

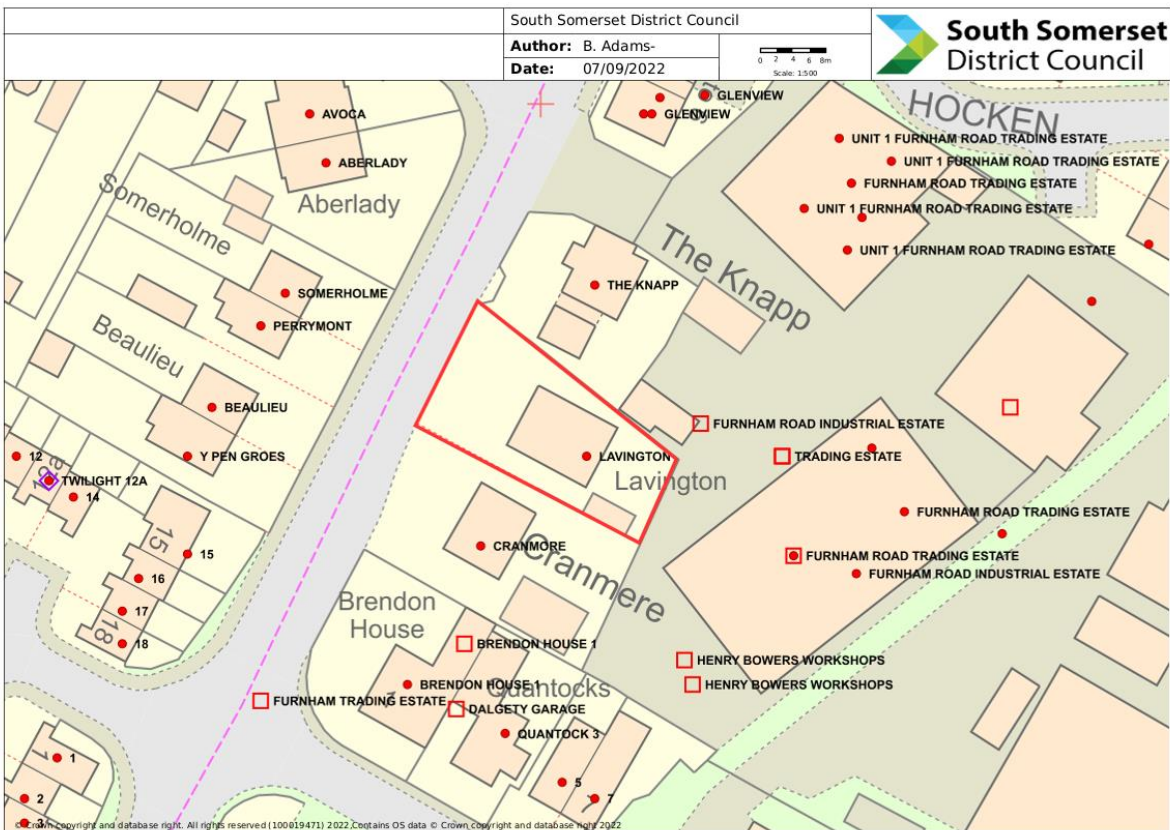
Officer Report On Planning Application: 22/01441/FUL

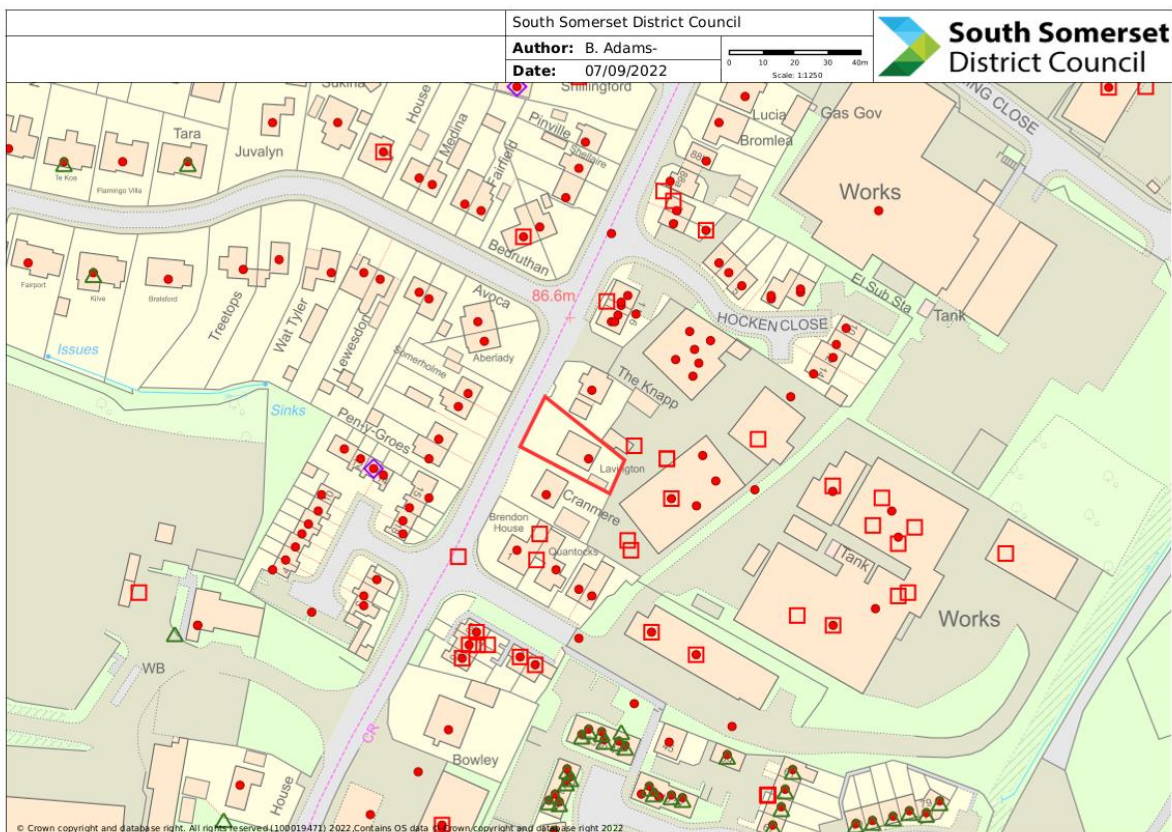
Proposal:	Change of use from a dwellinghouse (Use Class C3) to a chiropractic and manual therapy clinic (Use Class E(e))
Site Address:	Lavington, Furnham Road, Chard, Somerset, TA20 1AX
Parish:	Chard
CHARD AVISHAYES Ward (SSDC Member)	Cllr G Shortland
Recommending Case Officer:	Oliver Jones (Specialist) Tel: 01935 462350 Email: oliver.jones@southsomerset.gov.uk
Target date :	7th July 2022
Applicant :	Mr P Jones
Agent: (no agent if blank)	Collier Planning 2nd Floor, Unit 2 Charfield House, Castle Street, Taunton, TA1 4AS
Application Type :	Minor Other less than 1,000 sq.m or 1ha

REASON FOR REFERRAL TO COMMITTEE

The application has been referred to the Committee at the request of the Ward Member, and with the subsequent agreement of the Chair, as it is considered the applicant has demonstrated improved access to a standard commensurate or improved relative to that found serving the light industrial units in close proximity. The Ward Member also considers the loss of 1 dwelling is off set by the improved health benefit to the community of Chard and enabling disabled people to access the proposed service.

SITE DESCRIPTION





The application site relates to 'Lavington', a detached, two-bedroom bungalow situated to the eastern side of Furnham Road (A358 Axminster - Taunton), approximately ½ mile to the north of Chard town centre. The surrounding area is predominantly residential in character and includes dwellings of varying typologies however there are some industrial/commercial uses off Furnham Road to the north and east. The site benefits from a spacious front garden which is set well back from the road. The site lies within the catchment of the River Axe SAC.

PROPOSAL

This 'full' application seeks planning permission for the change of use of the dwelling to form a chiropractic clinic (Use Class E). Minor changes to the building are proposed to facilitate the commercial use with internal alterations providing two treatments rooms, a reception area and staff room. Five parking spaces would be provided including three visitor spaces and two staff spaces. New boundary fencing would be positioned to the southern and western boundary with the north and eastern boundaries remaining unaltered.

PLANNING HISTORY

21/02288/FUL - Change of use from Dwellinghouse (Use Class C3) to a chiropractic and manual therapy clinic (Use Class E(e)). Alterations to access, replacement fenestration and formation of hardstanding for parking (Refused - 3 September 2021)

POLICY

South Somerset Local Plan 2006-28

Policy SD1 Sustainable development
Policy SS5 District wide housing provision
Policy SS5 Delivering new housing growth
Policy TA5 Transport impact of new development
Policy TA6 Parking standards
Policy EQ2 General development
Policy EP2 Office development

National Planning Policy Framework (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 9 Promoting sustainable transport
Chapter 12 Achieving well designed places
Chapter 15 Conserving and enhancing the natural environment

National Planning Practice Guidance

National Design Guide - 2021

CONSULTATIONS

Chard Town Council - Recommend that a decision of this planning application be subject to the views and recommendations of the Highways Officer.

Environmental Health - No response.

Highways Authority -

29 July - Standing advice applies.

8 June - Standing advice applies.

Highways Consultant -

5 August - I note that the agent has responded to my initial comments on this planning application. The likely travel patterns associated with both staff and patients and the corresponding demand for on-site parking is noted. It would seem that there would only ever be two members of staff on-site at any one time, and provided the methodology for treating patients is carried out in the way described in the agent's email, it is likely that the proposed car parking provision would be sufficient, although I am not sure if both staff movements and the way in which patients are treated can be conditioned?

With regards to the issue relating to visibility splays, the agent has stated that the owner of the

property to the north of the site would 'keep the visibility splays free of obstruction above a specified height.' However, this may not be sufficient due to the fact that the driveway to the subject property (Lavington) slopes down into the site, and that there is a vertical alignment issue on Furnham Road to the north of the site entrance to consider. The photograph I previously submitted (DSCN0930) is taken from the driver position when exiting the site. It is apparent that the walls located either side of the access of the adjoining property to the north would have to be lowered (national guidance set out in Manual for Streets states that from a driver height of 1.05m it is necessary to be able to see down to a height of 600mm at the end of the splay). For the northerly splay to be acceptable, it would have to be demonstrated on detailed plans that a minimum visibility splay of 2.4m x 43m can be provided in both the VERTICAL and HORIZONTAL planes, complying with the above standards.

I also sent you a photograph of the existing visibility splay when looking in the southerly direction exiting the property (DSCN0933). This sightline is already deficient as well as cutting across third party land to the south of the site - this is demonstrated on the Proposed Site Plan that was submitted with the original planning application. Without the necessary control or ownership of the frontage of the property to the south of the site, the existing substandard visibility could be exacerbated in the future. Having experienced the exiting movement myself, unless the visibility splays in both directions can be substantially improved in accordance with national guidance, including for the red line to be extended around the requisite visibility splays, with the appropriate notices being served and with legal agreements being put in place with both neighbours, I would still have very genuine concerns with the increase in use of this substandard entrance onto what is a busy road.

So as the application stands, I would still have no alternative than to recommend the refusal of the planning submission.

9 June - The planning officer will be aware of the comments I made in response to the previous planning application on this site. With regards to traffic generation, I note the statement made that only one patient would be treated at any one time yet I note that two treatment rooms would be provided within the building, and six part time staff would be employed. I do not agree that the traffic movements generated by the scheme would be akin to that of an existing residential dwelling. TRICS indicates that residences in this location are likely to generate no more than six movements a day (three out and three in). With up to eight patient appointments a day and the movements of at least two staff on site, this could equate to 20 movements a day (10 in and 10 out), assuming that only two staff enter in the morning and then the same staff exit late afternoon. In terms of the site layout, and specifically the parking and turning layout, provided there would just be two staff on-site at any one time (although I am not sure how this can be enforced) then that part of the layout could be accepted but if two treatment rooms lead to the possibility of four patients being on site at any one time (two being treated and two waiting), then the provision of three car spaces is unlikely to be sufficient. Of most concern still is the fact that the visibility splays extending from the site access in both directions cross third party land with no apparent control over those sightlines. It is evident to me that the use of the access would significantly increase as a consequence of this scheme, and without the necessary land-ownership or control of the full visibility splays, it has to be a concern that any existing sightlines may already be insufficient but could also be significantly restricted in the future, potentially leading to hazardous exiting movements onto the busy A358. Unless the above matters can be satisfactorily addressed, I would have to consider

Neighbour Comments - Two representations have been received, one in support and one objecting. The comments can be summarised as follows; -

- Concerns with respect to the proposals impact on highway safety
- Benefits of the service and facility being located locally, and that it would not a prejudicial impact on residential amenity.

The full comments are available to view on the South Somerset District Council website via searching the planning reference number.

ASSESSMENT

PRINCIPLE

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

In this instance the adopted development plan is the South Somerset Local Plan (2006 - 2028). The National Planning Policy Framework (NPPF) is also a significant material consideration.

In the first instance, regard must be had to the recently refused application which sought planning permission for essentially the same use. The first reason for refusal related to the loss of residential accommodation and that such a change of use was not justified in that submission. Officers have reviewed this since and would note that there are no defined policy tests within the development plan relating to the loss of residential accommodation for new uses. Paragraph 60 of the NPPF as referred to in the reason for refusal is a more strategic level principle for plan-making with respect to bringing forward enough land for new housing, rather than a specific policy or test relating to the consideration of new applications which would result in the loss of existing housing.

The proposal would result in the loss of dwelling, in the context of the Council being unable to demonstrate a 5 year supply of housing land. However, the loss must be weighed against the benefits of the proposal. In this case, the loss would amount to a single dwelling. Paragraph 81 of the NPPF sets out that planning policies and decisions should create the conditions in which businesses can invest, expand and adapt and that significant weight should be placed on the need to support economic growth and productivity. Paragraph 83 of the NPPF goes on to state that planning decisions should recognise and address the specific locational requirements for different sectors. It is also worth noting that Paragraph 123 of the NPPF states that LPAs should take a positive and proactive approach to applications for alternative uses of land which is currently development but not allocated for a specific purpose in plans.

With this, it is considered in principle that a Class E use can be considered acceptable in this location, given that it is broadly sustainable, located within the northern extent of Chard and would involve the re-use of an existing building. Furthermore, it is accessed off the A358 and is within close proximity to other commercial and light-industrial uses, namely those to the immediate east accessed off Furnham Close. Whilst it would provide a private treatment

solution for patients, it would nevertheless arguably make better use of the site than at present. Additionally, it is noted that it would help to support an existing local business through expanding into a more suitable building - the applicant asserts that the existing first floor accommodation in Essex House on Fore Street is not suitable for disabled persons, meaning that some patients have to travel to Taunton for treatment. It would also provide some limited small scale local employment.

The overall acceptability of the proposed use in principle is subject to ensuring that that the proposed use would not give rise to any prejudicial residential relationship between the site and neighbouring dwellings and furthermore, would not result in an unacceptable impact on the local highway network through any intensification (i.e increased number of visitors etc).

SITING, DESIGN AND VISUAL IMPACT

Some minor changes are proposed to the building (replacement windows / doors etc) however these are judged to be such which would not have any discernible visual impact. Certainly, noting that the immediate area is not of any notable architectural value and there is a range of style and design types, the proposal would not result in any harm to visual amenity, the street-scene, or in any way detract from the character of the townscape. The proposal is therefore considered to accord with South Somerset Local Plan policy EQ2 in this regard.

IMPACT ON RESIDENTIAL AMENITY

Policy EQ2 of the South Somerset Local Plan (2006 - 2028) states that development should protect the amenity of neighbouring properties. Paragraph 130 of the NPPF requires, inter alia, that developments create places that are safe, inclusive, and accessible with a high standard of amenity for both existing and future occupiers.

The proposal may result in some increase noise through a general intensification of the use of the property through additional coming and goings associated with the use of the building as a clinic. However, given the nature of the proposed use, it is not anticipated to be particularly intrusive, especially when having regard to the context of the area which features a busy road (A358) and a range of larger, commercial and industrial uses interspersed within an otherwise largely residential area of the town.

With the above in mind, whilst noting there is likely to be some change in the residential relationship between the site and neighbouring properties, it is not anticipated to be such which would be out of character in the context of this specific area, or otherwise such which would warrant refusal of the application through an identified discordance with South Somerset Local Plan policy EQ2.

ACCESS AND HIGHWAYS SAFETY

Policy TA5 of the South Somerset Local Plan requires that all new development should be required to address its own transport implications and shall be designed to maximise the potential for sustainable transport. Specifically relevant to this proposal, it goes on to state 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 road networks in terms of both volume and

type of traffic generated.

The proposal would make alterations to the layout of the site, providing two staff parking spaces to the southern side of the building, along with three visitor (other) parking spaces to the west of the dwelling. The Council's Highways Consultant has raised concerns with respect to the intensification of the use of the site and disagrees with the claim that the proposed movements would be tantamount to that of its existing, lawful use. This is because of their being two treatment rooms proposed with the potential for up to 6 staff being employed. Although the Highways Consultant reviewed further information supplied from the applicant which argues there would only ever be two members of staff on-site at any one time and notes that there should therefore be enough parking provided the methodology for treating patients is carried out in the way described, officers have concerns about securing this in an enforceable manner perpetuity. Factors outside of the applicant's control could result in a greater number of vehicle trips/visitors overlapping (i.e road traffic incidents) and this restricts the ability for the LPA to control this adequately.

Coupled with this is the inability to achieve the requisite visibility splays within land that is controlled by the applicant or forms part of the highway's extent. Both the northern and southern splays are restricted because of the alignment of the access with Furnham Road, the adjoining site levels and boundary treatments. The existing access arrangements are below standard and the Highways Consultant notes that the increased use of the access onto such a busy road has the potential to prejudice highway safety.

As such, it has not been adequately demonstrated that the proposal would ensure safe access and not prejudice highway safety, resulting in an unacceptable impact on the local highway network - contrary to the requirements of South Somerset Local Plan policy TA5 and the principles as set out within Chapter 9 of the NPPF, namely paragraph 111.

ECOLOGY AND HABITAT REGULATIONS

Policy EQ4 of the South Somerset Local Plan sets out that all proposals should protect the biodiversity value of land and minimise the fragmentation of habitats, promoting coherent ecological networks. It goes on to state that proposals should maximise opportunities for restoration and enhancement and incorporate biodiversity conservation features where it is considered appropriate. The proposal relates solely to the change of use of the building and therefore does not have the potential to impact on protected species, should they be present.

The application site lies within the catchment of the River Axe Special Area of Conservation (SAC), a habitat recognised under the Habitats Regulations, (The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations')) as being of international importance of waterbird communities

At present the levels of phosphates exceed the water quality objectives and it is therefore in unfavourable condition. Where a European designated site is considered to be 'failing' its conservation objectives there is limited scope for the approval of development which may have additional damaging effects. The competent authority (in this case the Local Planning Authority) is required to consider all potential effects (either alone or in combination with other development) of the proposal upon the European site through the Habitat Regulations

Assessment process.

The competent authority (in this case the Local Planning Authority) is required to consider all potential effects (either alone or in combination with other development) of the proposal upon the European site through the Habitat Regulations Assessment process.

The HRA process must be based on a demonstration of legal and scientific and be undertaken with a 'precautionary' approach.

In this case the proposal is for one new Class E use to be created with additional daytime foul water flows. The proposal would result in the net loss of one dwelling and the proposal would make no alterations to the existing internal layout, nor would it change existing drainage arrangements whereby as required by the General Binding Rules, foul water is dealt with by way of mains sewerage. No additional overnight accommodation is proposed as part of the application and no catering facilities are proposed to support staff on the site. There would also be no significant additional 'out of catchment' staffing or visitors associated with the development.

Therefore, with the above in mind which involves the loss of a single unit of residential accommodation which would be replaced with a single commercial class E use, the application can be screened out of any further Habitat Regulations Assessment process on the basis it can demonstrate at worst, nutrient neutrality.

CONCLUSION

The proposed use is considered acceptable from a locational perspective as it is considered that the sustainable location within Chard would be suitable for a Class E use and that the loss of one dwelling would be outweighed by the benefits of the use and small gains to the local economy. The proposal would not give rise to any discernible harm to visual amenity, nor would it impact adversely on residential amenity, given the context of the area. However, the proposal would give rise to a degree of intensification through the required staffing and visiting clients. The existing access is substandard and therefore the intensification of such, without adequate demonstration or ability to improve, has the potential to result in a severe impact on the local highway network, prejudicing highway safety. The proposal in the round is therefore representative of an unsustainable form of development which is accordingly recommended for refusal for the reason as set out as below.

RECOMMENDATION

Refuse

SUBJECT TO THE FOLLOWING:

01. The proposed commercial use of the site would give rise to a degree of intensification, for which the nature of such cannot be adequately or suitably controlled for it to be tantamount to the existing lawful residential use. The site has a substandard access off the A358 and without demonstrating an ability to achieve the requisite visibility splays on land within the control of the applicant or highways land and an overall improvement to the access arrangements, the proposal would compromise highway safety, resulting in an identified

severe impact on the local highway network. The application therefore runs contrary to the requirements of South Somerset Local Plan (2006 - 2028) Policy TA5, along with the overarching aims and objectives of the National Planning Policy Framework, namely Paragraph 111.