

## Officer Report On Planning Application: 15/03399/FUL

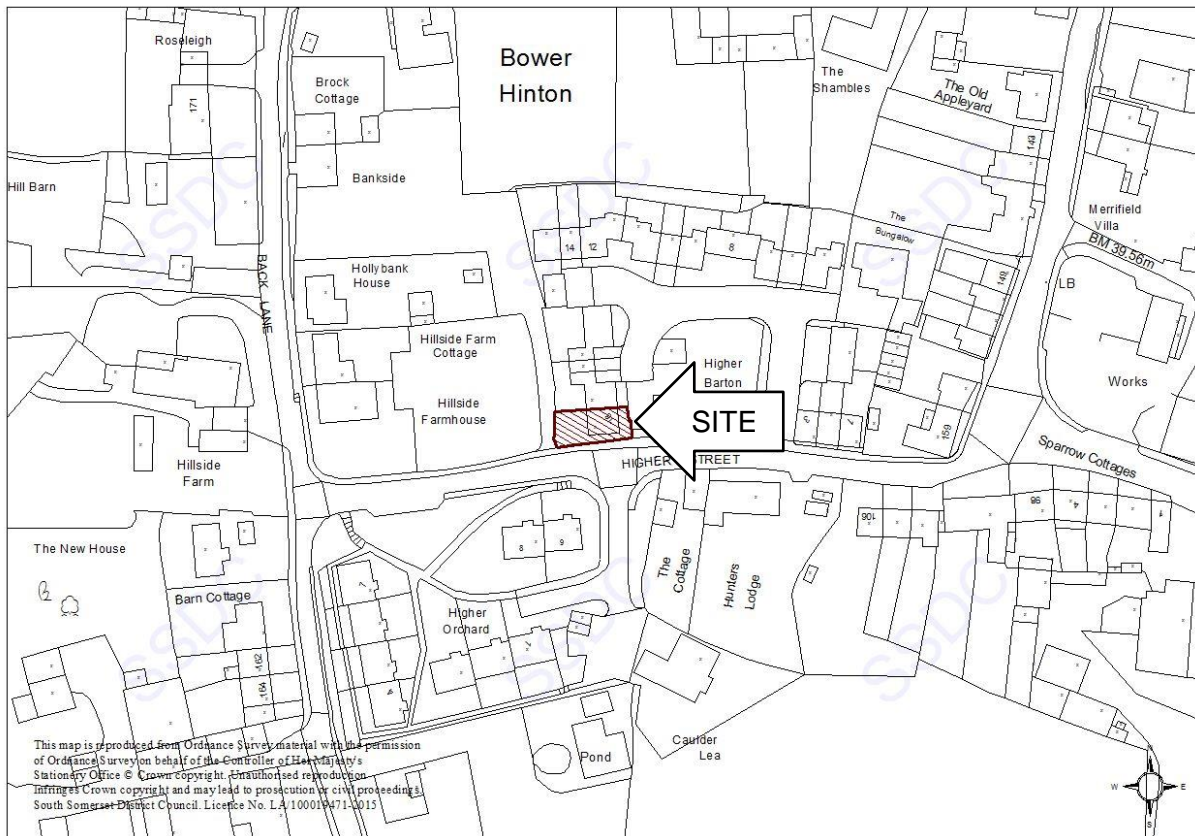
<b>Proposal :</b>	Change of use of dwelling from C3 (dwelling) to mix of C3 and C1 (short stay letting accommodation)
<b>Site Address:</b>	18 Barton Close Bower Hinton Martock
<b>Parish:</b>	Martock
<b>MARTOCK Ward (SSDC Members)</b>	Cllr N Bloomfield Cllr G Middleton
<b>Recommending Case Officer:</b>	Stephen Baimbridge Tel: 01935 462321 Email: stephen.baimbridge@southsomerset.gov.uk
<b>Target date :</b>	17th September 2015
<b>Applicant :</b>	Mr Thomas Walsh
<b>Agent: (no agent if blank)</b>	
<b>Application Type :</b>	Other Change Of Use

### REASON FOR REFERRAL TO COMMITTEE

This application is referred to Committee at the request of the Ward Member to enable the issues raised by the Parish Council and neighbours to be debated.

### SITE DESCRIPTION AND PROPOSAL





The site is located on Barton Close, with a gable-end facing south onto Higher Street. It is within the Martock and Bower Hinton Conservation Area, and opposite to the Grade II listed building Higher Barton.

The property is a semi-detached, two-storey dwelling constructed of natural stone and a slate roof, within a close of similar properties.

This application seeks permission for a change of use of the dwelling from C3 to a mix of C3 and C1.

**RELEVANT HISTORY**

At Site

- 06/01881/FUL: Remove existing French doors and windows and replace with solarlux sliding doors
- 05/00469/FUL: Minor Amendments to elevational treatment of dwellings in approved development of 17 dwellings Amendment to 03/03611FUL
- 03/03611/FUL: Residential development of 17 dwellings and associated site-works - amended scheme of 02/03387/FUL
- 02/03387/FUL: Residential development of 16 dwellings including provision of garage and turning area to Higher Barton and associated site works
- 02/03389/LBC: Alteration to boundary walls and provision of garage and turning area to Higher Barton

### At Neighbouring Properties

13/01765/COU: Change of use of dwelling from C3 (dwelling) to a mixed use of C3 (dwelling) and C1 (accommodation ancillary to hotel) - Application permitted with conditions

13/00213/COU: Change of use of dwelling from C3 (dwelling) to a mixed use of C3 (dwelling) and C1 (accommodation ancillary to hotel) (retrospective) - Application permitted with conditions

12/02779/COU: Change of use of dwelling from C3 (dwelling) to a mixed use of C3 (dwelling) and C1 (accommodation ancillary to hotel) (retrospective) - Application refused

12/02780/COU: Change of use of dwelling from C3 (dwelling) to a mixed use of C3 (dwelling) and C1 (accommodation ancillary to hotel) (retrospective) - Application permitted with conditions

12/02769/COU: As above

12/02766/COU: As above

12/02765/COU: As above

12/02759/COU: As above

12/02762/COU: As above

12/02763/COU: As above

12/02761/COU: As above

### **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the NPPF states that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

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 Emerging South Somerset Local Plan (2006-2028)**

Policy SD1: Sustainable Development

Policy SS1: Settlement Strategy

Policy EP8: New and Enhanced Tourist Facilities

Policy EQ2: General Development

Policy EQ3: Historic Environments

Policy TA5: Transport Impact of New Development

Policy TA6: Parking Standards

### **National Planning Policy Framework (NPPF)**

Chapter 1: Building a strong, competitive economy

Chapter 3: Supporting a prosperous rural economy  
Chapter 7: Requiring Good Design  
Chapter 12: Conserving and Enhancing the Historic Environment

## CONSULTATIONS

**Martock Parish Council** - The Parish Council recommends refusal of planning application and objects on grounds of incompatible or unacceptable use and noise or disturbance resulting from use, specifically:

- a. The proposed change of use would go even further to convert Barton Close into a virtual hotel, which is incompatible with its originally intended use as a residential development.
- b. The consequential noise and disturbance caused by yet more transitory occupants would be detrimental to the amenity of the few remaining home-owning residents.

**County Highway Authority** - Standing Advice applies.

**Highways Consultant** - Consider on-site parking provision and SPS optimum standards.

**Environmental Protection** - I can confirm that we have no record of any nuisance (noise, odour etc) complaints regarding The Hollies Hotel and Restaurant Ltd.

## REPRESENTATIONS

Eleven letters of objection were received. The eleven letters were from a total of seven addresses within the locality. The letters raised the following points:

### Background / General Brief

- This application brings the total of Hollies-owned properties in the purportedly 'residential' Close to 65%, overwhelming the cul-de-sac, leaving small, disbursed islands of residential properties.
- The majority of guests are large groups of men travelling from abroad to training courses at Westlands.
- Short-term usage is usually wedding parties or suchlike.
- Very occasionally The Hollies put families in the properties who have insurance claims, and although few and far between, there have been two recently.
- People arrive for courses for varying amounts of time.
- The last two applications for a change of use to Bartons Close were not objected to because the Hollies already owned them and they took down the large, hotel balcony that they had erected at number 8 which was resulting in harm to privacy.
- No.18 was acquired by the Hollies earlier this year but this application was not submitted until it was pushed for by a local resident, which was the case for all of the other properties.
- There was general contention with the information presented by the Hollies in their presentation.
- It was expressed that complaints would be lodged in future to the Environmental Protection Unit as residents were unaware of who to contact prior to the publish of the consultation comments.

### The Guests

The foreign guests are predominantly men; they own their own transport, often speak little English, and stand in circles, chatting and smoking. They are intimidating - they stare at residents when they enter their properties. The guests come to have fun - and they do. They

are in an unfamiliar environment away from their home and families. They are unable to integrate with the residents. Individuals and groups wander around the streets, often not quite sure where they are supposed to be heading. Groups of people behave like a 'group' and not as private residents would. People behave differently when staying at a 'hotel' resulting in all kind of behaviour, preferred not to be mentioned. They arrive and depart, with taxis any time day and night, sometimes even coaches, and it is never known when they will leave or arrive.

### Impacts on the Residents and Properties

- It would be advantageous to the neighbourhood if the original applications associated with the Hollies-owned houses were rescinded.
- Being surrounded by strangers can feel uncomfortable at least and threatening at worst.
- The property was bought thinking that it would be a small close with families and neighbours and now there are no neighbours or families - when they moved out they were replaced by guests.
- When the Hollies owned four properties, the hotel use was negligible, but that is no longer the case after the Hollies bought over half of the properties.
- There is no way of knowing who will be staying for the short or long-term.
- The expansion of the Hollies is having a detrimental impact on the quality of neighbourliness.
- Local people are frequently adversely affected by the people who work and stay in the Hollies-owned houses in Bartons Close. At what point is a halt called to this creeping change and its detrimental impact on immediate neighbours?
- Residents will be unable to sell their properties at a good price.
- Barton Close was built as a collection of individual houses that could evolve in different ways and so contribute to the character of the village. Instead the Close has turned into an institution with all houses increasingly looking the same with identical neatly manicured front gardens. The only variation is provided by the increasingly few houses that are still privately owned.
- The properties are over-maintained.
- Outside lighting is left on which disturbs neighbours
- The cottages are not ancillary to the Hotel; they are an active and everyday part of the business, with chambermaids there every day. The garages of no.s 9 and 16 are used as laundries, in constant use by chambermaids and guests. Information was also received that only no.9 uses the garage for laundry, and that most of the garages are used for storage.
- When one or two (or more) properties are occupied, there are parking issues.
- The properties are serviced regularly regardless of whether they are short or long-term guests.
- The nature and amenity of the close has changed dramatically in comparison to 9 years ago.
- There is an increase in litter which can result in safety issues. The area may appear to be litter-free because it is thrown over the fence into an adjacent property.

### The Economy

- The expansion of the Hollies is supported; it is the kind of economic development that is entirely appropriate in the village which is largely a conservation area
- Developments like this should not be concentrated in just one part of the village, but spread evenly.
- The economic benefit is negligible because the vast majority of family uses such as insurance claims, relocation and temporary family accommodation for business reasons are already allowed; there are already 25 hotel rooms in Barton Close for full hotel use.
- The Close was built as a residential development and now it is an extension of the Hollies Hotel; this may have a positive effect on local employment and tourism but is a great

variance to the original planning application.

- The application form indicates that four fulltime equivalent employees service the 10/11 houses. Greater prosperity would be brought to the area (NPPF 3) if there were 11 families living permanently in these homes.
- There will be negligible economic benefit.

#### The Impact on Housing Stocks

- Private owners go straight to the Hollies to sell their properties as it cuts out estate agents fees so the properties never go on the open market.
- The application makes a mockery of there being a housing need in the area
- Four houses taken by the Hollies were intended as low cost housing for young first-time buyers; much needed for the aging community. This intention has been thwarted.
- To allow the 11th property to change its use is to assume that the entire road will become another Hollies Hotel. How can this happen when there are applications in the system in Martock and Bower Hinton for more properties to be built? Let us save 6 properties on the Close for local, private residents.

#### The Council

- The Council are not interested in the permanent residents that live there.
- It should be ensured that Planning Councillors are better informed than they have been in the past so that they have good judgement and the good sense to reject this application.
- The application will be approved the Council sent letters to local properties including all of the Hollies-owned properties in the Close.

#### Planning Legislation

Currently 18 Barton Close cannot be used for groups but approving this application will allow it. The Town and Country Planning (Use Classes) Order 1987 states that a C3 dwellinghouse must be occupied by a single household. The 2004 Housing Act makes clear that this means a family except for when unrelated people share a house when it is a C4 Use Class (Houses of Multiple Occupation) but it must be their main residence. The groups of large men do not form a single household and therefore cannot be accommodated in a C3 dwelling. This is confirmed by the Planning Inspector's report (APP/J3530/C/10/2143442) which was subsequently upheld by the High Court. SSDC have previously indicated that C3 dwellings preclude short-term use (for example the officer's report in 12/02769/COU).

## **CONSIDERATIONS**

#### Brief Overview

The applicant's hotel has gradually purchased a number of the properties in the Close and has been using them as accommodation for hotel guests. In 2012 and 2013, a series of retrospective applications were submitted to change the use from pure residential dwellings (C3) to a mixed use of C3 and accommodation ancillary to the main hotel (C1): sui generis. Ten applications in total were submitted, nine of which were approved subject to conditions. One application was refused because of the impact on neighbouring properties from an existing fire escape staircase, but then a subsequent application addressing the reason for refusal was approved. The current application represents the change of use of an eleventh dwelling.

Although the application seeks permission to change the use of one dwelling, the accumulative impact of this change of use along with the previous approvals must be considered.

Notwithstanding the one appeal decision provided in a letter of objection, the matter of whether the current use of the building requires a change of use is fact and degree. There are

numerous decisions - both appeal and High Court level - that pertain to the level of guest accommodation that can be achieved under the C3 class. There are decisions that are considered to be more relevant and applicable to the current accommodation that is provided, which relate to 'Aparthotels/ Serviced accommodation': self-contained, self-catering hotel accommodation where visitors may take many meals and use the leisure facilities of a nearby hotel, and book accommodation where and pay for it through the hotel. As the accommodation is un-staffed, with no bar, restaurant, or reception area, and has a lounge, bathroom and kitchen, it is widely considered to be C3, not C1. This fall-back position must play a part in the decision-making process to ensure that the application is considered pragmatically and reasonably.

Regardless, permission is being sought by the applicant to a sui generis use to accommodate hotel use (C1) should the need arise, along with use as a dwelling house (C3). The application before us should be considered on its merits.

#### Principle of Development

Although the economic benefits of the use are contested within the letters of objection, the tourism use is widely considered to provide economic benefits and is accordingly supported by national and local policy.

Paragraph 19 of the NPPF states that "significant weight should be placed on the need to support economic growth through the planning system"; it is therefore considered that any harm must be considered against the significant weight that should be placed on the economic benefits of supporting the economic growth of this business. Paragraph 28 also states that planning should promote a strong rural economy through the promotion of the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings.

It has been asked when the creep of sui-generis guest accommodation into residential housing stock will end; and it would be oversimplified to consider this application by itself, without being aware of the previous ten approvals. The application will be considered against its impact on the housing stock, tourism, local amenities, the historic environment, and highways safety. If any harm is identified, it must be demonstrated that it is so significant that it out-weighs the significant weight that should be given to the economic benefits of the application under the NPPF.

#### Housing Stock

Letters of objection frequently outlined that the Hollies buying properties was detrimental to the housing stock. The first matter to address is that the ownership of the properties is not a planning matter, solely their use and any associated development.

It is acknowledged that the use of the properties as an annex to the Hotel may be considered to deplete the Council's housing stock which is a particularly sensitive matter due to the current lack of a housing land supply. Nevertheless, the change of use for this property and the ten properties preceding it is not considered to result in a loss to the District's housing supply so significant that it would outweigh the intrinsically great weight that must be applied to the associated economic benefits under the instruction of the NPPF.

Furthermore, the properties will still be used for residential purposes, as opposed to, for example, industrial or retail. The residential properties physically remain, allowing for them to be returned to full C3 use subject to planning approval.

#### Tourism

Policy EP8 - The Tourism Policy - states that, in order to sustain the vitality and viability of

tourism in the District, new and enhanced tourist facilities will be supported where:

- They are of a scale appropriate to the size and function of the settlement within which they are to be located;
- The proposal ensures that the District's tourist assets and facilities are accessible through sustainable modes of travel including cycling and walking;
- They do not harm the District's environmental, cultural or heritage assets;
- They ensure the continued protection and resilience of the District's designated nature conservation features;
- They benefit the local community through access to facilities and services; and
- There is no adverse impact on Natura 2000 and other internationally and nationally designated sites.

It is important to note that the Policy states that the scale must be appropriate to the size and function of the settlement rather than the size or function of a specific close or neighbourhood; accordingly it is considered to adhere to the first point. The property is well-located within Bower Hinton, with local facilities and services being easily accessible by foot; it has been highlighted by letters of objection that the guests are seen walking around the area. There is no associated harm to the District's environmental, cultural, historic assets, nature, or to any internationally or nationally designated sites. The application therefore complies with Policy EP8.

#### Visual Amenity and the Historic Environment

The application does not seek to make any alterations to the property, and as such, it is not considered that it would harm the character of the property, visual amenity, or the historic environment - setting of the listed building or Conservation Area. Notwithstanding the objection that the Hollies-owned properties appear unchanged and have well-kept gardens, this is not considered to constitute demonstrable harm; the application is therefore considered to adhere to policies EQ2 and EQ3.

#### Residential Amenity and Highways Safety

Notwithstanding the comments of the local people and Parish Council it is not considered that it has been adequately substantiated that guests staying at this property under the proposed use would cause in any more harm to residential amenity than the under a full C3 capacity. In fact, according to the Council's Environmental Protection Unit, there are no recorded incidents of complaints being lodged against The Hollies, and there are already 10 properties on the Close operating under a mixed, C3 and C1 use. The perceived intimidating and threatening behaviour of the guests would also appear to be unsubstantiated and unfounded.

The Highways Authority states that Standing Advice applies to the application. The Highways Authority's Standing Advice provides no guidance regarding the impacts of a change of use, however, the general guidance can still be observed.

As previously stated, the property lends itself to walking and cycling to local services and facilities. The vehicle movements generated by the change of use would be comparable to those associated to a full C3 use; the trips to work, school run, shopping, and so on, tied to a usual C3 use would be of a similar empirical value to those tied to servicing the property, i.e. housekeeping and keeping the gardens in a positive visual state.

Although the change of use is not considered to necessarily result in increased vehicle movements, it could be argued that the potential for unrelated persons staying in the property is higher under a hotel use. Accordingly, there is risk that each individual will come to the property in a separate vehicle. In this paradigm, not all of the vehicles would be able to be parked on-site, requiring vehicles to be parked on the Close, which would arguably result in



harm to residential amenity and highways safety, especially when considered accumulatively with the other properties on the Close. Therefore, it is considered appropriate to control the maximum number of guests that may stay at the property at any one time. As there are two double bedrooms and one single, it is reasonable to limit the number of persons to stay at the property at any one time to be no greater than 5. It is therefore likely that there will be no more than 3 vehicles associated to the three rooms.

This condition is considered to be reasonable when it is considered that the Hotel could convert the property to a House of Multiple Occupancy, following internal alterations may accommodated up to 6 unrelated persons, without the requirement for planning permission. The condition is also not so burdensome that it would unduly constrain the functioning of the property as hotel accommodation.

Notwithstanding the comments of the Parish Council and local residents, it is not considered that the change of use to allow hotel use, further to the earlier approvals granted, would result in demonstrable harm to residential amenity or highways safety; as such, it is considered to be in accordance with policies EQ2, and TA5 and TA6.

#### Others

The impact of development on local property is not a material planning consideration and is therefore not considered.

Regarding the letters sent to the Hollies-owned properties, all properties within Bartons Close were written to as a matter of course; Planning does not concern itself with land or property ownership.

#### Conclusion

The proposal, that supports the economy and tourism in a rural area, is considered to provide economic benefits that are not outweighed by harm to visual or residential amenity, the historic environment, or highways safety. Accordingly, the application is considered to comply with policies SD1, SS1, EP8, EQ2, EQ3, TA5, and TA6 of the South Somerset Local Plan, and the provisions of the NPPF.

### **RECOMMENDATION**

Permission be granted subject to conditions.

01. The proposed change of use will contribute positively towards available tourism accommodation in the area and the rural economy. The proposal would not be prejudicial to visual or residential amenity, the historic environment, or highways safety; and as such, it accords with policies SD1, SS1, EP8, EQ2, EQ3, TA5, and TA6, of the South Somerset Local Plan, and chapters 1, 3, 7, and 12 of the NPPF

### **SUBJECT TO THE FOLLOWING:**

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

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

02. The development hereby permitted shall be carried out in accordance with the following approved plans (except where directed otherwise by the conditions below): Location Plan and Site Plan, received 23 July 2015.

Reason: In the interests of proper planning and for the avoidance of doubt

03. The application property known as 18 Bartons Close shall be occupied by no more than 5 persons at any one time without the prior express of planning permission. A log book showing the number of guests shall be maintained and made available for the inspection of the Local Planning Authority at their request for the lifetime of the sui generis use hereby granted.

Reason: In the interests of residential amenity and highways safety, in accordance with policies EQ2, TA5, and TA6 of the South Somerset Local Plan (2006-2028).

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