

Statement of Case

Relevant Background

The village of Winsham, in South Somerset, has had a Post Office/General Stores on Church Street, in the heart of the village for well over 100 years. It is now the only shop in the village and, since, 2002 it has been run by and on behalf of the community. In 2017, the opportunity arose to buy what had historically been a public house (“The George”), but which is currently a Grade II listed private residence. It stands about 15 metres away on the north side of the B3162 road which runs roughly east/west through the village.

On Friday 1st December 2017 a detailed survey/census was undertaken to record the patterns of parking and the vehicle and pedestrian movements around the existing shop location and the proposed new location over an 11 hour period, from 7 a.m. to 6 p.m. [**Appendix 1: Parking, Vehicle and Pedestrian Traffic Census, Winsham Village – 1st December 2017**]. In terms of results, as expected, the census showed the highest concentration of pedestrian movement in Church Street was at the times when children and their parents were going to and from the village school. The results, in the form of a spreadsheet, was subsequently sent to SSDC Planning Department.

On 2nd January 2018, Winsham Shop Limited made a formal application for permission for change of use for The George, from residential to business (including commercial/office use of the rooms on the first floor), listed building consent for proposed internal alterations and external signage. [**Appendix 2: Original Application for Planning Permission and listed building consent for alterations to a listed building – 2nd January 2018**]

On 6th June 2018, at a meeting of Winsham Parish Council, the Council recommended approval of the application.

In November 2018, Winsham Shop Limited lodged an amended application, removing the request for permission for commercial/office use of the rooms on the first floor and other minor amendments.

Although Somerset County Council (“SCC”) is the authority ultimately responsible for highway safety in the county, SCC and South Somerset District Council (“SSDC”) have an arrangement whereby SSDC investigates the highways implications of planning applications within its jurisdiction on SCC’s behalf. The agreed protocol is that if the Planning Officer intends to recommend a refusal of any application, on the grounds that it would have an unacceptable impact on highway safety, he/she will seek confirmation from the Highway Authority of SCC that it agrees with the recommendation for refusal.

On 6th December 2018, Mike Hicks, the Planning Officer responsible for The George application e-mailed¹ Adam Garland, the Principal Planning Liaison Officer at SCC saying that the SSDC highway consultant had been involved and was of the opinion that the Winsham Shop proposal would have “*an unacceptable impact*” on highway safety. He asked “*Will you want to confirm your agreement to this before we make a final recommendation?*” He also asked/stated: “*The applicant has also proposed planters in between the building and*

¹ This and the following e-mails and responses were obtained by Winsham Village Shop following a Freedom of Information request after the application was rejected. The applicants were not made aware of the SCC’s involvement until five working days before the Area West Planning Committee Meeting on 20th February 2019.

the monument. I understand this is highways land and as such I understand you would want any such structures removed from the proposal?” [Appendix 3: E-mail of 6th December 2018 from Mike Hicks (SSDC Planning) to Somerset County Council Highway Authority]

On 11th December 2018, Adam Garland responded on behalf of the SCC Highway Authority. Contrary to expectation, he did not agree with the proposed recommendation for refusal. He wrote the following:

“The applicant has submitted information regarding traffic associated with the site, which includes staff, customers, deliveries and servicing vehicles and have shown that a large proportion of current customers walk to the shop. Moving the site will not increase the level of deliveries.

Concerns have been raised regarding the highway implications of intensifying the use of the roads due to the development, but I consider that the majority of these will be pedestrians; I see no reason why moving the unit approximately 15 metres will dramatically increase the number of people who drive to the site. Similarly providing a local café will not be a major draw outside the village.” [Appendix: 4: E-mail of 11th December 2018 from Somerset County Council Highway Authority to SSDC Planning]

On 9th January 2019, at a second Winsham Parish Council meeting, the Parish Council again recommended approval of the application and the Chairman observed: “Whilst we give this application our recommendation for approval, we wish to emphasise that this has the overwhelming support of the Winsham Community. It is a vital village asset which we wish to preserve and develop for the sake of all.”

On 31st January 2019, Mike Hicks, the Planning Officer e-mailed SCC Highways again, attaching the draft “Highway Safety” part of his proposed report to the Area West Planning Committee of SSDC. [Appendix 5: E-mail from Mike Hicks (SSDC Planning) to Adam Garland (SCC Highway Authority)]. He wrote “We have finalised our recommendation, which is negative. Please see below the relevant section of the report and reason for refusal. Can you confirm whether you agree with this recommendation?”. There was no reference to Adam Garland’s earlier e-mail, which clearly had not been supportive of a negative recommendation. The conclusion of the draft report was:

“The location of the development proposal and the traffic generated by the scheme (including pedestrians, cyclists, private vehicles and delivery/service vehicles) would lead to an increase in use of the existing Back Lane [sic] /B3162 Church Street, Western Way/Fore Street junction, such that safe and suitable access to and from the site, cannot be achieved for all users, and the impact on highway safety, would be unacceptable. In addition, the development fails to provide any off-road parking leading to additional on-road parking in and around the aforementioned junction to the detriment of highway safety. Therefore, the proposal would not accord with Policies TA5 and TA6 of the South Somerset Location plan 2006 -2018 and would be contrary to paragraphs 108 and 109 of the National Planning Policy Framework (2018).”

Adam Garland, from SCC Highways responded with a five -page e-mail on 4th February 2019. [Appendix 6: E-mail of 4th February 2019 from Adam Garland (SCC Highway Authority) to Mike Hicks (SSDC Planning) disagreeing with the proposed

recommendation to refuse permission] It contained photographs and plans, supporting a detailed argument against rejection of the application. It addressed all of the issues that had been raised in the extract from the draft report which had been sent on 31st January 2019. It concluded:

“As has been stated previously, if permission is refused and the current shop becomes financially unviable, the closure of the shop will mean local residents will have to travel further afield for groceries. The limitations of the public transport system through the village will mean the vast majority of people will use their private cars, which will increase the amount of vehicles negotiating the aforementioned junction which will increase the risk of collisions. I have assessed the details of this matter and, in this case, the Highway Authority finds we are unable to support the comments made [in your draft report]. The Inspector will need to assess any relevant details presented and make their decision accordingly.”

There was no further correspondence between SSDC and SCC. An edited version of the observations in Adam Garland’s e-mail of 4th February (without the supporting photographs and maps) appeared in Mike Hicks’ report to the Area West Planning Committee; but each of the (positive) observations in favour of the application, was followed in the report by an attempted refutation provided by the SSDC’s own Highways Consultant.

At the Area West Planning Committee Meeting on 20th February 2019, the Planning Officer told the Committee that the SCC Highway Authority had been invited to attend the meeting, but had declined to attend. That was simply incorrect. Adam Garland has confirmed that his Authority was not invited to attend. **[Appendix 7: E-mail of 8th April 2019 from Adam Garland (SCC Highway Authority) to Winsham Shop Committee confirming that the Highway Authority had not been invited to attend the Area West Planning Committee Meeting on 20th February 2019 and reiterating the Authority’s lack of support for refusal of the application on highway safety grounds]**. That e-mail concludes with this statement (making the point for the third time):

“Taking all of the above into account, the Somerset County Council, as Highway Authority, confirms the fact that we are content this proposal will not create a highway safety or efficiency issue and our initial stance on Standing Advice can remain.”

In the event, the Area West Planning Committee accepted the recommendation of the Planning Officer and refused the application for permission for change of use. The reasons that were given for the refusal, were set out in a Notice of Determination, dated 1st March 2019. **[Appendix 8: Notice dated 1st March 2019 of the determination of the application for planning permission – refusal]**

The specific grounds for the refusal were the same as those which had been set out in Mike Hicks’ draft report, which had been “dictated” to him by the SSDC in-house highways consultant in an e-mail of 31st January 2019. **[Appendix 9: E-mail of 30th January from Mike Bellamy to SSDC Planning]**

Substantive Grounds

1. Technically, the decision to refuse the application for planning permission was made by the Area West Planning Committee of SSDC, because it had the power to accept or reject the recommendation made by the Planning Officer. In the end, the only issue debated at the Planning Committee meeting was highway safety. However, the Committee was deprived of sufficient evidence to make an informed decision on the application because:
 - (i) It was not informed of the extent of the involvement of the Highway Authority in the months leading up to the meeting of 20th February 2019, nor of the strongly expressed views of that Authority (which was ultimately responsible for road safety in Winsham) against the recommendation for refusal of permission. Instead the misleading impression given to the Committee, in a 35 minute² presentation by the Planning Officer (assisted by his highway consultant) was that the Highway Authority had been invited to attend the meeting but had declined to come to explain its case.
 - (ii) The only reference to the detailed Parking, Vehicle and Pedestrian Traffic Census, which answered the questions about likely vehicle and pedestrian movements if the village shop moved to The George, was that the traffic survey recorded some 39 pedestrian movements in the centre of the village in an hour - approximately one person every 1½ minutes – which SSDC's highway consultant considered to be "*a significant number*". There was no analysis of what the survey/census showed; for instance, that there were significant "bulges" in pedestrian movements between 8am and 9 am and 3pm and 4pm, coinciding with children, accompanied by parents, going to and returning from the school. Further, there could be no legitimate extrapolation from the survey that the average of 39 pedestrian movements an hour reflected the number of people using the shop. These were merely the numbers of pedestrians using the principal streets in Winsham.
2. Even on the information it had (and certainly on the information it should have had) The Area West Planning Committee should have adjourned the meeting and invited the Highway Authority to attend to explain its reasons for not supporting the Planning Officer's recommendation to refuse planning permission. The Highway Authority was, after all, responsible for road safety in the village.
3. The main ground of appeal, however, is that the SSDC Planning Department should not, on the available evidence, have recommended refusal of planning permission for highway safety reasons or any other reasons.

² The applicant was allowed three minutes.

The stated reasons for the refusal of permission³ break down into two parts:

- (i) The location of the development proposal and the traffic generated by the scheme, including:
 - (a) Pedestrians
 - (b) Cyclists
 - (c) Private vehicles; and
 - (d) Delivery/service vehicles,would lead to an increase in use of the existing Back Lane⁴/B3162 Church Street/Western Way/Fore Street junction such that safe and suitable access to and from the site cannot be achieved for all users and the impact on highway safety would be unacceptable.
- (ii) In addition, the development fails to provide any off-road parking in and around the aforementioned junction, leading to additional on-road parking, to the detriment of highway safety.

Dealing with the perceived road safety aspects first:

(a) *Pedestrians*

The siting of the shop and café, 15 metres diagonally across the road is unlikely to make any significant difference to pedestrian movements. Currently, those coming from the north side of the B3162 (Back Street, Fore Street and the north side of Church Street) have to cross the road to get to the shop. They would no longer have to if the shop was at The George. On the other hand, those coming from Western Way, Davies Close and Bakersfield would have to cross at a safe point. They do now, if they want to use the telephone box, which was presumably sited where it was, between the mouths of Back Street and Fore Street because it was the safest place to cross [**See: Photograph on Page 2 of Appendix 6**]. In reality, nothing will change except the movements of the two halves of the village visiting the shop will reverse. There will certainly be no increase in pedestrian traffic, because the existing shop is already in the vicinity of the junction

Much was made by the Planning Officer of the potential danger to children from Western Way/Davies Close or Bakersfield going to the shop and then crossing back over the B 3162 to go home or to go to the Recreation Ground; but this is basically what children living to the north of Church Street have to do now. The only difference would be that whereas now, they can cross the road from right next to the corner of The George building itself, under the proposal they would be prevented from doing so by the placing of planters/barriers between the building and the market cross, on the land bordering the highway, thought to be owned and maintained by Somerset County Council. The applicant was criticised by the Planning Officer for not having already secured permission to place any structures on the land, but in the first place it does not yet own the building and secondly, the Planning Officer had not disclosed his

³ See Appendix 8

⁴ This should be Back Street

recommendation for refusal of permission, or the reasons for it, until four working days before the Area West Planning Meeting on 20th February 2019.

(b) *Cyclists*

It is difficult to understand how increased bicycle traffic at the junction (presumably with riders visiting the proposed café) would be likely to mean that safe access to and from the site could not be achieved for all users. Cyclists in the south west are well attuned to road safety, given the terrain and the frequent lack of good visibility. It is also difficult to see how they could pose a threat to the safety of others in the vicinity of site. SSDC's highways consultant tried to make the point that insufficient thought had been given to where bicycles would be “parked”, but that does not figure in the reasons for the recommendation for refusal and, in any event, provision could be made for bike racks to be placed in front of the building, or in the recreation ground on the other side of the main road.

(c) *Private vehicles*

There is no reason to believe that there would be any increase in private vehicles at the junction, if the shop moved to The George. Given that the proposed site is only 15 metres away from the existing shop, those needing to drive there will continue to do so, regardless of which side of the B3162 they come from. The SSDC highways consultant appeared to accept this, because in response to Adam Garland's observation that: “*This Authority (i.e. Somerset County Council Highway Authority) does not consider the proposal as submitted would be a major trip generator for people who would require motorised transport. In our opinion, whilst a small café may entice people to gather for refreshments, these are likely to be local residents, who will walk to the site.*”(See: **Appendix 6 page 2**), he did not disagree with the statement. He went on to say that it was the “concentration and intensification of traffic movements directly outside the building that is [his] concern”, but could not apply to private vehicles, given his concession.

(d) *Delivery/service vehicles*

The Planning Officer simply misunderstood the existing delivery system and both he and his highways consultant made incorrect assumptions about what currently happens (and what would happen in the future) and failed to seek clarification of what is and what would be the agreed approach to deliveries.

The Planning Officer had assumed that the main HGV delivery lorry would turn into Back Street and park, blocking the road. At completion of the delivery, it would reverse out into the B3162 and drive off (**See: Appendix 9, SSDC Planning Officer's Report, page 7 – second paragraph**). This is, and would be, incorrect. The agreed procedure is that the delivery lorry approaches from the west (Chard), pulls into the mouths of Back Street and Fore Street, off the main road and then reverses into Back Street and parks in a position where it does not block the road. On completion of the delivery, it simply joins the B3162. This system would continue

were the shop to be at The George. The only difference would be that the delivery driver would not have to navigate loaded wheeled crates across the main road and back, as he does now. Other deliveries are made by a small number of vans, which currently park on Church Street outside the shop. It is likely that they will drive into Back Street and park outside The George. There is no need for them to block the road. On leaving, they will either turn round and drive out onto Church Street, or drive up Back street and turn either north or south on Fore Street. Either way, there are a relatively small number of such deliveries and it is unlikely that the number will increase.

(ii) *Parking*

It is possible to deal with the complaint of the lack of the provision of dedicated parking quite simply: first, there is no dedicated parking for the existing shop and, secondly, the SSDC highways consultant has conceded that the proposal, as submitted, would not be a major trip generator for people who would require motorised transport (see above). In the original planning application, the applicant sought permission to use the first floor rooms as commercial units, but this was removed when the amended application was filed in November 2018. However, the SSDC highway consultant was still arguing, in the Planning Officer's Report that the proposed commercial units would also generate additional vehicular traffic and a demand for parking, yet there appeared to be no off-road dedicated parking spaces for this element of the scheme. (**See: Appendix 9, SSDC Planning Officer's Report, page 9**). It cannot be right for the applicant to be penalised for not providing dedicated parking facilities, where none currently exist and no need for additional parking is anticipated.

4. Although the Somerset County Council Highway Authority has, in effect, delegated to the SSDC Planning Department the power to investigate and decide upon highway-related issues arising in planning applications in its area, it does not follow that the Authority is unable to reject the Planning Officer's recommendation to refuse permission if it does not agree with it. It is, after all the body responsible for highway safety in the County. Here, the Authority had been invited to approve such a recommendation by the SSDC Planning Officer, not once but twice and on each occasion responded with reasoned arguments for why the recommendation was wrong. The only reasons given for the recommendation to refuse permission were highway-related (either safety or use). The Planning Officer should have accepted the Highway Authority's strongly-expressed views on issues which were entirely, if not exclusively within its remit.
5. In recommending refusal, the Planning Officer ignored or paid insufficient regard to views of the Parish Council, which was unequivocally supportive of the application and the views of the vast majority of community who wrote letters in support of the proposal (169 out of 191 households). Neither the Parish Council (whose members come from the village and are familiar with the road layout and the traffic patterns)

nor the residents who gave their support, have expressed concerns about road safety in the event of the shop moving to The George.

6. In his Report to the Planning Committee, the Planning Officer suggested that, in terms of whether or not other options were available in the village in the future, it was considered unlikely that in the event of this proposal failing, the village would have absolutely no other options open to them. (**See: Appendix 9, page 9 third paragraph**) This was irresponsible, because although he acknowledged that the Winsham Shop Committee had decided that there no other suitable alternative premises currently available in the village, he did not take into account the security of tenure of the existing premises, the lease for which expires on 1st September 2019. The impression given was the shop could stay where it was until it found a new home; whereas it is by no means certain that the landlord will be prepared to grant a new lease.