LPAs be wary of these applications and believe this to be one such example. Planning considerations need to be decided for the long-term good of our communities, not for the benefit of short-term individual gain. This case is particularly important as it is the only public house extant within a significant district, namely the Six Pilgrims parishes. CAMRA were disappointed to hear of closure of the nearby Pilgrims Rest recently, although this would have had a beneficial effect for the Red Lion in that an element of the former's clientele will have migrated.

S106 arrangements relating to ownership and occupation of the B&B facilities tied to the pub (ref 10/05151/FUL) are a most important consideration and should not be deviated from. Similarly maintaining the existing planning conditions and clauses relating to the B&B, den and marquee are considered crucial protection to ongoing viability of this CAMRA-recognised and respected public house. As a destination hospitality business, accommodation facilities are a key element of their offer. The number of past B&B clients responding to this consultation is evidence of the popularity of the rooms.

I would also draw your attention to the National Planning Policy Framework 2019, specifically paragraph 92, requiring the Local Planning Authority to plan positively for provision and use of public houses (among other entities). LPAs must 'guard against unnecessary loss of valued facilities, particularly where this would reduce the community's ability to meet its day to day

needs', and ensure that 'established facilities are retained for the benefit of the community'. These principles should be considered all-encompassing when considering such applications, particularly in instances such as this where the premises in question are rightly recognised as an Asset of Community Value. The ACV correctly relates to the business as a whole, including essential accommodation and function facilities.

We do not consider proposed changes and upgrades to the A303 layout to be potentially detrimental to future viability of the Red Lion. This is very much a destination pub that folk will find their way to, as long as it remains the attractive, complete and intact business the owners/operators have successfully created.

Instructed to act on behalf of SSDC, a detailed viability assessment dated 20th October 2021 has been provided by Mr John Keane of Thomas E Teague, having due regard in his assessment to the Expert Witness Report dated 3rd November 2020 prepared by Mr Stuart Parsons of Fleurets Ltd on behalf of the applicants, and also the detailed observations relating to future viability issues which have been raised by the Parish Council, third parties, CAMRA Somerset branch, CPRE and MJD Hughes Ltd, the latter having been given instructions by local residents to prepare a report on the viability of the Red Lion Inn in response to the Expert Witness Report provided by Mr Stuart Parsons.

Mr Keane has offered the following conclusions:

Following the proposed development, The Red Lion would still be a viable business but with a significantly reduced turnover and at a lower level of profitability.

The new site layout would be inferior to the current one with inadequate and poorly arranged parking provision - part of which would be shared with the occupants of the proposed new housing - and reduced external trade space, which could have a detrimental effect on the business.

The letting rooms are currently the highest profit generating part of the business and their loss would be keenly felt.

Whilst less core, the function side of the business is a useful profit centre that also provides an additional customer base for the letting rooms.

The reduced facilities, site and buildings at The Red Lion would compromise the pub's ability to adapt to changing market preferences, take advantage of new opportunities and make it less future-proof.

The personal circumstances of the current operator should not be conflated with how the market would view the pub and its proposition post-development. Neither the current owners' off-site living accommodation nor parking space would now be available to a new owner and they would need to be provided for out of the post-development pub.

The current planning condition restricting the occupation of the first floor of the main pub building to holiday purposes only could compromise the marketability of the pub and upgrade/renovation costs, subject to the grant of satisfactory planning permission, would need to be factored in.

The implementation of the proposed scheme would be detrimental to the long-term viability and future of The Red Lion.

The LPA gives due consideration to the assessment and conclusions offered by its own appointed viability assessor, Mr Keane, whose report has taken into account of and has regard to the various conflicting reports and representations submitted in support of or objecting to the application proposal in respect of whether the proposals would or would not ensure the long term viability of the public house. Mr Keane's report has been considered to be an important material consideration when determining this application proposal, having due regard to his conclusion that "The implementation of the proposed scheme would be detrimental to the long-term viability and future of The Red Lion."

Having due regard to that conclusion, it is considered that the proposed development would result in a significant or total loss of the premises currently used as a public house that

contributes towards the sustainability of the village of Babcary. As such the proposal would be contrary to Policy EP15 of the South Somerset Local Plan and relevant guidance in the NPPF.

In addition, the proposed development would not provide employment opportunities appropriate to the scale of the settlement, would not create or enhance community facilities and services to serve the settlement, or meet an identified housing need (particularly affordable housing), nor would it increase the sustainability of the settlement. As such the proposed development would be contrary to Local Plan Policies SD1 and SS2 and relevant NPPF guidance.

Impact on Designated Heritage Asset

The policy framework is as follows:

Section 66(1) of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when considering whether to grant planning permission for development which affects a listed building or its setting, the LPA shall have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

The National Planning Policy Framework Chapter 16 'Conserving and enhancing the historic environment' requires us to assess the impact that development will have on a heritage asset.

Paragraph 197 states:

In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 199 states:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

In particular paragraph 202 states:

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Local Plan Policy EQ3 reflects the NPPF guidance. Heritage assets must be conserved and where appropriate enhanced for their historic significance and important contribution to local distinctiveness, character and sense of place. In addition Policy EQ2 requires all new development proposals to be designed to achieve a high quality which promotes the District's local distinctiveness and preserves or enhances the character and appearance of the District.

The Council's appointed Heritage Consultant has visited the site and has offered detailed comments which are set out below.

In summary, the Heritage Consultant concludes that the proposed creation of the new access is in itself unjustified, as at present a well sized accessible car park is located at the southern end of the plot. However, this present facility would be highly compromised by a separate proposed development currently being considered under an independent outline application for the subdivision of curtilage for new dwellings, which is outside of the content and considerations of this planning permission (and the linked Listed Building consent application

21/01052/LBC).

Therefore, considering the impact of the proposed access and wall alignment in its own right, it is considered that the form, scale and location of the proposed opening and associated loss of front boundary enclosure to the plot would impact detrimentally on the Historical, Aesthetic, Evidential and Group value of the Grade II Red Lion Inn and the setting of the neighbouring heritage assets, whose rear elevations will be clearly seen juxtaposed with this development from North Street.

Despite the former loss of the most northern section of the stone wall (as evidenced from comparison with the archive photos) having already occurred and the previous construction of a similar visibility splay in the street, these works appears to have been carried out a number of years ago, prior to the introduction of the NPPF and subsequent changes in national and local policy and guidance, and cannot be considered to act as a benchmark. Instead today, following the development of the understanding of significance, the existing "layby" and loss of historic boundary is considered to be of a negative feature within the lane.

The new opening would not be seen in isolation but instead to combine with the existing highway construction, exacerbating the level of impact on the setting of an overly suburban and engineered appearance, which together with the widened pavement of 2m would be out of keeping with the rural village scene. In addition, there are concerns relating to the facilitation of the relocated car parking, the new access providing direct views into the carpark, which again will be viewed in connection with the main heritage asset, rather than in its present detached position to the south and will also bring added impact of noise, smell, light from traffic movement into much closer contact with the main listed building and its associated listed stone privy at the rear, and the settings of the neighbouring listed building and undesignated cottages.

Therefore, the scheme is not considered to safeguard the setting of the various heritage assets, and to impact on special architectural character and historic interest of the Red Lion, due to the changes to the appearance of the frontage and the extensive loss of the historic enclosure.

There is insufficient justification for the works, no Options Appraisal has been submitted to confirm that all other options have been assessed against their related impact on the significance of the heritage asset or that the one submitted is the one of least impact.

As such, the proposals are considered to contribute a high level of impact on the significance of the Red Lion and its curtilage listed boundary wall, and to a lesser degree on the adjacent heritage assets.

In terms of the rest of the development proposal, the subject of this application, in overall terms the subdivision of the historic curtilage for a separate residential dwelling lacks the thorough justification required under the NPPF. There is no evidence of a business or building under threat and no options appraisal has been submitted to demonstrate all alternatives have been assessed in terms of impact on the various heritage assets significance and the one of least impact proposed.

The proposed implications of the proposal in terms of the cumulative erosion of the curtilage, loss of relationship between the elements of the tight knit traditional building group, changes to architectural hierarchy on the site that impact directly on the primacy of the Inn, the relocation of the service area of the site for purposes of parking from the more detached location to the south to the far more confined position closer to northern residential development and necessitating demolition of a curtilage wall and modern alteration to historic building line, as well as the potential for conflicting uses due to the domestication of the former patio area, are considered together to result in overwhelming detriment to the heritage asset.

As such, "*great weight*" should be given to the safeguarding of the Aesthetic, Historical, Evidential and Communal Value of a heritage asset and its setting in any planning balance, as required under the NPPF (para 199-203), as the proposed scheme as a whole is considered to contribute a high level of less-than-substantial harm.

Impact on Visual Amenity

Local Plan Policy EQ2 refers to development in general and requires development proposals to preserve and enhance the character of the district. Development proposals must, amongst other criteria, seek to conserve and enhance the landscape character of the area, reinforce local distinctiveness and respect local context and have due regard to site specific considerations.

As stated previously, the application proposal comprises two specific elements, namely the conversion of 'The Barn' and 'The Den' to become a self-contained and separate dwelling with associated curtilage and parking/turning provision, and the relocation of the public house car park to the north with a new vehicular entrance.

In respect of the first part of the proposal, the scale of the buildings would remain as existing, with no extensions to the footprint or volume proposed, and visual alterations to the buildings would be limited to the addition of a conservation rooflight to the rear east elevation roof pitch of 'The Barn'. The existing marquee would be removed and the land used as a private garden for this proposed dwelling. Other than the 'main' car park to be relocated to the north of the site, the other parking and turning arrangements would be carried out on existing hardened areas in close proximity to the buildings with no wide encroachment into open countryside. There would be some visibility improvements to the existing car park access. However, detailed landscaping proposals have been submitted, together with tree and hedge protection measures. No objections to such details have been raised by the Council's Tree Officer. As such it is considered that these parts of the application proposal would not result in a significant adverse impact on visual amenity and could be considered to conserve the existing appearance and character of the area.

However, the second part of the proposal, involving the creation of the new vehicular access and relocated car park and the resultant removal of stone walling, would neither conserve nor enhance the character and appearance of the locality, by reason of the further erosion of an historic, rural street scene, and as such would be contrary to the aims and provisions of Local Plan Policy EQ2 and relevant guidance within the NPPF. The existing wall which is to be removed and partly reconstructed has been previously modified, presumably to secure visibility splays for the adjacent access. The wall along with others, creates a sense of enclosure to the street which is a positive characteristic. The existing wall even in its partly reconstructed form, with cock and hen capping is an attractive feature to the street and contributor to the setting of the listed building. The sense of enclosure has been impacted by the formation of accesses adjacent to the public house which create an unattractive feature within the street scene. The application proposal would further "open up" views into the site and lead to a loss of the existing wall and further loss of enclosure which is deemed to be detrimental to the character and appearance of the area. The new entrance, combined with the formation of a new car park at the side and rear of the public house in place of the existing landscaped garden area, would further erode the quality of the area and setting of the public house and thereby cause further harm.

Access and Highway Safety

Local Plan Policy TA5 requires all new development to securing inclusive, safe and convenient access on foot, cycle, and by public and private transport that addresses the needs of all, and to ensure that the expected nature and volume of traffic and parked vehicles generated by the development would not have a detrimental impact on the character or amenity of the area and would not compromise the safety and/or function of the local or strategic road networks in terms of both volume and type of traffic generated.

Policy TA6 states that parking provision in new development should be design-led and based upon site characteristic, location and accessibility. The parking arrangements within SCC's Parking Strategy will be applied within the District.

Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 108 of the NPPF advises that maximum parking standards for residential and non-residential development should only be set where there is clear and compelling justification that they are necessary for managing the local road network.

The County Highway Authority notes that this application and the outline application 21/01053/OUT for the erection of two detached dwellings within the existing Red Lion Inn car park are intrinsically linked and thus that Authority's one response has been provided with the aim of serving both applications proposals.

The proposed dwellings would be constructed on the current car park, with two buildings adjacent to the car parking area converted into a dwelling and ancillary annex, and a new car park created to the rear of the public house and a new access to the proposed car park to the north of the public house. The access to the dwellings would be from an unclassified highway and the new car park from a classified un-numbered highway, both subject to the national speed limit. There is no recorded injury collision data for either public highway.

A previous application had been submitted (application ref. 20/01967/OUT), which included more dwellings (erection of 3 new dwellings within Red Lion Inn car park and conversion of 2 buildings into dwellings (5 in total)). The Highway Authority commented on that application which, following discussions with the Local Planning Authority and the applicant's agent, was withdrawn. For that previous application the Highway Authority did not object to the available visibility splays from either the existing access which would serve the residential dwellings, and a small number of commercial parking spaces, or from the proposed new vehicular access.

Due to the nature of the highway and the subsequent speeds of passing vehicles this remains the case. The Highway Authority does have some concerns regarding the 4 commercial spaces to be accessed immediately from the public highway between the pub and the building known as The Barn as these spaces would require manoeuvring on the highway junction between the classified and unclassified highways. The previous application included some areas of parking for both elements that were considered contrived, the submitted drawing F1574/100/E has addressed these concerns.

Focusing on the residential element there are 3 dwellings proposed, one conversion and two 1.5 storey new builds. The converted building would also include an annex. The plan shows that Plot 1 (the conversion) would have three bedrooms, with three parking spaces, and Plots 2 and 3 would each have four bedrooms, with four parking spaces each. These parking spaces, along with four of the commercial spaces, are proposed to be accessed from the existing access and arranged in a courtyard type design. This proposal is unlikely to attract an objection from the Highway Authority. In order to comply with the Somerset Parking Strategy, access would need to be provided to Electric Charging Points and to secure, accessible and appropriate cycle storage at a level of one per bedroom for all new residential accommodation.

Turning to the commercial element and the relocation of the car park, the proposed new access would seem to have visibility splays suitable for the geometry and likely speeds of vehicles passing by the access. The submitted drawing, F1574/100/E, shows a total of 20 spaces being provided to serve the pub. Information provided by the applicant's agent on 17 December 2020 states that the publicly accessible areas of the pub are approximately 80.75sqm, taking into account the remaining outside space for the commercial use it is considered that this number of parking spaces would be sufficient. However as noted above, the Highway Authority

does have some concerns regarding some of them (4). The submitted drawing has also overcome the previously noted difficulties with access to/from the proposed cycle parking. A small number of the spaces within the proposed car park would still seem a little contrived or tight; however, the Highway Authority considers that it would be unreasonable to object to the application over the level of concern raised by these element.

As there are multiple applications on this site it will be imperative that the existing car parking for the commercial use is not lost prior to the creation of the new car parking area. The most appropriate way to secure this, given that the car parking and the residential elements are being sought under two different planning applications, would be by legal agreement.

Taking the above comments into account, the Highways Authority does not object to the proposal in this application. Conditions are recommended relating to provision and retention of parking spaces, visibility, surface water disposal, and hardsurfacing of access.

Overall, the application site is considered to be in a sustainable location, having regard to the scale of development proposed and the role and function of the settlement which benefits from a variety of local facilities and amenities. Whilst mindful of the various highways related objections raised by the Parish Council and third parties, nevertheless the proposed development does not give rise to an objection on traffic generation or highway safety grounds from the Highway Authority. As such, the proposal is deemed to be acceptable and in accordance with Local Plan Policies TA5 and TA6 and relevant guidance within the NPPF.

Residential Amenity

Local Plan Policy EQ2 requires development proposals to protect the residential amenity of neighbouring properties. In addition Local Plan Policy EQ7 states that development that would result in air, light, noise, water quality or other environmental pollution or harm to amenity, health or safety will only be permitted if the potential adverse effects would be mitigated to an acceptable level by other environmental controls, or by measures included in the proposals.

Due to the application site's location, potential for residential amenity concerns are limited to impacts on existing residential properties on the northern boundaries of the site ('Rose Cottage' and 'Christmas Cottage'), and also the impact on future occupiers of the proposed converted unit having regard to its proximity to the public house.

In respect of the latter consideration, the Council's Environmental Health Officer has been consulted about the application but raises no objections, although comments are offered about the design of the proposed converted dwelling including acoustic insulation.

Objections have been raised by residents of the dwellings to the north of the application site relating to the proposed relocated car park having a significant negative impact on their enjoyment of those properties due to the noise, lights and pollution of vehicle traffic impinging on privacy, security, peace, health and sleep.

At present the rear gardens of those northern properties abut the existing beer garden of the public house, separated by a boundary fence. Whilst there would be noise emanating from customers using the beer garden, this would generally only be at times of good/ warm weather and during daylight hours. The proposal includes the provision of the main car park to serve the public house, catering for 12 car parking spaces and turning area. Such vehicular usage of this part of the site, all year round, would impact on the amenities of those northern neighbouring properties. The proposed use as a car park would introduce a different type of noise at all times (such as engine starting/revving, banging car doors) during the pub opening hours and also other issues associated with vehicles (such as exhaust fumes and headlights shining into upper floor windows of the neighbouring properties), not currently associated with the use of the land as a beer garden.

It is considered that the relocation of the car park in such close proximity to those neighbouring

properties would cause unacceptable detriment to the amenities currently enjoyed by those residents and, as such, would be contrary to Policies EQ2 and EQ7 of the Local Plan.

Flooding and Drainage

The application site is at a low risk of flooding, lying as it does within Flood Zone 1. Nevertheless, local concern has been expressed about flooding of site and surrounds and that the application had not been accompanied by a Flood Risk Assessment, which is a requirement under the NPPF. Paragraph 167 of the NPPF advises that, when determining any planning applications, the LPA should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.

A Flood Risk Assessment has been submitted on behalf of the applicants and the Environment Agency duly consulted. The FRA has concluded that future occupants of the development would be safe during the design flood event for the operational lifetime of the development and the FRA has also demonstrated that the proposed development would be safe and that it would not increase flood risk elsewhere.

The Environment Agency has confirmed that its flood maps show the application site to be in flood zone 1 at low flood risk. The EA wishes to raise no comments about this proposal, suffice to say that flood zone 1 is the best place to develop in relation to flood risk.

Taking into account the above, it is considered that the application accords with the requirements of Local Plan Policy EQ1 and relevant guidance within the NPPF.

Ecology

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017). Policy EQ4 of the Local Plan also require proposals to pay consideration to the impact of development on wildlife and to provide mitigation measures where appropriate.

To ensure appropriate mitigation for Protected Wildlife Species (particularly bats), a survey to search for bats, indication of bat use and potential for bats to roost has been commissioned by the applicants. The survey also checked for other protected wildlife. This survey was undertaken by Country Contracts.

In terms of landscape in general, the Red Lion and outbuildings are situated towards the centre of the village. The property has established residential village properties around it, but open countryside is nearby in all directions. The surrounding land is intensively farmed in fields which are a mix of pasture and rotational crops, separated largely by regularly flail cut connective hedgerows. There are significant areas of woodland within 0.5 of a kilometre to the southwest of the site. Some of the surrounding field hedgerows also support mature trees. This surrounding landscape offers bat foraging habitat of a range of qualities, from lower quality residential areas to a mix of arable and pastoral farmland with some mature trees in hedgerows, small woodland areas and patches of semi-natural vegetation.

There are existing outbuildings referred to as 'The Barn' (a recently modernised property which provides letting rooms associated with pub), 'The Den' (also recently modernised to provide bar facilities for outdoor functions at the pub), a timber garden shed, a small stone store and a storage shipping container. Survey results were as follows:

Bats

The Barn: No bats or signs of bat usage were found in the loft or on the exterior of the building. However, potential bat roosting opportunities exist externally behind the timber cladding, and gaps behind the fascia and tops of walls.

The Den: No bats or signs of bat usage were found in the loft or on the exterior of the building. However, potential bat roosting opportunities exist externally behind the timber cladding, and gaps behind the fascia and tops of walls.

The Timber Shed, Small Stone Store and Shipping Container: No bats or signs of bat usage were found.

The outbuildings were assessed for bat roost potential. The results are that both The Barn and The Den have a high suitability rating for bat roosts, whereas the Shed, Store and Shipping Container have negligible bat roost suitability.

Trees

No surveyed trees were found to have features which would provide potential bat roosting sites.

Reptiles and amphibians

There are no aquatic habitats within the site or immediate boundaries. The development area was considered unsuitable to provide refuge or suitable terrestrial habitat for reptiles and amphibians.

Badgers

No badger setts were found in the survey area. Animal paths through adjacent hedgerows were considered to be used by badgers.

Dormice

The boundary hedgerows/vegetation were considered to be species limited, of poor structure and sub optimal to support Dormice. The hedgerows/vegetation have very limited potential connectivity with suitable habitats off site.

Nesting Birds

No nesting birds, or indications that birds have nested, were found in or on any of the surveyed buildings. The trees and vegetation within the development do provide limited nesting opportunities for a variety of bird species.

The County Ecologist has raised no objections to the proposed development. Based on these findings, he has confirmed that 'The Den' has been characterised as a confirmed bat roost, likely for Serotine bats, and 'The Barn' has been characterised as providing high potential for roosting bats. The confirmed roost is situated within the loft void. No internal works are proposed in either of the buildings. However, to avoid disturbing roosting bats during construction works a condition is recommended relating to the timings of works with such works being carried out under the direction of a licenced bat ecologist. Other ecological mitigation and enhancement conditions are recommended, including provision of protective fencing, timing of works for vegetation removal in relation to nesting birds, implementation of an agreed lighting scheme, new planting, implementation of a Biodiversity Enhancement Plan, and reference to legal protection afforded to badgers.

With the incorporation of such conditions, it is considered that the proposed development would not conflict with the aims and aspirations of Policy EQ4 of the South Somerset Local Plan and relevant guidance within the NPPF.

Somerset Levels and Moors: Phosphates

The Somerset Levels and Moors are designated as a Special Protection Area (SPA) under the Habitats Regulations 2017 and listed as a Ramsar Site under the Ramsar Convention. The Ramsar Site consists of a number of Sites of Special Scientific Interest (SSSIs) within what is the largest area of lowland wet grassland and wetland habitat remaining in Britain, within the flood plains of the Rivers Axe, Brue, Parrett, Tone and their tributaries. The site attracts internationally important numbers of wildlife, including wildfowl, aquatic invertebrates, and is

an important site for breeding waders.

Natural England has written to various Councils in Somerset (including SSDC) advising about the high levels of phosphates in the Somerset Levels and Moors that are causing the interest features of the Ramsar Site to be unfavourable, or at risk, from the effects of these high levels. This is as a result of a Court Judgement known as the Dutch N case, which has seen a greater scrutiny of plans or projects by Natural England, regarding increased nutrient loads that may have a significant effect on sites designated under the Habitats Regulations 2017 (including Ramsar Sites).

A significant area of South Somerset falls within the catchment. The application site is located within this catchment area. However, further to discussions with Natural England and the County Ecologist, the advice received is that the proposed development, together with the proposed outline application proposal for two new dwellings on the existing car park (application ref 21/01053/OUT) would be unlikely to add significantly to nutrient loading on the Somerset Levels and Moors Ramsar site.

The County Ecologist is mindful that the applicants are seeking to combine the nutrient impacts of both application proposals together with the argument that the decrease resulting from one dwelling instead of six holiday lets (current application ref 21/01051/FUL) would compensate for the increase resulting from the two new dwellings (application ref 21/01053/OUT). In that respect it is suggested that the development achieves better than nutrient neutrality, so the matter of phosphates has been resolved. Provided a S106 could be used to legally 'tie' the two application proposals together along the lines of ensuring the 'phosphate decrease' application would commence or be completed prior to commencement or occupation of the 'phosphates increase' application, then no objections are raised.

Natural England has advised that, if SSDC is confident that a S106 could be used to legally 'tie' the two application proposals together and ensure the 'phosphate decrease' application would be completed prior to commencement or occupation of the 'phosphates increase' application, in principle Natural England would be open to considering any appropriate assessment based off this approach. The applications would still need a Habitats Regulations Assessment, proceeding to an Appropriate Assessment to demonstrate that the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) have been considered by the LPA. Natural England must be consulted on any appropriate assessment the LPA may decide to make.

Notwithstanding those comments about 'tying' both applications together by means of a S106 Agreement, each of the applications must be considered on its own merits. There is no guarantee that the other application for two new dwellings would be acceptable in planning terms, having regard to all material considerations. Taking this current proposal as a 'stand-alone' scheme, it is considered that the change the use of the existing outbuildings from 6 holiday letting rooms into a single dwelling unit would decrease the nutrient impact of the site. As such, it is not considered appropriate to raise an objection based on the issue of phosphates and impact on the Somerset Levels and Moors, and mindful that a satisfactory solution could be further achieved by means of tying both application proposals together with a S106 Agreement should both proposed development schemes be granted the appropriate planning permissions.

Heritage and Planning Balance

The public benefits of the proposal include the delivery of market housing, which would contribute to the provision of homes in the District, in an accepted situation where there is a less than five-year housing land supply. The Government's objective is to significantly boost the supply of housing and the proposal would provide one dwelling in a location with good access to some services and facilities. Irrespective of the extent of the shortfall however, given the small scale of the proposal, the delivery of one dwelling would attract only moderate weight.

In addition, the proposal would enhance the local economy, including creating jobs associated with the conversion stage and new residents are likely to support existing services. These beneficial factors would be common to any such development and, with no evidence to suggest local services are in particular need of the proposal, they carry moderate weight.

However, considerable importance and weight attaches to the desirability of preserving the settings of listed buildings, of which one (The Red Lion Inn) would be harmed by the proposals. The public benefits associated with the proposal do not present cumulatively considerable weight to be added in the heritage balance set out in paragraph 202 of the Framework. Additionally, statutory duties to preserve the listed building and its setting have not been met. The less than substantial harm caused to the Listed Building and its setting would not be outweighed by the public benefits of the proposal. The great weight that this harm attracts outweighs the moderate benefits associated with the provision of one new dwelling

The proposals are not in accordance with Local Plan Policies EP15, EQ2, EQ3 and EQ7. There would be harm to the character and appearance of the site and the settlement of Babcary. Irrespective of an absence of harm in respect of highway safety, pedestrian access, flood risk, biodiversity and phosphates, the proposed development runs counter to the development plan, against which planning decisions should be made unless material considerations indicate otherwise.

The Council acknowledges that it is unable to demonstrate a 5-year supply of housing land, triggering the operation of footnote 8 of the NPPF and paragraph 11(d). However, in respect of the designated heritage asset, it is considered that there is a clear reason for refusing the development, thus the tilted balance does not apply. Even if it did, it is considered that, assessed against the policies in the NPPF as a whole, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

As such it is recommended that planning permission for the development proposal should not be granted.

Human Rights and Equality Issues.

Human Rights Act

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

RECOMMENDATION

Planning permission is refused for the following reasons:

SUBJECT TO THE FOLLOWING:

01. The implementation of the proposed development would be detrimental to the long-term viability and future of The Red Lion Inn, resulting in a significant or total loss of the premises currently used as a public house that contributes towards the sustainability of the village of Babcary. In addition, the proposed development would not provide employment opportunities appropriate to the scale of the settlement, would not create or enhance community facilities and services to serve the settlement, or meet an identified housing need (particularly affordable housing), nor would it increase the sustainability of the settlement. As such the proposed development would be contrary to Policies SD1, SS2 and EP15 of the South Somerset Local Plan and relevant guidance in the National Planning Policy Framework (2021).
02. The proposed development would neither preserve nor enhance the character and appearance of the Listed Building and its setting and would cause less than substantial harm to the significance of the designated heritage asset. As such, the proposal conflicts with Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 and, in the absence of any public benefits that would outweigh such harm, is contrary to Policy EQ3 of the South Somerset Local Plan 2006-2028 and Chapter 16 of the National Planning Policy Framework (2021), in particular paragraphs 197, 199 and 202.
03. The proposed creation of the new vehicular access and relocated car park and the resultant removal of stone walling, would neither conserve nor enhance the character and appearance of the locality, by reason of the further erosion of an historic, rural street scene, and as such would be contrary to the aims and provisions of Policy EQ2 of the South Somerset Local Plan 2006-2028 and relevant guidance within the National Planning Policy Framework (2021).
04. The siting and vehicular use of the proposed car park at the northern part of the site, in such close proximity to neighbouring dwellings, would result in a form of development that would cause unacceptable detriment to the amenities currently enjoyed by the residents of those dwellings and, as such, would be contrary to Policies EQ2 and EQ7 of the South Somerset Local Plan 2006-2028.

Informatives:

01. This decision has been taken having regard to the following submitted drawings and documents:

Drawing no. F1574/LocPlan1: Location Plan
Drawing no. F1574/001/A: Existing Site Survey
Drawing no. F1574/002: Existing Plans and Elevations - The Barn
Drawing no. F1574/003: Existing Plans and Elevations - The Den
Drawing no. F1574/100/E: Proposed Site Plan and Street Elevation
Drawing no. F1574/101A: Proposed Plans and Elevations - The Barn
Drawing no. F1574/102B: Proposed Plan and Elevations - The Den
Drawing no. F1574/013: Existing and Proposed Street Scene - New Entrance

Design and Access Statement (March 2021) prepared by Della Valle Architects
A Heritage Statement (26 November 2020) prepared by C1 Context One Heritage and Archaeology
Bat Roost Assessment (January 2021) prepared by Country Contracts
Arboricultural Impact Assessment, Arboricultural Method Statement, Tree Protection Plan Revision A (August 2021) prepared by Hillside Trees Ltd, Arboricultural Consultancy
F1574/ Tree Planting Schedule/ Rev.A (04.10.2021)
Expert Witness Report (3 November 2020) prepared by Fleurets Ltd
Phosphate Calculations
Flood Risk Assessment (2 November 2021) prepared by RMA Environmental

02. In accordance with 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.