1.0 **Application Number:** 2/2018/0379/OUT.

Site address: Land at, Nyali, Tin Pot Lane, Blandford Forum, Dorset

Proposal: Develop the land by the erection of 28no. dwellings including a Local Area of Play, surface water attenuation feature and highway improvements to Tin Pot Lane (outline application to determine access and layout).

Applicant name: Mr Laws

Case Officer: Robert Lennis

Ward Member(s): Cllr N. Lacey-Clark and Cllr B. Quayle

Reason for Committee Decision:
The Head of Planning in consultation with the Chairwoman consider this application ought to be referred to the Planning Committee for determination in the interest of transparency.

2.0 **Summary of Recommendation**:

Refuse planning permission.

3.0 **Reason for the recommendation**:

- There are in principle objections to this proposal due to its location in the countryside and within the Cranborne Chase Area of Outstanding Natural Beauty.
- The proposed layout of the development is considered to be a cramped form of development that would result in the loss of trees and landscaping out of keeping with the character of the area and having a detrimental impact on the intrinsic character and beauty of the countryside.
- The buildings would have to be conditioned to be three storeys in height (~11m) and windows fixed shut on the south-east elevation to mitigate noise disturbance.

4,0 **Table of key planning issues**

Issue	**Conclusion**
Principle of development	Not accepted; outside of settlement boundary and within an Area of Outstanding Natural Beauty, contrary to policies
Layout and character	Poor, cramped form of overdevelopment, detrimental to the intrinsic character of the area

Access and highway safety	No objections in principle
Noise and land contamination	Noise could be a problem in the future as the site is adjacent to an industrial estate. Further investigation is required with the historical landfill site.

5.0 Description of Site

The site is 0.67ha and located within the Cranborne Chase Area of Outstanding Natural Beauty. It occupies a high point in the landscape on the edge of Blandford. It adjoins the settlement boundary for Blandford Forum as set out in the adopted local plan and emerging Blandford + Neighbourhood Plan (B+NP).

The site is open land currently used as paddocks. It is bounded to the north-east by open land and a cluster of six houses, to the north-west by open land used for the purposes of grazing equine livestock. To the south-east is Tin Pot Lane and the Blandford Industrial Estate, to the south-west is a stable block.

The boundary with Tin Pot Lane has mature planting. The other boundaries are sparsely planted with mature trees.

6.0 Description of Development

The application is in outline form and seeks establish the principle of building 28no. with details of access and layout only at this time being up for consideration. While matters of appearance, scale, and landscaping are reserved for future consideration, the applicant's noise impact assessment would require dwellings adjacent to Tin Pot Lane be three storey (~11m) in height. Illustrative drawings have been submitted to provide an indication of how the development might look.

The access to the site would come off Tin Pot Lane through an existing field gate. In order to facilitate this development Tin Pot Lane would need to be upgraded. Accordingly, plans in the Transport Statement show the carriageway being widened to allow HGVs to pass for at the entrance to Tin Pot Lane along with a dual purpose of a footway. This footway would carry on around the corner of Shaftesbury Road with the addition of a toucan crossing. However, those works would be outside of the proposed development site and would therefore require a third party agreement. It is understood that this land is in the control of the Local Highway Authority.

The proposed layout is that of a suburban development consisting of a mix of terrace, semi-detached and detached dwellings. Garden space would be restricted or compromised by the existing trees which boarder the site and their

root protection zones. A flood attenuation and informal open space are could be provided toward the southern boundary of the site.

Members should be aware that this application relates to the ‘upper site’ off Tin Pot Lane, while application 2/2018/0381/OUT relates to the ‘lower site’ off Tin Pot Lane.

7.0 Relevant Planning History

None.

8.0 List of Constraints

Agricultural Land Grade: 3
Area of Outstanding Natural Beauty: Cranborne Chase AONB

Public Rights of Way - Route Code: E1/20

Settlement Boundary: Blandford Forum
Ward Name: Blandford Hilltop Ward
Parish: Blandford Forum CP

9.0 Consultations

Blandford Forum TC

- Objects; concerns relate to nature conservation and highway matters.

Cranborne Chase AONB

- Objects to the loss of land, loss of trees, poor layout, and visual impact.

Dorset AONB

- Raised concerns

Tree Officer South

- Comments to be reported orally.

Transport Development Management

- No objections subject to conditions.

Drainage Flood Risk Management

- No objections subject to conditions.

Wessex Water

- No comment.

Environmental Health Officer

- Contamination report needs to be considered by a suitably qualified professional.
- Odour assessment accepted.
- Construction best practice advice should be given.
- Noise, the windows on the south-east elevation would need to be fixed shut

Environment Agency

- No objections subject to conditions

WPA Consultants (land contamination)

- No objections subject to conditions

Principal Technical Officer

- No objections subject to drainage conditions.

Environmental Health Officer

- Noise assessment does not demonstrate that noise will not be an issue for residents in the proposed buildings. This could only be achieved if windows were fixed unopening.
- Contamination report needs to be considered by a suitably qualified professional.
- Odour assessment accepted.

Planning Obligations Manager

- No objections subject to contributions being secured for education and library.

NHS Dorset Clinical Commissioning Group

- No contributions sought.

<u>Representations received</u>

Some twelve letters of representation have been received.

Those in support of the application consider Tin Pot Lane needs to be improved for access to Clump Industrial Estate, and have raised safety concerns. They also note the economic benefits of housing. As petition from the businesses at Clump Industrial Estate has also been submitted.

Those raising objections have noted environmental concerns with noise and odour coming in conflict with the existing employer Hospital Metal Craft and the Industrial Estates, both Blandford and Clump. They have also point at the need to build three storey building to mitigate noise as set out in the applicant's noise assessment.

10.0 Relevant Policies

Blandford + Neighbourhood Plan 2011-2033 (B+NP)

This neighbourhood plan has been to examination and the examiner has issued his report. He concludes that provided the recommended modifications are made, the plan would meet the basic conditions. He, therefore, recommends that the plan, as modified, should proceed to referendum. Dorset Council's Portfolio Holder for Planning, Cllr David Walsh, will decide, in due course, whether the plan should proceed to referendum. Therefore, the B+NP is considered to be at an advanced stage and can be given more than moderate weight in decision-making.

- Policy B1 – Blandford Forum & Blandford St Mary Settlement Boundary

North Dorset Local Plan Part 1 2011-2031 (adopted January 2016)(LPP1)

1. 7 Dev. within Settlement Boundaries
Policy 1 - Sustainable Development
Policy 2 - Core Spatial Strategy
Policy 3 - Climate Change
Policy 4 - The Natural Environment
Policy 6 - Housing Distribution
Policy 7 - Delivering Homes
Policy 8 - Affordable Housing
Policy 9 - Rural Exception AH
Policy 13 - Grey Infrastructure
Policy 14 - Social Infrastructure
Policy 15 - Green Infrastructure
Policy 16 - Blandford
Policy 24 - Design
Policy 25 - Amenity

National Planning Policy Framework (NPPF)

As far as the application is concerned, the following sections of the NPPF are considered to be relevant:

1. Introduction
2. Achieving sustainable development
3. Plan-making
4. Decision-making
5. Delivering a sufficient supply of homes
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land

12. Achieving well designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment

Of particular relevance to this application are paragraphs 11, 14, and 172:

- Paragraph 11 and 'The presumption in favour of sustainable development' does not apply. This states, in part at "…d)(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed[6];…

  (Footnote 6 means "the policies referred to are those in this Framework…relating to: ...an Area of Outstanding Natural Beauty…")

- Paragraph 14 states "In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweight the benefits, provided all of the following apply[8]:

  a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;

  b) The neighbourhood plan contains policies and allocations to meet its identified housing requirement;

  c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and

  d) the local planning authority's housing delivery was at least 45% of that required[9] over the previous three years."

- Paragraph 172 states "Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads[54]. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development[55] other than exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

  a) The need of the development, including in terms of any national considerations and the impact of permitting it, or refusing it, upon the local economy;

  b) The cost of, and scope for developing outside the designated area, or meeting the need for it in some other way; and

c) Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated."

Other relevant planning policy and guidance:

Cranborne Chase AONB Management Plan 2019-24; part 13 Planning and Transport

This is a statutory document that is approved by the Secretary of State and is adopted by the constituent councils including Dorset Council. It sets out the Local Authorities' policies for the management of this nationally important area and the carrying out of their functions in relation to it, as required by section 89 (2) of the CRoW Act. The national Planning Practice Guidance [Natural Environment paragraph 004] confirms that the AONB and its Management Plan are material considerations in planning.

- Section 8 Planning and Transport is of particular relevance to this case.

11.0 Human rights (standard text)

Article 6 - Right to a fair trial.
Article 8 - Right to respect for private and family life and home.
The first protocol of Article 1 Protection of property

This Recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

12.0 Public Sector Equalities Duty (standard text)

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have "due regard" to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the neds of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have "regard to" and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

14.0 Climate Implications

The loss of trees and land within the nationally recognised CCAONB would run contrary to the policies set out to protect the natural environment. It is recognised that the conservation and enhancement of wildlife and cultural heritage are also important considerations in these AONB.

15.0 Planning Assessment

The main issues of this case are considered to relate to:

- Principle of development
- Layout and character of the area
- Access and highway safety
- Environmental Health, noise, odour, and landfill

Principle of development

For the purpose of decision-making, the starting point for any proposed development is whether the principle would be acceptable in policy terms. It is acknowledged that North Dorset, as was, can only demonstrate 4.0 years of housing land supply. However, the emerging Blandford+ Neighbourhood Plan (B+NP) has allocated land to meet their housing needs and is at an advanced stage. This makes paragraph 14 of the NPPF relevant to the considerations of this case.

This site is located in the countryside and is designated as part of Cranborne Chase Area of Outstanding Natural Beauty (CCAONB). This is a protected area as set out in paragraph 11 footnote 6 of the National Planning Policy Framework (NPPF). LPP1 Policies 2 and 20 are relevant in relation to the issue of development in the countryside. These state that outside of the defined boundaries of the four main towns, including Blandford, development in the countryside will be strictly controlled unless it is required to enable essential rural need.

LPP1 Policy 4 sets out wording that is similar to paragraph 172 of the NPPF; that proposed major development in an AONB should be refused unless there are exceptional circumstances and where it can be demonstrated that the development is in the public interest. It is considered that there are no exceptional circumstances put forward in this case that would make this development acceptable. As set out above CCAONB is a protected area of particular importance and provides a clear reason for refusing this development proposal.

Members should be aware that this site, and the lower site, were considered as option sites (as part of Options 3 & 4) in the emerging Blandford+ Neighbourhood Plan for future housing growth. Neither were selected. In relation to the housing allocation in the emerging B+NP, the local plan Examiner commented that "…my own assessment, following the viewing…is clear that development of each of the

options that have not been chosen in the B+NP would be no better and probably of greater impact than the chosen option in terms of impact on the landscape and on the character of the AONBs."

Layout and character of the area

The proposed layout to accommodate 28no. dwellings appears to be cramped and would compromise the longevity of many of the trees on the site or adjacent to it. Countryside development on the edge of settlements are considered to be 'transitions sites' which typically have lower density of housing. For example the existing cluster of 8no. houses off Tin Pot Lane has a density of about 8dph. By comparison the proposed development would have a density of 42dph and would therefore appear rather cramped.

The proposed layout would have a terrace of three storey (~11m) housing backing onto Tin Pot Lane. This would result in a visually continuous mass making the development more apparent in distant views and strikingly different from the existing cluster of housing in the Lane. The mass would compound the visual impact of the industrial site when trees are removed to the detriment of the local landscape character and CCAONB.

The proposed number of housing would also have a direct impact on the spaciousness of individual plots. This can be seen most acutely long the periphery of the site. This proposed layout would result in most of the trees and undergrowth along Tin Pot Lane being removed to create garden space. Similarly, it could be expected that mature trees just outside of any garden would also come under pressure to be lopped, topped, or felled to allow more sunlight or better views from domestic residents. It is generally acknowledge that no degree of protection can stop the removal or damage of trees in a domestic setting if the owner does not want them. In this regard to the proposed layout would be out of keeping with the character of the area, having a detrimental impact on the intrinsic character and beauty of the countryside, and the landscape of the CCAONB.

The CCAONB team have been consulted numerous times on this application and Officers have also facilitated meetings between the applicant and CCAONB officer. It was discussed on-site how the loss of tree would impact the landscape character of local views within the Lane and distant views from with the AONB. Changes to Tin Pot Lane would also account for some change to the character of the area as well and must be considered as a net loss of landscaping. The current tree cover provides an effective screening for the buildings of the adjacent Blandford Heights Industrial Estate.

From these discussion, some additional tree planting off-site has been offered, and a revised Landscape and Visual Impact Assessment. However, the fact that there are no exceptional circumstances to justify development in this location

within the Cranborne Chase AONB is the sticking point. CCAONB have observed that the latest additional information submitted does not fundamentally change the scheme nor the concerns that this AONB Partnership has regarding the landscape impacts of the scheme.

The CCAONB officer also noted that the scale (3-storey or ~11m), as shown on the illustrative plans, would be detrimental to the character of the area and AONB. This scale would have to be conditioned as a minimum in order to achieve the noise mitigation set out in NIA. This landscape impact was also acknowledge by the B+NP Examiner "…to the north of Blandford Forum, which is located within the Cranborne Chase AONB. As such, development of this area would likely lead to some degree of harm to the special qualities of the AONB, with the potential for significant adverse effects on landscape character…"

Not surprisingly, the Examiner also noted that development of these sites would have "…impacts upon the setting of the Dorset AONB, and is visible from elevated land to the west within the AONB, in the direction of Bryanston and Durweston. New development therefore has the potential to adversely impact upon views from these areas."

For these reasons, it is considered that the proposed layout would be detrimental to the character of the area and CCAONB.

Access and highway safety

It is understood through discussion with the highway engineers that there are no safety concerns or recorded accidents on Tin Pot Lane. The Lane is suitable for the needs of its current users; Clump Industrial Estate and the cluster of houses at the entrance. It is only the requirement of the proposed housing that would trigger the need to make changes to Tin Pot Lane. For this application, only part of the Lane would be improved. The proposed access arrangements would be acceptable subject to conditions.

The petition submitted by the businesses of the Clump Industrial Estate in support of this application and specifically to the proposed improvements of Tin Pot Lane is acknowledged. However, representations opposed to the development have also been received from Hospital Metalcraft in the Blandford Industrial Estate along with the objections from Blandford Forum Town Council

Whilst it may be desirous to improve Tin Pot Lane for some, the question of exceptional circumstances and demonstrating a public interest to overcome LPP1 Policy 4 and paragraph 172 of the NPPF rests within the provision of allocating this site for housing. This is not considered to be necessary as the B+NP, which is at an advanced stage, has allocated land to address their housing need. Furthermore, the Local Highway Authority has no safety concerns with the current state of Tin Pot Lane. If Tin Pot Lane requires improvements,

then these should be funded by some other means, and not at the expense of this nationally important landscape.

Environmental Health, noise, odour, and landfill

The noise assessment submitted with the application is based on the assumption of the windows being closed in the proposed residential properties. The guidance given in *ProPG: Planning and Noise. New Residential Developments* is that "using fixed unopenable glazing for sound insulation purposes should be avoided" and also that "most residents will value the ability to open windows at will".

An open window will increase the noise level inside the room by up to 15 dB. If this figure is added to the predicted levels then baseline required noise levels referred to in Section 8 of the Noise Impact Assessment will not be met. As a result of this the noise assessment does not demonstrate that noise will not cause an issue for residents in the proposed buildings.

The applicant has suggested that all windows on the south elevation of buildings could be fixed with unopenable windows. The affected rooms would be: the W/C, kitchen, bathroom, stairwell, an en-suite, and one of two windows to bedroom 3. To condition the retention of these windows would be difficult, if not impossible, to enforce. As such, the condition should not be imposed.

The lack of adequate ventilation would be poor design affecting amenity of the dwellings. This would amount to a reason for refusal. Residents have a reasonable expectation to have opening windows in kitchen, and bathrooms. Whilst these are not habitable rooms, they are used regularly as opposed to a stairwell.

The submitted Odour Assessment follows current guidance. The outcome of the assessment is accepted. Environmental Protection would have a statutory duty to investigate any complaints relating to odour; the investigation would ensure that any probable odour sources are looked into, with respect to Best Practicable Means & Best Available Techniques where necessary. That is not to say problems in the future would not arise between the industrial estates and residents in close proximity; only that they would be investigated.

With regard to land contamination, the preliminary desk study and risk assessment submitted with the planning application has identified the historical landfill on site as a potential source of contamination.

The application would still be required to confirm and quantify the potential risk to controlled water receptors. The initial assessment recommends further intrusive works are needed to confirm as a minimum:

- the construction of the landfill (i.e. any lining or cap),

- the base elevation of the landfill relative to the surrounding natural ground,
- the landfill material,
- any elevated concentrations of contaminants and gases, and;
- the leachability of any inorganic contaminants.

The comments of the EA and our land contamination consulted are noted above. Following their advice, it would be necessary to require pre-commencements conditions to further investigate this landfill site. Depending on what is found could render any permission un-implementable, a nullity. This seems like poor practice. This information should be required to make an informed decision. Without it, this could form the basis of a reason for refusal. Officers will clarify this position orally.

16.0 Conclusion

There are in principle objections to this proposal due to its location in the countryside and within an Area of Outstanding Natural Beauty.

The proposed layout and density would have a cramped appearance and result in the loss of trees and undergrowth that would compromise the character and appearance of the area. The individual design of buildings would be excessive in height for this semi-rural location and fixed unopenable windows would compromise the amenities of occupants.

While the proposed development would provide some improvement to Tin Pot Lane, there is no demonstrable reason that the Lane has to be improved in the public interest.

17.0 RECOMMENDATION

Refuse planning permission for the following reasons:

1. The proposed development by reason of its location would result in the loss of countryside within the Cranborne Chase Area of Outstanding Natural Beauty contrary to emerging Policy B1 of the Blandford+ Neighbourhood Plan, Policies 2, 4 and 20 of the adopted North Dorset Local Plan Part 1 (January 2016), and paragraph 172 of the National Planning Policy Framework..

2. The proposed layout of the development is considered to be a cramped form of development out of keeping with the character of the area that would also result in the loss of trees and landscaping detrimental to the intrinsic character and beauty of the countryside contrary to Policies 4, and 24 of the adopted North Dorset Local Plan Part 1 (January 2016), and paragraph 170 and 172 of the National Planning Policy Framework.

3. The proposed development in order to mitigate excessive noise would require buildings to be a minimum height of three storeys and windows unopenable on the southeast elevations such matters would have a seriously detrimental impact on the character of the area, Cranborne Chase AONB, and amenity of occupants contrary to Policies 4, 24, and 25 of the adopted North Dorset Local Plan Part 1 (January 2016), and paragraph 172 of the National Planning Policy Framework.