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<b>APPLICATION NO.</b>	19/02002/FULLS
<b>APPLICATION TYPE</b>	FULL APPLICATION - SOUTH
<b>REGISTERED</b>	15.08.2019
<b>APPLICANT</b>	Trusty Tufty Ltd
<b>SITE</b>	Blue Hayes, Salisbury Road, Shootash, SO51 6GA, <b>WELLOW</b>
<b>PROPOSAL</b>	Conversion to dwelling, erection of dwelling, and construction of access
<b>AMENDMENTS</b>	Additional/Amended plans received 20.08.2019 & 01.10.2019
<b>CASE OFFICER</b>	Mr Paul Goodman

Background paper (Local Government Act 1972 Section 100D)

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## 1.0 INTRODUCTION

- 1.1 The application is presented to Southern Area Planning Committee because it is contrary to the provisions of an approved or draft Development Plan or other statement of approved planning policy, adverse third party representations have been received and the recommendation is for approval.

## 2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The application site is situated to the north eastern side of Salisbury Road and within the countryside area of Shootash, within Wellow parish. The site was last in use as a restaurant, now closed, and includes ancillary manager's accommodation. The site is subject to an extant permission for conversion of the restaurant area to a dwelling.

## 3.0 PROPOSAL

- 3.1 The application proposes the conversion of the former restaurant and managers dwelling to a single dwelling and the erection of a replacement dwelling and construction of access.

## 4.0 HISTORY

- 4.1 19/00741/FULLS - Conversion of restaurant (Class A3) to 2 dwellings. Permission 21.05.2019.
- 4.2 07/00236/FULLS - Change of use of land to provide log cabins for bed and breakfast accommodation ancillary to restaurant. Refused 08.05.2007.
- 4.3 TVS.00302/3 - Outline: Extension to and conversion of part of property to C1 use in addition to the existing restaurant use. Refused 11.08.1999.
- 4.4 TVS.00302/2 - TVS.302/2 Outline: Staff dwelling - land adjacent to the Blue Hayes Restaurant, Salisbury Road, Wellow. Refused – 21.04.1981. Appeal dismissed – 27.11.1981.

4.5 TVS.00302/1 Front cloakroom extension - Blue Hayes Restaurant, Salisbury Road, Shootash. Permission subject to conditions – 04.08.1980.

4.6 TVS.00302 Dwelling house - adjoining Blue Hayes, Salisbury Road, Shootash, Wellow. Refused - 09.10.1974.

## 5.0 **CONSULTATIONS**

5.1 **Planning Policy & Transport (Policy)** – Comment;

5.2 **Planning & Building (Landscape)** – No objection, subject to condition.

5.3 **Planning & Building (Trees)** – No objection, subject to condition.

5.4 **Ecology** – No objection, subject to condition.

5.5 **Highways** – No objection, subject to condition.

6.0 **REPRESENTATIONS** Expired 18.10.2019

6.1 **Wellow PC** – Objection;

- Council objects to the above application because this is outside of the settlement boundary.

6.2 **Romsey & District Society (Planning Committee)** – No objection;

- It is noted that the detached dwelling would strictly be regarded as being out with the approved local plan. However the modern design would appear to compliment the existing Thatched Cottage and we have no objection.

6.3 **Kingsclere, Salisbury Road** – Objection;

- The proposed second dwelling is too far forward on the plot and in view from my frontage.
- The design of the new dwelling is not at all in keeping with the area.
- I live next door. My property is a lovely quaint thatched cottage next door to the Blue Hayes which is also a thatched property and the new design is flat roof and no character and insults the beauty of the thatched cottages.
- Also the large white square wall facing towards my property.
- I have advised the applicant that I thought the design was awful. The style chosen looks more like a block of flats.
- I don't really understand why the position of the property would be so far forward I was concerned that another property may be built in the middle I don't mind a second dwelling being built but didn't want it to downgrade the current majestic beauty of my thatched property.
- I would also like to know their plans for drainage considering we have septic tanks & also any plans to expand gas tank or building or erecting Oil tanks for heating.

## 7.0 **POLICY**

7.1 **National Planning Policy Framework 2019** National Planning Policy Framework.

7.2 **Test Valley Borough Revised Local Plan (2016) (TVBRLP) COM2**  
(Settlement Hierarchy), COM12 (Replacement Dwellings in the Countryside), E1 (High Quality Development in the Borough), E2 (Protect, Conserve and Enhance the Landscape Character of the Borough), E5 (Biodiversity), E7 (Water Management), E8 (Pollution), E9 (Heritage), LHW4 (Amenity), T1 (Managing Movement), T2 (Parking Standard).

## 8.0 **PLANNING CONSIDERATIONS**

The main planning considerations are the principle for development, character of the area, highways, protected species & ecology and amenity.

### 8.1 **Principle of development**

The application site is, for the purposes of planning policy, within the countryside. The application site is not allocated for development in the currently saved policies of the Local Plan. The principle planning policy of the TVBLP therefore is policy COM2. Planning policy COM2 seeks to restrict development outside of settlement boundaries unless identified within the specified policies. The specified policies include COM12 which provides for the erection of replacement dwellings in the countryside. In summary it is considered that the permitted change of use has resulted in two properties on the site and as a result the principle of a replacement dwelling has been established. The planning history and fall back position is considered in more detail below.

### 8.2 Planning History

The application site benefits from an extant permission for conversion of the former restaurant to 2 dwellings. The extant permission provides for the building to be subdivided internally with the existing manager accommodation forming the basis of Plot 1 and the remainder of the restaurant area Plot 2. On the basis of the available evidence it was considered that there was no viable interest in the continued use of the site as a restaurant or alternative commercial business. As a result the change of use was considered to comply with policy LE16 and was granted permission. Further consideration of the fall back situation is given below but in this instance it is also relevant that the change of use permitted requires no extension to the building with works limited to the internal arrangements and the introduction of new roof lights and ground floor fenestration which would not require planning permission in their own right.

### 8.3 Fall Back Position

The principle of a fall position was examined in an appeal (APP/C1760/W/16/3154235 – Barrow Hill Barns, Goodworth Clatford). In that case the site benefited from a notification for prior approval under Class J (now Class O) of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) for the conversion of the existing building into 5 residential units.

8.4 In considering the probability that the permitted scheme would be feasible and would be implemented if the appeal scheme for the replacement of the building for 5 dwellings failed at appeal the Inspector stated:

*“I have no evidence before me to doubt the appellant in respect of these matters. I therefore find that the fall-back position to convert the building into 5 dwellings is therefore more than a theoretical prospect; there is likely to be a high probability that the scheme would be constructed if the appeal proposal is dismissed.”*

- 8.5 When considering the planning balance, the Inspector recognised that the proposal would conflict with policy COM2 of the RLP, but considered the likely residential use of the site a material consideration which would justify making a decision which did not in accord with the development plan.

*“However, the appellant’s fall-back position to change the use of the existing buildings upon the site is a very real possibility. The effects of the appeal proposal would be unlikely to be discernible over and above the permitted development scheme for the reasons given. I regard the likely residential use of the site, a material consideration which would, in this case, justify making a decision which is not in accordance with the development plan.”*

The appeal was allowed on this basis.

- 8.6 The assessment of principle, as outlined by the Inspectors decision, has subsequently been followed in recent applications at Upper Eldon Farm (17/02335/FULLS & 17/02336/FULLS), Marsh Court Farm (18/00569/FULLS) and Oaklands Farm (18/02613/FULLS) which were recommended for permission by Officers and subsequently approved at Southern Area Planning Committee.
- 8.7 In this case the fall back position established by the change of use permission is considered to go beyond those comparable cases above where the associated prior approvals and permissions required significant building works in order to establish the presence of a dwelling on the sites. As outlined above the permitted change of use requires no extension to the building with works limited to the insertion of fenestration not requiring permission. In addition the building, having been in former use as a restaurant, benefits from a substantial construction suitable for habitation and has existing kitchen and bathroom facilities. The former managers dwelling requires no further alteration to be used as a separate dwelling and has remained occupied following the change of use permission.
- 8.8 As a result the change of use application is considered to be distinct from the other examples that involved significant construction works to agricultural buildings to be used as a dwelling. The application site can be used as two dwellings without any construction works or further planning permission. Significant weight is afforded to this situation as a material consideration in the determination of this application. The proposed development would therefore result in no net increase in dwellings at the site and it is considered that the scheme should be properly considered as a replacement dwelling under policy COM12.

- 8.9 Policy COM12 (Replacement Dwellings in the Countryside) states that the replacement of an existing dwelling within the countryside will be permitted provided that:
- a) the existing dwelling is not currently the subject of temporary permission; and
  - b) the size, siting and design of the proposal would not be more visually intrusive in the landscape.
- 8.10 The existing dwelling is not subject to a temporary permission and so its replacement is acceptable in principle in accordance with criterion a) of Policy COM12. Consideration of the visual impact of the proposals is given below.
- 8.11 **Character and Appearance**  
The site is located outside the settlement boundary within the countryside; however it has no further landscape designations. The closest public right of way is located over 100m to the north. As a result of the neighbouring properties and mature planting no views of the site are available from the right of way. The site is bordered to the south and west by mature woodland and as a result public views of the site are limited to those from the adjacent highway. Currently the site has some prominence as a result of the large gravel parking area associated with the former restaurant use and the notably more open frontage compared to neighbouring residential properties characterised by a low brick wall and limited planting. By comparison the neighbouring residential properties are characterised by mature boundary planting adjacent the highway.
- 8.12 The application proposes the conversion of the existing building comprising the former restaurant and managers dwelling to a single dwelling. The conversion works remain modest with external works limited to the addition of rooflights in the southeast and southwest elevations, and glazed sliding doors in the northwest elevation. The volume and form of the existing building would remain unchanged.
- 8.13 The second dwelling is proposed to be newly constructed to the southeast of the existing building within the garden area of the former restaurant. The proposed dwelling is of a more contemporary design. The design presents a predominantly single storey element to the highway with the majority of the two storey section situated adjacent the south east boundary with the woodland. The submitted design statement indicates that this is intended to create and sense that the building forms a conclusion to the string of development along Salisbury Road. The orientation of the two storey element reduces the visual impact of the proposals in the street scene. The small number of neighbouring properties are detached and of varying, but generally traditional, designs. The new building whilst of a contemporary appearance is considered to represent a good standard of design that would not detract from the character of the street scene in accordance with Policy E1.

- 8.14 With regard to the criterion a) of Policy COM12 and the supporting text reference to the percentage increase in volume from replacement dwellings the proposals are somewhat unusual. In this instance it is proposed to retain the existing building as a single dwelling, rather than two dwellings, and erect a second dwelling separately. Subject to a condition to ensure that, upon occupation of the new build, the existing building is limited to a single dwelling such an arrangement is acceptable in principle as there would be no net increase in dwellings at the site.
- 8.15 In this case the existing dwelling formed from the former restaurant would not be removed from the site and as such its replacement could not be located on the same footprint. The supporting text of Policy COM12 states that a replacement dwelling should be replaced on its original site or as close as possible unless relocating it elsewhere would result in a positive environmental benefit, including the local landscape or amenity.
- 8.16 The location of the new dwelling to the south of the site provides for a more equitable division of private garden space between the two dwellings. In addition the overall scheme allows for the removal of the large area of gravel parking associated with the previous restaurant use and the addition of new landscaped areas better in keeping with the neighbouring residential properties. With regard to amenity spaces the proposals allow for a more equal division of garden space in addition to improved separation between dwellings.
- 8.17 Overall the proposed development is considered to represent an improvement in the landscape character of the site and, combined with the well designed new development, and replacement rather than retention of the existing building would not be more visually intrusive in the landscape. As a result the proposals are considered to comply with criterion b) of Policy COM12 and policies E1 and E2 of the TVBRLP.
- 8.18 **Arboriculture**  
The Arboricultural Officer raised concern with regard to the original submission, specifically in relation to the proximity of the dwelling to the woodland on the south east boundary, and the relationship of the driveway to the frontage trees. Following those concerns revised plans and arboricultural information has been submitted to address the issues. The Arboricultural Officer has now raised no objection subject to a condition to ensure development is undertaken in accordance with the approved details.
- 8.19 **Highways**  
The proposals retain the existing access which benefits from adequate visibility splays in both directions to serve Plot1 and a new access to the south to serve Plot 2. Parking provision meets the required standard. In addition the proposed residential use would likely generate significantly less traffic than the previous restaurant use. The Highways Officer has raised no objection and the proposal is not considered to have an adverse transport or highway impact subject to conditions to ensure the provision and retention of the proposed parking and adequate visibility splays. Subject to the required conditions the proposals are considered to comply with policies T1 and T2 of the TVBRLP.

## 8.20 **Ecology**

The application is supported by a Preliminary Ecological Appraisal (Peach Ecology, March 2019). The Ecology Officer is satisfied that this represents the current conditions at the application site. No evidence of bats was found and no potential roost locations/ access points for bats to gain access to possible roost locations were identified. It was concluded that there was negligible potential for bats to be present. In view of the survey findings the Ecology Officer has advised that the development is unlikely to result in a breach of the law protecting bats and has raised no objection.

8.21 The report also recommends a number of measures for enhancing biodiversity at the site. The National Planning Policy Framework (NPPF) encourages measures that would result in biodiversity gains; the 'environmental' dimension of sustainable development. Additionally, Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 sets out that local authorities: 'must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) clarifies that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

8.22 In addition Policy E5 of the Test Valley Revised Local Plan also encourages opportunities to incorporate biodiversity in and around developments. As a result a condition is applied to secure the enhancement features detailed in section 5 of the Preliminary Ecological Appraisal. Subject to the required condition the proposals are considered to comply with Policy E5 of the TVBRLP.

## 8.23 New Forest SPA

The proposed development will not result in a net increase in dwellings at the site. The required contributions for the conversion application were made by direct payment prior to the issue of that permission and therefore no further mitigation is required.

## 8.24 Nitrate Neutrality

The river Test and its major tributaries flow into the river Solent. The Solent region is one of the most important for wildlife in the United Kingdom and is protected as such. There are currently high levels of nitrogen and phosphorus input into this water environment and there is evidence to suggest that this is having a detrimental impact on the biodiversity of this area. Housing and other certain types of development are currently contributing negatively towards this issue and there is evidence that further development would exacerbate this impact unless it can be shown that development can demonstrate nutrient neutrality. In this case the proposed development would not result in a net increase in dwellings and therefore, in accordance with the advice produced by Natural England (June 2019) is considered to be nitrate neutral.

9.0 **CONCLUSION**

9.1 The proposed works are considered to be acceptable in principle and have no detrimental impact on the character and appearance of the site, amenities of neighbouring properties, highways safety or protected species. The development complies with the relevant policies of the TVBLP 2016 and NPPF, and is therefore acceptable.

10.0 **RECOMMENDATION**

**PERMISSION subject to:**

1. **The development hereby permitted shall be begun within three years from the date of this permission.**  
**Reason: To comply with the provision of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.**
2. **No development shall take place above DPC level of the development hereby permitted until samples and details of the materials to be used in the construction of all external surfaces hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**  
**Reason: To ensure the development has a satisfactory external appearance in the interest of visual amenities in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1.**
3. **Development shall proceed in accordance with the measures set out in the Mitigation and Enhancement section 5 of the Preliminary Ecological Appraisal (Peach Ecology, March 2019) unless otherwise approved in writing by the Local Planning Authority. Thereafter, the enhancements shall be permanently maintained and retained in accordance with the approved details.**  
**Reason: To enhance biodiversity in accordance with Policy E5 of the Test Valley Revised Local Plan 2016, the NPPF and the Natural Environment and Rural Communities Act 2006.**
4. **The development shall not be occupied until space has been laid out for the parking and manoeuvring of vehicles to enable them to enter and leave the site in forward gear in accordance with a plan to be submitted to and approved in writing by the Local Planning Authority. Development shall be undertaken in accordance with the approved plan and this space shall be reserved for such purpose at all times.**  
**Reason: In the interests of highway safety in accordance with Test Valley Borough Revised Local Plan 2016 policy T2.**
5. **Prior to the commencement of development the access shall be constructed with the visibility splays of 2.4 by 120 metres and maintained as such at all times. Within these visibility splays notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) no obstacles, including walls, fences and vegetation, shall exceed the height of 1.0 metres above the level of the existing carriageway at any time.**

**Reason: In the interest of highway safety in accordance with Test Valley Borough Revised Local Plan (2016) Policy T1.**

- 6. No development shall take place above DPC level of the development hereby permitted until full details of hard and soft landscape works have been submitted and approved. Details shall include-where appropriate: proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.); proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports.); retained historic landscape features and proposals for restoration, where relevant.**

**Soft landscape works shall include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities. The landscape works shall be carried out in accordance with the implementation programme and in accordance with the management plan.**

**Reason: To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1 and E2.**

- 7. The development hereby approved shall be undertaken in full accordance with the provisions set out within the Hellis arboriculture and landscape design Arboricultural Tree Report reference 19/09/157/NH dated December 2019.**

**Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with Test Valley Borough Revised Local Plan policy E2.**

- 8. On first occupation of the replacement dwelling hereby permitted the existing building known as Blue Hayes shall only be occupied as a single residential dwelling in accordance with the approved plans and for no other purpose.**

**Reason: In order ensure no net increase in residential dwellings in the countryside in accordance with policy COM2 of the Test Valley Borough Revised Local Plan 2016.**

- 9. The development hereby approved shall be designed and built to meet Regulation 36 2 (b) requirement of 110 litres/person/day water efficiency set out in part G2 of Building Regulations 2015.**

**Reason: In the interests of improving water usage efficiency in accordance with policy E7 of the Test Valley Borough Revised Local Plan 2016.**

- 10. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers:**

242-D-00 A  
242-D-01  
242-D-02  
242-D-03 C  
242-D-04  
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242-D-17 A  
242-D-18 A  
242-D-19 A  
242-D-20 A  
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242-D-22  
242-D-23 A  
242-D-24

**Reason:** For the avoidance of doubt and in the interests of proper planning.

**Notes to applicant:**

- 1. The development hereby permitted shall be carried out and completed strictly in accordance with the submitted plans, specifications and written particulars for which permission is hereby granted or which are subsequently submitted to, and approved in writing by, the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.**
  - 2. In reaching this decision Test Valley Borough Council (TVBC) has had regard to the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
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