



Area East Committee

Wednesday 9th October 2019

9.00 am

**Council Offices, Churchfield,
Wincanton BA9 9AG**

(disabled access and a hearing loop are available at this meeting venue)



The following members are requested to attend this meeting:

Robin Bastable
Hayward Burt
Tony Capozzoli
Nick Colbert
Sarah Dyke

Henry Hobhouse
Charlie Hull
Mike Lewis
Kevin Messenger
Paul Rowsell

Lucy Trimnell
William Wallace
Colin Winder

Consideration of planning applications will commence no earlier than **9.15am**.

For further information on the items to be discussed, please contact the Case Services Officer (Support Services) on 01935 462038 or democracy@southsomerset.gov.uk

This Agenda was issued on Monday 30 September 2019.

Alex Parmley, *Chief Executive Officer*



This information is also available on our website
www.southsomerset.gov.uk and via the mod.gov app

Information for the Public

The council has a well-established area committee system and through four area committees seeks to strengthen links between the Council and its local communities, allowing planning and other local issues to be decided at a local level (planning recommendations outside council policy are referred to the district wide Regulation Committee).

Decisions made by area committees, which include financial or policy implications are generally classed as executive decisions. Where these financial or policy decisions have a significant impact on council budgets or the local community, agendas will record these decisions as “key decisions”. The council’s Executive Forward Plan can be viewed online for details of executive/key decisions which are scheduled to be taken in the coming months. Non-executive decisions taken by area committees include planning, and other quasi-judicial decisions.

At area committee meetings members of the public are able to:

- attend and make verbal or written representations, except where, for example, personal or confidential matters are being discussed;
- at the area committee chairman’s discretion, members of the public are permitted to speak for up to up to three minutes on agenda items; and
- see agenda reports

Meetings of the Area East Committee are held monthly, usually at 9.00am, on the second Wednesday of the month in the Council Offices, Churchfield, Wincanton (unless specified otherwise).

Agendas and minutes of meetings are published on the council’s website
www.southsomerset.gov.uk/councillors-and-democracy/meetings-and-decisions

Agendas and minutes can also be viewed via the mod.gov app (free) available for iPads and Android devices. Search for ‘mod.gov’ in the app store for your device, install, and select ‘South Somerset’ from the list of publishers, then select the committees of interest. A wi-fi signal will be required for a very short time to download an agenda but once downloaded, documents will be viewable offline.

Public participation at committees

Public question time

The period allowed for participation in this session shall not exceed 15 minutes except with the consent of the Chairman of the Committee. Each individual speaker shall be restricted to a total of three minutes.

Planning applications

Consideration of planning applications at this meeting will commence no earlier than the time stated at the front of the agenda and on the planning applications schedule. The public and representatives of parish/town councils will be invited to speak on the individual planning applications at the time they are considered.

Comments should be confined to additional information or issues, which have not been fully covered in the officer’s report. Members of the public are asked to submit any additional documents to the planning officer at least 72 hours in advance and not to present them to the Committee on the day of the meeting. This will give the planning officer the opportunity to respond appropriately. Information from the public should not be tabled at the meeting. It should also be noted that, in the interests of fairness, the use of presentational aids (e.g. PowerPoint) by the applicant/agent or those making representations will not be permitted. However, the applicant/agent or those making representations

are able to ask the planning officer to include photographs/images within the officer's presentation subject to them being received by the officer at least 72 hours prior to the meeting. No more than 5 photographs/images either supporting or against the application to be submitted. The planning officer will also need to be satisfied that the photographs are appropriate in terms of planning grounds.

At the committee chairman's discretion, members of the public are permitted to speak for up to three minutes each and where there are a number of persons wishing to speak they should be encouraged to choose one spokesperson to speak either for the applicant or on behalf of any supporters or objectors to the application. The total period allowed for such participation on each application shall not normally exceed 15 minutes.

The order of speaking on planning items will be:

- Town or Parish Council Spokesperson
- Objectors
- Supporters
- Applicant and/or Agent
- District Council Ward Member

If a member of the public wishes to speak they must inform the committee administrator before the meeting begins of their name and whether they have supporting comments or objections and who they are representing. This must be done by completing one of the public participation slips available at the meeting.

In exceptional circumstances, the Chairman of the Committee shall have discretion to vary the procedure set out to ensure fairness to all sides.

Recording and photography at council meetings

Recording of council meetings is permitted, however anyone wishing to do so should let the Chairperson of the meeting know prior to the start of the meeting. The recording should be overt and clearly visible to anyone at the meeting, but non-disruptive. If someone is recording the meeting, the Chairman will make an announcement at the beginning of the meeting.

Any member of the public has the right not to be recorded. If anyone making public representation does not wish to be recorded they must let the Chairperson know.

The full 'Policy on Audio/Visual Recording and Photography at Council Meetings' can be viewed online at:

<http://modgov.southsomerset.gov.uk/documents/s3327/Policy%20on%20the%20recording%20of%200council%20meetings.pdf>

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Area East Committee

Wednesday 9 October 2019

Agenda

Preliminary Items

1. Minutes of Previous Meeting

To approve as a correct record the minutes of the previous meeting held on Wednesday 11th September 2019.

2. Apologies for absence

3. Declarations of Interest

In accordance with the Council's current Code of Conduct (as amended 26 February 2015), which includes all the provisions relating to Disclosable Pecuniary Interests (DPI), personal and prejudicial interests, Members are asked to declare any DPI and also any personal interests (and whether or not such personal interests are also "prejudicial") in relation to any matter on the Agenda for this meeting.

Members are reminded that they need to declare the fact that they are also a member of a County, Town or Parish Council as a Personal Interest. Where you are also a member of Somerset County Council and/or a Town or Parish Council within South Somerset you must declare a prejudicial interest in any business on the agenda where there is a financial benefit or gain or advantage to Somerset County Council and/or a Town or Parish Council which would be at the cost or to the financial disadvantage of South Somerset District Council.

Planning Applications Referred to the Regulation Committee

The following members of this Committee are also members of the Council's Regulation Committee:

Councillors Tony Capozzoli, Henry Hobhouse, Paul Rowsell, William Wallace and Colin Winder.

Where planning applications are referred by this Committee to the Regulation Committee for determination, Members of the Regulation Committee can participate and vote on these items at the Area Committee and at Regulation Committee. In these cases the Council's decision-making process is not complete until the application is determined by the Regulation Committee. Members of the Regulation Committee retain an open mind and will not finalise their position until the Regulation Committee. They will also consider the matter at Regulation Committee as Members of that Committee and not as representatives of the Area Committee.

4. Date of Next Meeting

Members are asked to note that the next scheduled meeting of the committee will be at the Council Offices, Churchfield, Wincanton on Wednesday 13th November at 9.00am.

5. Public Question Time

6. Chairman Announcements

7. **Reports from Members**
8. **Planning Appeals (for information only)** (Pages 6 - 27)

Items for Discussion

9. **Area East Committee Forward Plan** (Pages 28 - 29)
10. **Schedule of Planning Applications to be Determined by Committee** (Pages 30 - 31)
11. **19/00655/OUT - Land OS 9609 Brewham Road, Bruton** (Pages 32 - 52)
12. **19/01379/S73A - Solar Site Land OS 0034 Bowden Lane** (Pages 53 - 60)
13. **19/01275/LBC - Arion House, 38 High Street, Bruton** (Pages 61 - 63)
14. **19/01505/S73A - Marsh Lane Farm, Marsh Lane, Tintinhull** (Pages 64 - 67)

Please note that the decisions taken by Area Committees may be called in for scrutiny by the Council's Scrutiny Committee prior to implementation.

This does not apply to decisions taken on planning applications.

Agenda Item 8

Planning Appeals

Director: Martin Woods (Service Delivery)
Service Manager: Simon Fox, Lead Specialist - Planning
Lead Officer: Simon Fox, Lead Specialist - Planning
Contact Details: Simon.fox@southsomerset.gov.uk or 01935 462509

Purpose of the Report

To inform members of the appeals that have been lodged, decided upon or withdrawn.

Recommendation

That the report be noted.

Background

The Area Chairmen have asked that a monthly report relating to the number of appeals received, decided upon or withdrawn be submitted to the Committee.

Report Detail

Appeals Received

None

Appeals Allowed

18/01843/FUL - Land at buildings at Tolbury Lane, Bruton
Conversion and demolition of existing former agricultural buildings to form a detached dwelling (revised application) (Officer Decision)

19/00184/S73A – Land rear of 18 – 24 Westcombe, Templecombe
Section 73A application to vary condition 1 (approved plans) of planning application 17/04047/S73A to amend Plot 1 from a single-storey bungalow to a 2-storey dwelling.(Committee Decision)

Appeals Dismissed

18/01879/FUL – Former Easons Office, High Street, Milborne Port
Demolition of existing buildings and the erection of a new dwelling. (Officer Decision)

Background Papers: None



Appeal Decision

Site visit made on 27 June 2019

by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 05 September 2019

Appeal Ref: APP/R3325/W/19/3226071

Land and Buildings at Tolbury Lane, Bruton, Somerset BA10 0DQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs K Lunn against the decision of South Somerset Council.
 - The application Ref 18/01843/FUL, dated 7 June 2018, was refused by notice dated 3 January 2019.
 - The development proposed is described as conversion and demolition of existing former agricultural buildings to form detached dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for conversion and demolition of existing former agricultural buildings to form detached dwelling on land and buildings at Tolbury Lane, Bruton, Somerset BA10 0DQ in accordance with the terms of the application, Ref 18/01843/FUL, dated 7 June 2018, subject to the conditions listed in the attached schedule.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in February 2019. I have taken account of this in the determination of this appeal.

Main Issues

3. The main issues are the effect of the proposals on the character and appearance of the area, where they relate to:
 - The proposed location, materials and scale of the new build elements
 - The setting of the Bruton Conservation Area

Reasons

Character and Appearance: location, materials and scale

4. The appeal site is situated on the edge of the historic town of Bruton, within a valley surrounded by trees and hedgerow and well screened from Tolbury Lane. The site is significantly overgrown and has several modern farm buildings and hard standing within it, together with some smaller, older buildings adjacent to the lane, all of which appear to be in a poor state of repair. At the site visit, I observed that because of the topography of the site and partly because of the level of vegetation cover, the character of the site is secluded and rural.

5. Locally, the predominant materials used in buildings within this edge of the town are stone, brick, tile, render and timber. The proposals would result in the demolition of most of the existing farm buildings, with the retention and restoration of the older pigsty buildings (which are of stone). The proposed new dwelling would be a two storey house characterised by significant areas of glazing, to be constricted of stone and timber cladding together with a slate roof. A new stone wall to the boundary with Tolbury Lane would be added, together with a pedestrian access gate through the wall.
6. The appeal proposals are a revision to a scheme for a new dwelling (Local Planning Reference 17/01837/FUL). Both parties agree that the principle of the redevelopment of the site for a new dwelling is therefore not in dispute.
7. The appeal proposals would result in the re-siting of the dwelling further into the site, and away from the nearby Coombe Brook, with the scheme arranged in a loose 'courtyard' layout. The main bulk of the dwelling would be similar in size to the approved scheme, but there would be additional areas in the form of two cross-wings. Whilst the dwelling overall would be substantial in terms of its appearance, I do not consider it would be unacceptably large, given the secluded character of the site itself and the level of development already present within the site.
8. I note the concerns of the Council in relation to the increased size of the dwelling, together with concerns over the increased levels of glazing, reduced levels of stonework and increased levels of timber weatherboarding, which the Council considers would be uncharacteristic. I consider that as a contemporary dwelling the use of such materials would be distinctive, they would not jar with the local area. The stonework plinth and gables of the house would subtly echo the stonework contained throughout the outbuildings and in other buildings within this edge of the town. The appearance of the dwelling and its associated outbuildings would still be dominated by a significant amount of stonework together with the new stone wall that would address Tolbury Lane.
9. The Council have suggested that some of the buildings proposed to be demolished are non-designated heritage assets and I note that the appellant did not submit a heritage statement. However, the Council have not set out which buildings they consider fall into this category and given the proposals would retain and restore the stone pigsty buildings, together with the addition of a new stone wall addressing the lane, I consider that this would result in a significant improvement to the overall appearance of the site.
10. The materials proposed have been carefully considered and reflect the mix of materials present locally. The overall design centred around a courtyard with some restoration of the older stone buildings and new wall would result in a scheme that would reflect the pattern of development within this part of the town. I consider that the distinctive design of the appeal proposal would sit well within its context, given the degree of self-containment offered by the appeal site.
11. I therefore do not find conflict with policy EQ2 (General Development) of the South Somerset Local Plan (2015) (LP), which seeks to support development proposals which offer high quality design that reflects the character and local distinctiveness of an area.

Character and Appearance: setting of the Conservation Area

12. The appeal site outside but adjacent to the Bruton Conservation Area (CA) and I have therefore considered the effect of the proposals on the setting of the CA as a designated heritage asset.
13. The CA boundary follows Tolbury Lane and includes land and buildings to the East. This part of the CA is relatively undeveloped and is characterised by small groups of farm buildings and residential dwellings, broken by relatively small undeveloped parcels of land. I consider that the appeal site contributes to the buffer of open countryside, providing a rural context for the CA. However, the unsympathetic arrangement and appearance and condition of the structures on the site currently make no contribution to the setting of the CA.
14. The sloping nature of Tolbury Lane and its associated strong sense of enclosure, together with the significant screening of the appeal site means that the impact of the proposals would not, in my view, result in any harm to the setting of the CA. Indeed, consider the addition of the stone wall and restoration of the existing stone outbuildings would contribute positively to the setting of the CA and its character.
15. To that end, I do not find harm to the character and appearance of the area, where it relates to the setting of the CA, and I therefore do not find conflict with Policies EQ2 and EQ3 (Historic Environment) of the LP which seeks development that safeguards, enhances and makes a positive contribution to heritage assets that would be affected by it, nor do I find conflict with Paragraph 196 of the Framework.

Other Matters

16. I note the comments of third parties and those of the Bruton Trust, who expressed concern about the design of the dwelling which would not reflect the agricultural or millstream heritage of the site. Whilst I agree that the main dwelling design does not do this, an architectural pastiche on this site would not be the only design solution. In any case, I have made my decision based on the merits of the proposal before me.
17. I have also considered concerns over additional lighting levels; potential effects on biodiversity; flood risk; car parking and pedestrian safety and these are matters that are either not reasons for refusal or have been addressed in the schedule of conditions.

Conditions

18. I have applied standard conditions in terms of timescales and plans in the interests of certainty.
19. Exceptionally, I have applied pre-commencement conditions requiring details of finished floor and ground levels (3) and external materials (4) in order to safeguard the character and appearance of the area and in accordance with the requirements of policies EQ2 and EQ3 of the South Somerset Local Plan.
20. I have applied a condition (5) in order to ensure the proposed lighting scheme is satisfactory and minimises the impact on local biodiversity and the character of the area and in the interests of public safety and convenience, having regard to Policies EQ2, EQ3, EQ4 and TA5 of the South Somerset Local Plan.

21. I have applied conditions 6 and 7 in order to safeguard the landscape character of the area and to ensure there is no harm to the setting of the Conservation Area and to provide ecological, environmental and biodiversity benefits, having regard to Policies EQ2, EQ3 and EQ4 of the South Somerset Local Plan and relevant guidance within the NPPF.
22. Conditions 8 and 9 covering foul and surface water drainage have been applied in order to safeguard against pollution and flooding, having regard to Policies EQ1, EQ2 and EQ7 of the South Somerset Local Plan and relevant guidance within the NPPF.
23. I have applied condition 10 in order to protect the living conditions of existing residents and to ensure the retention of parking provision, having regard to policies EQ2, EQ3 and TA6 of the South Somerset Local Plan and relevant guidance within the NPPF.
24. Finally, condition 11 is applied in order to provide adequate safeguards for nesting birds, which are afforded protection under the Wildlife and Countryside Act 1981 (as amended), having regard to Policy EQ4 of the South Somerset Local Plan and relevant guidance within the NPPF.

Conclusions

25. Having considered all matters raised, and subject to the conditions in the attached schedule, I consider the appeal is allowed.

Sian Griffiths

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location and Block Plan (18-011.LUN-01); Proposed Site Location and Block Plan (18-011.LUN-02); Footprint and Site Layout Plan (18-011.LUN-03); Existing Site Plan (18-011.LUN-04 RevA); Proposed Front Elevation 4 (18-011.LUN-05); Proposed Front Elevation (18-011.LUN-06); Proposed Side Elevation 1 (18-011.LUN-07); Proposed Side Elevation 2 (18-011.LUN-08); Proposed Side Elevation 3 (18-011.LUN-09); Proposed Ground Floor Plan 1 (18-011.LUN-10); Proposed First Floor Plan (18-011.LUN-11); Supplementary Garage Plans and Elevations (18-011.LUN-12 RevA); Supplementary Piggery Plan and Elevations (18-011.LUN-13); Indicative Perspective View from Gate (18-011.LUN-14); Indicative Perspective View from Coombe Brook (18-011.LUN-15); Indicative Perspective View from Garden Paddock (18-011.LUN-16); Section (18-011.LUN-17).
3. Finished floor levels and finished ground levels of the site to be submitted to and approved in writing by the LPA prior to commencement of development. The development shall thereafter be constructed in accordance with the approved plans.
4. Details of external finishing materials shall be submitted to and approved in writing by the LPA prior to construction/progression of any part of the development above slab level/ground floor level. A schedule of materials and (colour) finishes (including samples and trade descriptions/brochure details where appropriate) of materials to be used in the external surfaces to be submitted and approved shall include:
 - (a) constructional details at an appropriate scale of all eaves, verges and barge boards. Unless otherwise agreed in writing by the Local Planning Authority, all new (and any subsequent replacement) fascia boards shall be fitted tight to the wall face and the barge shall be finished either with a close fitting timber board or the wall finish taken directly up to the underside of the roof covering;
 - (b) a sample panel of the type of stonework, type of pointing and the mortar to be used, measuring not less than two square metres, shall be provided for inspection and written approval by the Local Planning Authority prior to the construction of any new walls and thereafter kept on site for reference until the stonework is completed. Machine cut or sawn faces shall not be used in the walls or for quoin stones.
 - (c) the colour and finish of the timber cladding/weatherboarding to be used and a drawn section to show its profile, lapping and finish;

- (d) details of any new brickwork to be used;
- (e) type, colour finish and texture of render to be used;
- (f) elevational and plan and vertical sectional drawings at an appropriate scale of all external windows and doors. Such details shall include design, appearance (including thresholds), profiles, position in wall reveals, opening lights (if any), materials, finish and colour, including their method of opening, and materials and finish of all lintels and sills;
- (g) the locations, heights, sizes, materials of construction and colour finishes of all flues, ducts, rainwater goods, external vents, extracts, meters and any other external attachments;
- (h) the type, size, siting and method of fixing of all rooflights to be used. All rooflights shall be fitted flush to the roof plane wherever possible;
- (i) heights, materials, design, appearance and (colour) finish of all balconies and railings;

The development shall be constructed in accordance with the approved details and completed before the development is first occupied (or completed to a stage previously agreed in writing by the Local Planning Authority) and thereafter shall be retained and maintained in that form, unless the Local Planning Authority gives prior written approval to any subsequent variation.

5. Prior to the erection, installation, fixing, placement and/or operation of any external lighting on the site (including on any of the buildings themselves), details of such external lighting shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the equipment and supporting structures, positions, sizes, heights, type, luminance/light intensity, direction and cowling of all external lights to the buildings and any other parts of the application site edged red (as indicated on the approved Site Location Plan) and the hours at which such lighting is to be operated. The external lighting shall thereafter be carried out in accordance with the approved details (unless the Local Planning Authority gives prior written approval to any subsequent variations) and shall thereafter be retained in that form.
6. Prior to construction/progression of any part of the development hereby permitted above slab level/ground floor level, a scheme of hard and soft landscaping detailing treatment of all parts of the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. This landscaping scheme shall include:
 - (a) planting plans (to a recognised scale) and schedules indicating the location, number, species, density, form and size of proposed tree, hedge and shrub planting;
 - (b) the method and specifications for operations associated with planting establishment, protection, management and maintenance of all retained and new tree, hedge and shrub planting;
 - (c) existing landscape features such as trees, hedges and shrubs which are to be retained and/or removed, accurately plotted (where appropriate);

(d) existing and proposed finished levels (to include details of grading and contouring of land) and the means of accommodating change in level (e.g. retaining walls, steps, railings, walls, gates, ramps, or other supporting structures);

(e) location, type and materials to be used for hard surfacing, including specifications and details of manufacturer, type and design, colour and bonding pattern where appropriate. Samples may be required to be submitted and approved;

(f) car parking layout and any other vehicular and pedestrian access and circulation areas;

(g) the position, design, materials, means of construction of all site enclosures and boundary treatments (e.g. fences, walls, railings, hedge(banks)), where appropriate;

(h) a management and maintenance plan of all the approved landscaping features; and

(i) a timetable for the implementation of the approved hard and soft landscaping scheme.

There shall be no excavation or raising or lowering of levels within any prescribed root protection areas of retained trees unless previously approved in writing by the Local Planning Authority.

The approved hard and soft landscaping scheme shall be carried out strictly in accordance with the approved timetable of implementation and shall thereafter be protected, managed and maintained in accordance with the approved scheme.

7. Except for any trees, hedges or shrubs that may be identified for removal on the approved landscaping plans and schedule, approved pursuant to condition 06, if within a period of five years from the date of the completion of the buildings or completion of the approved landscaping scheme pursuant to condition 07 (whichever is the later), any retained tree, hedge or shrubs are felled, removed, uprooted, destroyed or die, or become in the opinion of the Local Planning Authority seriously damaged, diseased or defective, it/they shall be replaced by planting as originally approved, unless the Local Planning authority gives its written approval to any variation. This replacement planting shall be undertaken before the end of the first available planting season (October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees or plants.
8. Prior to occupation of the dwelling hereby permitted, a scheme of foul drainage and effluent disposal shall be implemented in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained and maintained thereafter.
9. Prior to occupation of the dwelling hereby permitted, a scheme of surface water disposal from all new buildings and hardened areas shall be implemented in accordance with details previously submitted to and

approved in writing by the Local Planning Authority. The approved scheme shall be retained and maintained thereafter.

10. The proposed car port / garage and garden storage buildings shall be used solely for such designated purposes for vehicular parking and storage purposes incidental to the occupation and enjoyment of the dwellinghouse hereby permitted, and shall not be used for, nor in connection with, any commercial trade or business purposes.
11. No demolition and conservation development works to buildings, and the removal of potential bird nesting habitats, comprised of trees, scrub, shrubs and ruderal vegetation, shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of buildings and vegetation for active birds' nests immediately before works proceed and vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority and written agreement from the Local Planning Authority so obtained. Under no circumstances should blocking bird access to certain areas and features in using plastic bird netting hung over the gaps and apertures be carried out, as this can lead to entrapment from birds caught in netting. All mitigation works as recommended in the submitted Preliminary Ecological Appraisal dated 20th July 2018 prepared by Western Ecology to be fully adhered to during the development process.

End of Schedule



Appeal Decision

Site visit made on 5 September 2019

by David Wyborn BSc(Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th September 2019

Appeal Ref: APP/R3325/W/19/3228725

Land rear of 18 to 24 Westcombe, Templecombe BA8 OLH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr R Thorner of Flower & Hayes Developments against South Somerset District Council.
 - The application Ref 19/00184/S73A is dated 18 January 2019.
 - The application sought planning permission for the erection of 13 dwellings without complying with a condition attached to planning permission Ref 17/04047/S73A, dated 23 November 2018.
 - The condition in dispute is No 1 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans numbered F1325/200B, F1325/203B, F1325/205C, F1325/206C, F1325/207C, F1325/208C, F1325/210C, F1325/212C and F1325/215 received 29/07/2016 and F1325/216F received 06/10/2017 and F1325/217Q, F1325/202D, F1325/209 and F1325/214F received 15/01/2018.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 13 dwellings at land rear of 18 to 24 Westcombe, Templecombe BA8 OLH in accordance with the application Ref 19/00184/S73A, dated 18 January 2019, without compliance with condition 1 previously imposed on planning permission Ref 17/04047/S73A dated 23 November 2018 and subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr R Thorner of Flower & Hayes Developments against South Somerset District Council. This application is the subject of a separate Decision.

Background and Procedural Matters

3. Planning permission was granted for the erection of 13 dwellings on the site under application 09/03037/FUL in April 2010. There were two subsequent planning permissions (11/02147/S73 and 16/03330/S73A) which varied the approved plans attached to this original permission. These approvals resulted in further free standing permissions for the development of the site.

4. A further application (17/04047/S73A) sought to vary the scheme for 13 units by replacing the approved plans to application 16/03330/S73A. This proposal sought to replace the bungalows on Plots 2 and 3 with 2 storey dwellings. While refused by the Council this scheme was permitted on appeal on 23 November 2018¹. This resulted in another free-standing permission for the site. This approval showed a bungalow on Plot 1.
5. Another application (18/01071/S73A) sought to vary the condition detailing the approved plans under Application 09/03037/FUL to allow the bungalow on Plot 1 to be replaced by a 2 storey dwelling. This was permitted in August 2018 and again established a further free standing permission for the 13 dwellings on the site. However, with this amended application, Plots 2 and 3 were still retained with bungalows.
6. While the schemes for each permission stand alone, giving the developer a choice of which to implement, the information indicates that the intention of the present proposal is to amalgamate all the various options into a single free standing approval. This in effect would enable Plots 1, 2 and 3 to all be constructed as 2 storey dwellings. The present proposal seeks a new free standing permission by varying the plans condition (condition 1) of application 17/04047/S73A. This permission (17/04047/S73A) has 2 storey dwellings on Plots 2 and 3 and the only matter that would be different with the present proposal from that approval is a 2 storey dwelling on Plot 1 rather than a bungalow. The dwelling proposed for Plot 1 under this latest scheme is the same dwelling as that permitted on that plot under application 18/01071/S73A.
7. As the permission (17/04047/S73A) was granted at appeal there is no listed reason for the imposition of condition 1. However, as it is the standard plans condition, I consider that it has been imposed to provide certainty.
8. The application the subject of this appeal was not determined within the statutory period and the appellant appealed on the basis of non-determination. The Council, however, subsequently indicated in their appeal statement, following a committee resolution, that were it had the opportunity to determine the application it would have been refused on the basis that the proposal would result in unacceptable overlooking of three neighbouring properties, 28 and 30 Bowden Road and Plot 2 within the development.
9. The Council has stated that, as this revised scheme does not propose any uplift in the overall house numbers across the site, it accepts that the proposal does not trigger the need for any additional planning obligations over and above those already secured through the existing Section 106 agreement attached to the original application (09/03037/FUL), which is said to be equally applicable to any future amended schemes including this appeal. Consequently, I do not need to consider this matter further.

Main Issue

10. In the light of the above analysis, the main issue is the effect that the 2 storey dwelling on Plot 1 would have on the living conditions of the occupiers of 28 and 30 Bowden Road and the future occupiers of Plot 2, with particular regard to overlooking.

¹ Appeal reference APP/R3325/W/18/3200600

Reasons

11. Plot 1 is located on a slightly higher area of land than the road leading up to the development and the land further back into the site where other dwellings have been completed. The 2 storey dwelling would be sited adjoining the 2 storey dwellings permitted on Plots 2 and 3 and be of a similar design to other dwellings within the site.
12. The rear first floor windows of the proposed dwelling on Plot 1 would look towards the rear garden area of 30 Bowden Road. However, beyond the rear boundary of the Plot, within the garden of No 30, are well established trees. The trees would help to screen, to a large extent, views into this adjoining property from the first floor windows of the proposed dwelling. I have no clear evidence to believe that the trees are likely to be removed in the future. Given the presence of the trees, the distance between the rear windows of Plot 1 and the garden of No 30, and the area of garden that the dwelling windows would look towards, the living conditions of the occupiers of No 30 would not be unduly affected by the dwelling on Plot 1.
13. The side wall of the proposed dwelling on Plot 1 would face the dwelling at 28 Bowden Road. Subject to a condition in any approval that there would not be any windows added to this side wall, there would be no overlooking in this respect. The rear windows of Plot 1 would allow for some angled views towards a section of the rear garden of No 28. However, having regard to the reasonably limited area of garden that would be visible and its location within the garden of No 28, there would be an acceptable relationship between properties. In such circumstances, the living conditions of the occupiers of No 28 would not be affected to a harmful extent by overlooking from the windows of the dwelling proposed on Plot 1.
14. The dwelling on Plot 1 would have a first floor side window that would light the landing. This would look predominantly towards the side wall of Plot 2 and its side passageway. Any angled views towards the rear garden of Plot 2 would be limited. Views from the rear first floor rear windows from the dwelling on Plot 1 towards the rear garden of Plot 2 would also be limited by the angle as well as partially obscured by the detached garage. Overall, there would be a satisfactory relationship between these properties. In these circumstances, the occupiers of Plot 2 would not be overlooked to an unacceptable extent by the proposed dwelling on Plot 1.
15. The Council would also have considered these relationships and, I assume found them acceptable, when it permitted the same 2 storey dwelling on Plot 1 under application 18/01071/S73A. I have not been presented with any robust evidence or information that indicates that planning circumstances or policy has changed since the Council approved that application.
16. For the reasons explained above, I conclude that the dwelling on Plot 1 would not unduly affect the living conditions of the occupiers of the adjoining properties by way of overlooking and therefore would comply with Policy EQ2 of the South Somerset Local Plan (2006-2028) which seeks, amongst other things, to protect the residential amenity of neighbouring properties.

Other Matters

17. I have taken into account all the representations from local residents and the Parish Council. I note that there are concerns that 2 storey dwellings would replace the bungalows on Plots 1, 2 and 3. It is said that this would alter the original design concept, provide no financial benefit, undermine the need for bungalows on the site and in the area, and that this change would be contrary to what residents understood would be developed. However, the loss of the bungalows has already been agreed by the Council under other permissions and I have not been presented with a policy reason why this would be unacceptable or material planning harm identified that would result from this change to the original scheme. I therefore afford these matters limited weight.
18. I have taken into account the concerns with the potential loss of daylight and sunlight that it is said would occur to neighbouring properties from the development. Objections have also been raised regarding overlooking from the dwellings on Plots 2 and 3 to the properties within the wider development site to the west. However, the dwellings have already been approved under different permissions and given the spacing between properties and the overall positioning of the development, I am satisfied that the impact of the scheme on neighbouring properties would be acceptable in these respects. Consequently, I attribute these matters limited weight.
19. Comments have been raised regarding car parking and highways. My attention has not been drawn to any objections from the Highway Authority and it appears that sufficient car parking would be provided on Plot 1 in this case. Consequently, I attribute this matter limited weight.
20. Concerns are raised regarding drainage issues and the unfinished nature of the road. However, these are not matters directly related to the main issue in this case and therefore I attribute them limited weight.
21. I have noted the issues regarding the legal position of the boundary fence and the siting of the dwelling on Plot 1, as well as the comments regarding the background history to the development on the site. However, these are not matters for my consideration in terms of assessing the planning merits of this appeal and therefore these matters afford very little weight in the overall analysis.

Conclusion and Conditions

22. For the reasons given above, and taking all other matters into account, I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition but it is necessary in the interests of certainty to attach another condition listing the revised plans and restating those conditions that are subsisting and capable of taking effect, having regard to the conditions suggested by the Council in the event that the appeal was to be allowed.
23. In this regard the Planning Policy Guidance makes clear that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the previous planning permission, unless they have already been discharged. As I have little information before me about the status of all the other conditions imposed on the previous planning permission, I shall impose all those that I consider to be relevant. In the event that some

have in fact been discharged, that is a matter that can be addressed by the parties. I have made minor modifications to the recommended conditions in the interests of accuracy and clarity.

24. Condition 2 (external materials) and 7 (ground levels) are necessary in the interests of the character and appearance of the area. Conditions 3, 4 and 5 are necessary in the interests of highway safety and the convenience of all highway users. Foul and surface water drainage details need to be implemented as specified to prevent flooding and provide adequate drainage (condition 6).
25. In the interests of the character and appearance of the area it is necessary to ensure the planting scheme is implemented and retained (condition 8) and that trees are protected during construction (condition 9). Exceptionally, it is necessary to remove permitted development rights to control the future frontage treatments to the site, as detailed in condition 10, to ensure the appearance of the development is maintained.
26. Conditions 11, 12 and 13 are necessary to prevent overlooking and therefore help to maintain the living conditions of the occupiers of neighbouring properties.

David Wyborn

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans numbered F1325/217X, F1325/205F, F1325/214G, F1325/209A, F1325/203B, F1325/200B, F1325/215, F1325/206C, F1325/207C, F1325/208C, F1325/210C, F1325/212C and F1325/216H.
2. The external wall, roof and chimney materials, the materials and external finish for all external windows and doors, internal and external boundary treatments and surfacing materials for the access drive, paths, turning and parking areas shall accord with those agreed under discharge of condition application 13/00878/DOC, unless otherwise agreed in writing by the local planning authority.
3. Notwithstanding the plans listed in condition 1, prior to any other works commencing in respect of the development hereby permitted the visibility splays shown on drawing no. F1325/217D shall be provided in full and shall thereafter be permanently maintained in this fashion.
4. The proposed roads, including footpaths and turning spaces where applicable shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

5. Notwithstanding the plans listed in condition 1, at the proposed access there shall be no obstruction to visibility greater than 300mm above adjoining road level within the visibility splays shown on the submitted plan F1325/217D, such visibility splays shall be permanently retained and maintained thereafter.
6. The foul and surface water drainage details to serve the development shall accord with the details set out on drawing number F1325/225B received 29/07/2016, unless otherwise agreed in writing by the local planning authority. Such approved drainage details shall be completed and become fully operational before the development hereby permitted is first brought into use. Following its installation such approved scheme shall be permanently retained and maintained thereafter.
7. The development shall be carried out in accordance with the internal ground floor levels set out on drawing number F1325/217X, unless otherwise agreed in writing by the Local Planning Authority.
8. The development shall be carried out in accordance with the landscaping scheme detailed on drawing number J46-01A received 31/01/2013. All changes to existing ground levels and all planting, seeding / turfing comprised in the approved details shall be carried out in the first planting and seeding season following the first occupation of the dwellings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
9. The tree protection measures detailed on drawing number J46/-01A received 31/01/2013 shall be implemented and kept in place until the approved development is completed, unless otherwise agreed in writing by the local planning authority.
10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a road.
11. Prior to plot 16 being first brought into use the first floor window in the south elevation shall be fitted with obscure glass (and fixed closed) and shall be permanently retained and maintained in this fashion thereafter.
12. Prior to plot 3 being first brought into use the first floor window in the north elevation shall be fitted with obscure glass and shall be permanently retained and maintained in this fashion thereafter.
13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no openings within the south elevation of Plot 1 without the prior express grant of planning permission.

End of Schedule



Costs Decision

Site visit made on 5 September 2019

by David Wyborn BSc(Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th September 2019

Costs application in relation to Appeal Ref: APP/R3325/W/19/3228725 Land rear of 18 to 24 Westcombe, Templecombe BA8 0LH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr R Thorner of Flower and Hayes Developments for a full award of costs against South Somerset District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the erection of 13 dwellings without complying with condition 1 of application 17/04047/S73A.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Background

2. The Planning Practice Guidance (the Guidance) advises, regardless of the outcome, costs may be awarded against a party who has behaved unreasonably and caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance indicates that if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. In any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period.
4. The Guidance goes on to explain that if an appeal in such cases is allowed, the local planning authority may be at risk of an award of costs, if the Inspector or Secretary of State concludes that there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether. Such a decision would take into account any unreasonable behaviour on the part of the appellant in causing or adding to the delay.

Reasons

5. In this case, the only effective difference between the scheme permitted on appeal under Application 17/04047/S73A and the present proposal was the substitution of the bungalow on Plot 1 for a 2 storey dwelling. However, the same dwelling proposed on Plot 1 had previously been permitted under Application 18/01071/S73A. The appeal scheme was, therefore, an amalgam of

- earlier applications where all the elements had previously been considered and found acceptable.
6. The Council highlight its delegation scheme, allowing a process of member call into committee, and that there was a period of election purdah, which is said to have impeded committee consideration of the proposal within the statutory period. However, I am not satisfied that this should have been such a hinderance or could not have been anticipated and addressed to prevent the timely determination of a reasonably straightforward application. In my view, the Council has not presented convincing or substantive reasons why it was not able to determine the application within the statutory period.
 7. The Council say it was open for the appellant to approach it and discuss the processing of the application, however, I am not aware of any amendments or other matters that were necessary to expedite the determination of the application or action that the appellant could have taken to help the Council with its decision making. The appellant wrote to the Council shortly after the end of the statutory period saying he would appeal on the basis of non-determination by the end of that week. I consider that the appellant had a reasonable expectation that the application would have been determined within the statutory period in this case and while the Council say that they were unable to meet this further date, it had had the previous weeks to move the application to a decision.
 8. After the appeal against non-determination had been made, a report was presented to the Committee to consider whether to defend the appeal. The Officer Report commented that the acceptability of the proposed amendments had already been considered and agreed through previous applications, albeit in a piecemeal manner. The report comments that it is not considered that the building out of all three plots as two-storey dwellings, as detailed on the submitted plans (and which is identical to that previously approved) will give rise to any new demonstrable harm over and above what has already been approved.
 9. The Committee is not required to agree with the recommendation of its officers, but if it wishes to come to a different view it needs to provide a cogent argument based on sound planning considerations. In this case, the concern with overlooking would have been assessed under the previous application for the 2 storey dwelling on Plot 1 and which had been granted planning permission. No robust case was made that planning circumstances had changed since that earlier decision and no adequate explanation was made for the difference between the two approaches taken by the Council. This resulted in two cases effectively not being considered in a consistent manner.
 10. In the light of these circumstances, I find that there was no substantive reason that justified the delay in determining the application. I have no detailed information that indicates that the Council explained to the appellant why the application had been delayed or confirmed a date for determination to try to avoid an appeal at that time. Furthermore, when the Council did make a resolution in respect of the proposal it failed to provide a robust and clearly evidenced explanation for that approach and this has resulted in development being delayed which should clearly have been permitted. These actions amount to unreasonable behaviour and the appellant has incurred unnecessary and wasted expense by having to appeal.

Conclusion

11. In the light of the above analysis, I have found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

12. In exercise of the powers under Section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that South Somerset District Council shall pay to Mr R Thorner of Flower and Hayes Developments, the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to South Somerset District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching an agreement as to the amount.

David Wyborn

INSPECTOR



Appeal Decision

Site visit made on 16 July 2019

by **Mike Robins MSc BSc(Hons) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5th September 2019

Appeal Ref: APP/R3325/W/18/3217769

**Former Telephone Exchange, High Street, Milborne Port,
Sherborne DT9 5AG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Heather Turner against the decision of South Somerset District Council.
 - The application Ref 18/01879/FUL, dated 12 June 2018, was refused by notice dated 7 November 2018.
 - The development proposed is the demolition of the two former telephone exchange buildings, and the erection of a new two-bedroomed dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. I consider that there are two main issues in this case:
 - The effect of the proposed development on the character and appearance of the Milborne Port Conservation Area (CA) and the setting of nearby listed buildings; and
 - The effect on the living conditions of future residents, with particular regard to light.

Reasons

3. The appeal site is a small plot of land currently occupied by former telephone exchange buildings, which are reported to have been used previously for commercial purposes. The plot lies to the rear of an area of open land, referred to as The Clump, on which there are a number of mature trees and the base of a medieval cross, moved to this site in the 1950s and listed at Grade II. A short distance along Bathwell Lane lies the Grade 1 listed St John the Evangelist's Church, although it is separated from the site by the Church House. The proposal would demolish the existing buildings, replacing them with a two-storey dwelling on a slightly larger footprint.

Heritage Assets

4. The CA covers the heart of the village where traditional stone cottages and terraces line High Street, but also includes the more extensive open areas around the church. Its significance derives from its range of vernacular buildings, street patterns and relationship with the church and associated religious buildings. The Clump lies in a prominent position on approach to the

main part of the village providing an important component of the setting of the church and of the CA, including the transition between these two areas. The mature trees, open aspect and historical connections with the cross contribute to its significance to this setting.

5. There are listed buildings surrounding the site, of which the principle buildings of relevance are the base of the cross and the nearby church. While the church is clearly an important building, there would be no direct visual links with the site. Nonetheless, the Clump forms a part of its setting as well as the principal component of the setting of the base of the cross, and one that would be regularly passed by the majority of those seeking to enjoy the seating on the Clump or reach the church on foot or by car.
6. The existing buildings are relatively low key and while they do little to enhance the CA or the setting of the listed buildings, they are recessive and relatively well screened by existing tree canopies and the walls to either side. The proposed dwelling would be a narrow building with a very steeply sloping roof. While I consider that the introduction of a residential property, effectively extending the presence of such properties along High Street, would not, on its own, be harmful, the design and particularly the potential effects on the nearby trees would be.
7. The site is constrained, and the tall narrow house proposed would appear squeezed into the plot in a contrived way, which is neither reflective of the traditional terraced properties, nor the rather more spacious infill developments that are found nearby. It is a design that responds not to the character and appearance of the CA, but to the constraints of the narrow plot and overhanging vegetation.
8. Included with the application was an arboricultural report that suggested that the trees could be preserved during the development through the use of extensive no-dig construction techniques and a 5-metre crown uplift.
9. My own observations show the large and mature lime and beech lying in very close proximity to either side of the plot, on land outside of the control of the appellant; they significantly overhang and dominate the site. Even the crown of the substantial turkey oak near to the cross base extends towards the site and increases the level of enclosure engendered by these important trees.
10. Substantial branches cross the site at the level of the current ridge and the trunk of the beech lies immediately adjacent to the low wall dividing the site from the Clump.
11. While I note the findings of the arboricultural report, I have very grave concerns over the effect that replacing the small, single storey buildings with a far more substantial two-storey dwelling would have. It would be set in very close proximity to the trees themselves and would include a large proportion of their root protection areas (RPAs), particularly the mature beech, which has a low tolerance for development.
12. The arboricultural report itself notes¹, in repeating aspects of BS 5837², that ideally the RPA should be undisturbed and that the ability of a tree to tolerate disturbance is dependent on a number of conditions, including its maturity,

¹ Appendix 5

² BS 5837:2012 - Trees in relation to design, demolition and construction.

with older trees less successful in adapting to new conditions. In addition, it sets out that site specific and specialist advice regarding foundation design in such circumstances need to be sought. However, despite references to a structural engineer's plans, no such plans have been provided, and the report provides only a generic response. In relation to a lightly used driveway or a smaller percentage of a RPA this may have been acceptable. In this case, I consider there remain significant questions over whether there would be harm to the important trees immediately adjacent to the site.

13. Furthermore, I note that a minimum suggested response is for a crown lift on all the trees to 5 metres. The existing crowns are at approximately 2 metres, providing a coherent and relatively dense crown spread across the site, and in part screening the existing buildings at the rear. A crown lift would both unbalance the trees, introducing a more managed and less natural form, and open up views towards the built form on the site. In addition, the very close relationship between the site and the trees, which are all deciduous, would lead to effects on living conditions, which I address below, as well as pressure to prune, continually lift or even remove trees.
14. Overall, I consider that there is insufficient evidence to demonstrate that harm would not arise to the trees from both construction and longer-term pressures upon them. I note the appellant suggests that such pressures would occur if a continued commercial use was made of the existing buildings; I disagree. In residential circumstances the sensitivity to such impacts is inevitably higher. These trees are an important part of the CA, contributing directly to its significance. Harm to these would result in a diminution of the quality of the Clump and impacts on the settings of the listed buildings and on the CA itself, whose character and appearance would fail to be preserved.
15. The proposal would conflict, in terms of its design and its effect on the trees with Policies EQ2 and EQ3 of the South Somerset Local Plan (the LP), which seeks development that would conserve and enhance the landscape character of an area, respecting the local context and safeguarding the historic environment.
16. In terms of national policy under the National Planning Policy Framework (the Framework), I consider that this harm should be considered as less than substantial, it nonetheless must be given considerable importance and weight.

Living conditions

17. I have set out above the circumstances in relation to the existing trees. Even were a crown lift to be carried out, the kitchen, which would form the larger of the two areas proposed on the ground floor, would be heavily shaded with very limited outlook. Rooms on the first floor with small windows to the road or over the small garden would be reliant on skylights, which would have heavy foliage shading for much of the year.
18. To my mind, the heavy and persistent shading that would be associated with the existing trees would not be conducive to a quality living environment and reemphasises my concerns regarding the pressure to lift, prune or even fell the trees. As set out in BS 5837, the relationship of buildings to large trees can result in apprehension and future pressure for removal. The introduction of a residential use here would not lead to acceptable conditions for future occupants in terms of light. The proposal would conflict with LP Policy EQ2 in

this regard, which seeks the creation of quality spaces, and with the Framework, which seeks places that provide a high standard of amenity for existing and future users.

Planning Balance and Conclusion

19. The appellant suggests that the existing buildings, particularly if left to degrade further through neglect or vandalism, are a continuing impact on the Clump and the CA. However, while I accept that this is a risk, they are currently well screened and relatively low-key, and allowing a development that would lead to harm is not an appropriate route to address this matter; I can give limited weight to the public benefit of removing the existing buildings in this way.
20. Limited other public benefits are identified by the appellant to set against the significant weight that I have given to the less than substantial harm to the heritage assets and to the harm to living conditions of future residents.
21. I note the appellant also refers in their application documents to the lack of a five-year housing land supply and the presumption in favour of sustainable development. I have limited further arguments on this matter, but consider that the harm to the heritage assets is of particular importance and addressed by policies in the Framework that provide a clear reason for refusing the development proposed.
22. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Mike Robins

INSPECTOR

Agenda Item 9

Area East Forward Plan

Service Manager: Tim Cook, Area Development Lead (East)
Lead Officer: Kelly Wheeler, Case Services Officer (Support Services)
Contact Details: Kelly.wheeler@southsomerset.gov.uk or 01935 462038

Purpose of the Report

This report informs Members of the agreed Area East Forward Plan.

Recommendation

Members are asked to:-

- (1) Comment upon and note the proposed Area East Forward Plan as attached;
- (2) Identify priorities for further reports to be added to the Area East Forward Plan, developed by the SSDC lead officers.

Area East Committee Forward Plan

The forward plan sets out items and issues to be discussed over the coming few months. It is reviewed and updated each month, and included within the Area Committee agenda, where members of the Area Committee may endorse or request amendments.

Members of the public, councillors, service managers, and partners may also request an item be placed within the forward plan for a future meeting, by contacting the agenda co-ordinator.

Items marked *in italics* are not yet confirmed, due to the attendance of additional representatives.

To make the best use of the Area Committee, the focus for topics should be on issues where local involvement and influence may be beneficial, and where local priorities and issues raised by the community are linked to SSDC corporate aims and objectives.

Further details on these items, or to suggest / request an agenda item for the Area East Committee, please contact the Agenda Co-ordinator; Kelly Wheeler.

Background Papers: None

Appendix A

Area East Committee Forward Plan

Meeting Date	Agenda Item	Background and Purpose	Lead Officer
13 November 19	Churchfields Office	To consider options for meeting location	Tim Cook
11 December 19	Community Grant Applications	To consider Community Grant Applications	Tim Cook
11 December 19	Heart of Wessex Rail Partnership	Update report	Lynda Pincombe

Agenda Item 10

Schedule of Planning Applications to be Determined by Committee

Director: Martin Woods, Service Delivery
Service Manager: Simon Fox, Lead Officer (Development Management)
Contact Details: simon.fox@southsomerset.gov.uk or 01935 462509

Purpose of the Report

The schedule of planning applications sets out the applications to be determined by Area East Committee at this meeting.

Recommendation

Members are asked to note the schedule of planning applications.

Planning Applications will be considered no earlier than 9.15am.

Members of the public who wish to speak about a particular planning item are recommended to arrive for 9.00am.

SCHEDULE					
Agenda Number	Ward	Application	Brief Summary of Proposal	Site Address	Applicant
11	BRUTON	19/00655/OUT**	Outline planning permission for the development of up to 60 residential dwellings (Use Class C3), together with associated highways and drainage infrastructure, public open space and landscaping	Land OS9609 Brewham Road, Bruton	Acorn Property Group
The following items will be discussed no earlier than 10.15am.					
12	BLACKMOOR VALE	19/01379/S73A	Construction of a Photovoltaic Park with associated equipment including access track and cable route (without complying with Condition 2 of planning permission 17/00242/S73A, to extend the time to 40 years)	Solar Site Land OS 0034 Bowden Lane	Nextenergy Solar Holdings VI Ltd

13	BRUTON	19/01275/LBC	Replacement windows	Arion House 38 High Street Bruton	Mr Andrew Williams
14	NORTHSTONE, IVELCHESTER AND ST MICHAELS	19/01505/S73	Application to remove agricultural occupancy condition (condition 1) of permission 780953	Marsh Lane Farm Marsh Lane Tintinhull	Mrs Laura Steggles

Further information about planning applications is shown on the following page and at the beginning of the main agenda document.

The Committee will consider the applications set out in the schedule. The Planning Officer will give further information at the meeting and, where appropriate, advise members of letters received as a result of consultations since the agenda has been prepared.

Referral to the Regulation Committee

The inclusion of two stars (**) as part of the Development Manager's recommendation indicates that the application will need to be referred to the District Council's Regulation Committee if the Area Committee is unwilling to accept that recommendation.

The Lead Planning Officer, at the Committee, in consultation with the Chairman and Solicitor, will also be able to recommend that an application should be referred to District Council's Regulation Committee even if it has not been two starred on the Agenda.

Human Rights Act Statement

The Human Rights Act 1998 makes it unlawful, subject to certain expectations, for a public authority to act in a way which is incompatible with a Convention Right. However when a planning decision is to be made there is further provision that a public authority must take into account the public interest. Existing planning law has for many years demanded a balancing exercise between private rights and public interest and this authority's decision making takes into account this balance. If there are exceptional circumstances which demand more careful and sensitive consideration of Human Rights issues then these will be referred to in the relevant report.

Agenda Item 11

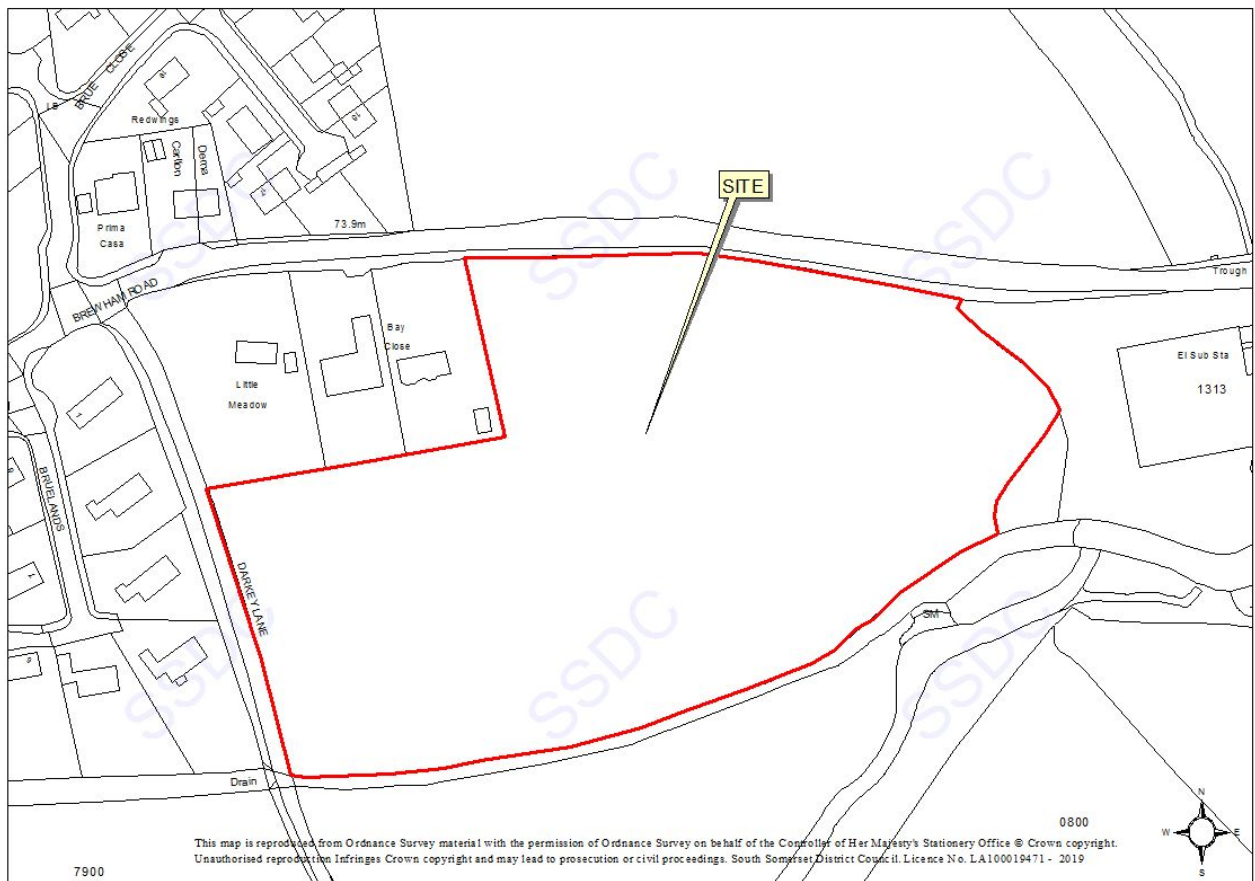
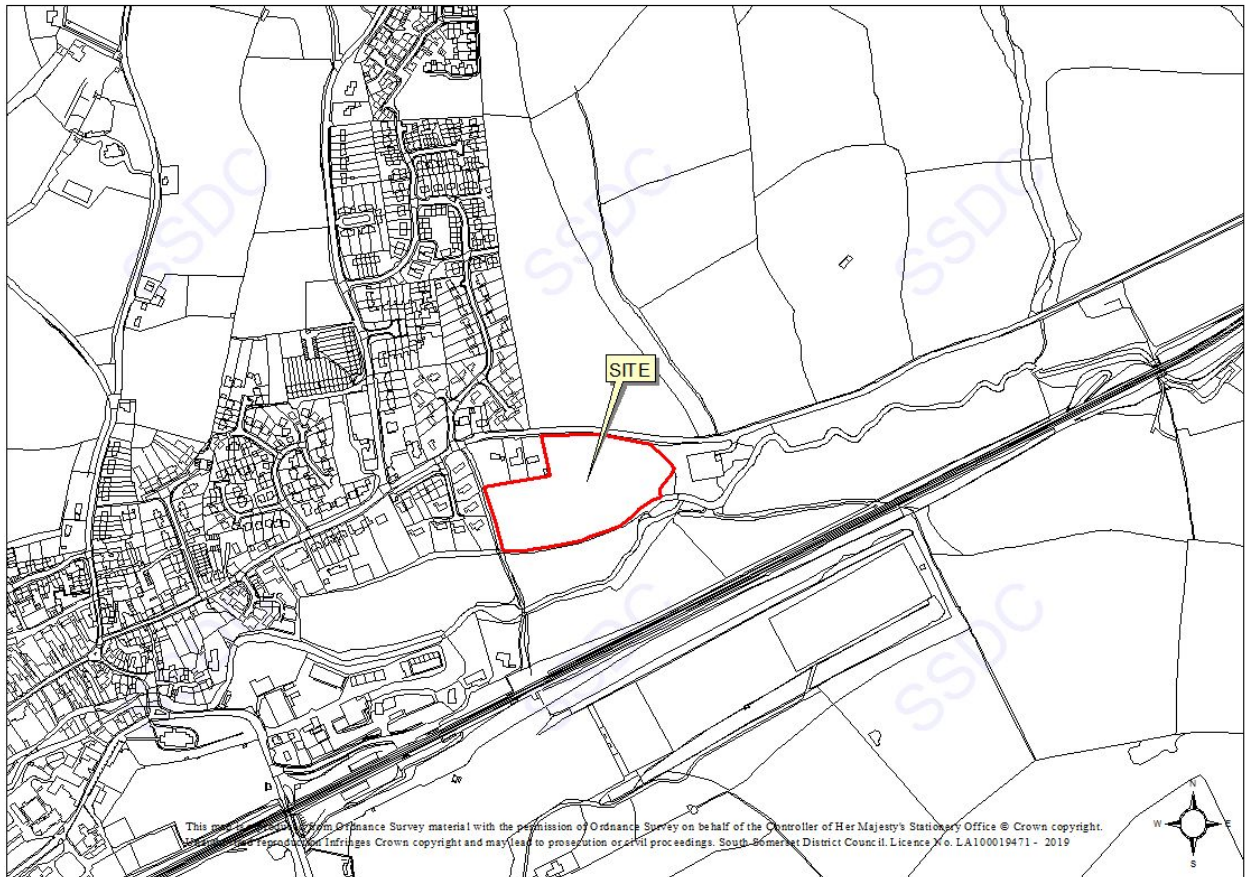
Officer Report On Planning Application: 19/00655/OUT**

Proposal :	Outline planning permission is sought for the development of up to 60 residential dwellings (Use Class C3), together with associated highways and drainage infrastructure, public open space and landscaping. Details of access are submitted for approval with all other matters (Layout, Scale, Appearance and Landscaping) reserved for later approval.
Site Address:	Land OS 9609 Brewham Road Bruton
Parish:	Bruton
BRUTON Ward (SSDC Member)	Cllr Lucy Trimnell
Recommending Case Officer:	Stephen Baimbridge
Target date :	5th June 2019
Applicant :	Acorn Property Group
Agent: (no agent if blank)	Mr Alex Cave Origin 3 Tyndall House 17 Whiteladies Road Clifton, BRISTOL BS8 1PB
Application Type :	Major Dwlg's 10 or more or site 0.5ha+

The application is referred to the Area East Committee at the request of the Ward Member and agreement of the Area Chair.

This application has also been 2-starred under the Scheme of Delegation - referral of applications to the Regulation Committee for determination. In collective agreement with the Leader, Portfolio Holder, Area Chairs, Director (Service Delivery), Monitoring Officer, and Lead Specialist (Planning) all major applications will be 2 starred for the immediate future to safeguard the Council's performance, pending a more substantive review.

SITE DESCRIPTION AND PROPOSAL



The site is located immediately to the east of the town, located between the electricity substation to the east and Darkey Lane to the west, with three residential properties to the north-west corner. The site is accessed from Brewham Road to the north. On the other side of Brewham Road is the Brue Close housing area.

This is an Outline application with all matters reserved except for access, for the erection of up to 60 dwellings, together with associated highways and drainage infrastructure, public open space and landscaping. Thus, layout, scale, appearance and landscaping are matters reserved for later approval.

This application is supported by:

- Design and Access Statement
- Planning Statement
- Statement of Community Involvement
- Arboricultural Impact Assessment and Method Statement
- Landscape Assessment
- Transport Assessment incorporating Travel Plan
- Flood Risk Assessment and Drainage Strategy
- Ecological Impact Assessment
- Outdoor Lighting Report and Drawings
- Sustainability Statement
- Archaeological report
- Energy & Sustainability Statement

Planning History

There is no relevant planning application history for this site though the applicant has engaged with the Local Planning Authority and Town Council in pre-application discussions prior to submission of the application.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, and 12 of the NPPF indicate it is a matter of law that applications are 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 South Somerset Local Plan (2006-2028)

SD1 - Sustainable Development

SS1 - Settlement Strategy

SS4 - District Wide Housing Provision

SS5 - Delivering New Housing Growth

SS6 - Infrastructure Delivery

HG3 - Provision of Affordable Housing

HG5 - Achieving a Mix of Market Housing

TA1 - Low Carbon Travel

TA4 - Travel Plans

TA5 - Transport Impact of New Development

TA6 - Parking Standards

HW1 - Provision of open space, outdoor playing space, sports, cultural and community facilities in new development

EQ1 - Addressing Climate Change in South Somerset

EQ2 - General Development
EQ3 - Historic Environment
EQ4 - Biodiversity
EQ5 - Green Infrastructure
EQ7 - Pollution Control

National Planning Policy Framework - March 2019

2. Achieving sustainable development
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 Historic Environment

Planning Practice Guidance (PPG)

Other

Somerset County Council Parking Strategy (September 2013)
Somerset County Council Highways Development Control - Standing Advice (June 2017)

Policy Related Material Considerations

Bruton Town Plan (2017)

Consultations

Bruton Town Council:

First Comments -

The Town Council -

Oppose the development unless proper provision is made for the safety of pedestrians and for highway safety more generally;

Recommend refusal as the potential scale and density of the proposed development would have a detrimental impact on the character, biodiversity and appearance of the area; and

Should be afforded an early opportunity to consider details of the proposed Layout, Scale, Appearance and Landscaping which have been reserved for later approval.

Second Comments -

The site is not allocated in the Local Plan - Preferred Options document.

Despite revision these proposals remain unsatisfactory and constitute grounds for refusal of the development because the proposals are contrary to the NPPF the Local Plan, and the Bruton Town Plan 2016.

The application is contrary to the NPPF paragraph 110, the first strategic objection of the Local Plan, or Policy TA5 as it does not '(a) give priority first to pedestrian and cycle movements, both within the scheme and within neighbouring areas', '(b) address the needs of people with disabilities and reduced mobility' and '(c) create places that are safe, secure and attractive-which minimise the scope for conflicts between pedestrians, cyclists and vehicles' and does not deliver 'a health-enhancing environment, promoting walking, cycling and non-car-based transport'. This is delivered by Policy TA5 which requires new development to secure 'inclusive, safe and convenient access on foot, cycle... that addresses the needs of all'.

The proposal is contrary to the Bruton Town Plan envisages Bruton which wants the town to become 'a place where it feels safe and easy to walk around...where those residents and visitors who can do so choose to

walk or cycle rather than getting in their car'.

Guidance on the width of footways is given in a number of publications, all based originally on Inclusive Mobility:

- A clear width of 2m allows two wheelchairs to pass one another comfortably. This should be regarded as the minimum under normal circumstances.
- Where this is not possible because of physical constraints, 1.5m could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another.

The footway width would vary from between 1m at either end to 1.2m for most of its length. The width of the carriageway varies from 4.5m at its western end, to a minimum of 3.5m for a distance of about 30m. It is clear that these proposals do not address the needs of people with disabilities and therefore do not meet NPPF 110(b). Whilst it is true that in much of Bruton the footway width is well below these standards, this is not a reason to repeat this.

The proposal prioritises motor traffic over the needs of cyclists and pedestrians, contrary to NPPF 110 (a) and Bruton's Town Plan. The lane should be narrowed to 3m or less to make it less likely that drivers will try to squeeze past cyclists' (MfS2 8.6.9). It would widen the footway to 1.7m for much of its length, creating a much better experience for pedestrians. (3m of carriageway is adequate for a Heavy Goods Vehicle and has the added benefit of discouraging speeding).

It is apparent that this forward visibility of the proposed new 'Give Way' marking, purportedly 43m, is critically dependent on effective maintenance of the hedge on the south side of Brewham Road immediately to the east of Darkey Lane.

In the Council's view the arrangements for pedestrians at this junction are fundamentally unsafe and for this reason are unacceptable. If the hedge were maintained to an exemplary standard, a pedestrian on this section of footway would first become visible to westbound traffic less than 20m away, and with poor maintenance of the hedge even less. A driver approaching from the east has to contend in short order with a road junction on their right and Give Way markings slightly further away at the same time as reacting to the possible presence of pedestrians. 20m is of course less than the total stopping distance of a vehicle travelling at 30mph (23m on a dry road).

Manual for Streets 1 (6.2.1) 'infrastructure must not only be safe but be perceived to be safe', and (6.3.1) 'the propensity to walk is influenced not only by distance, but by the quality of the walking experience'. 'Evidence (MfS2 (5.2.5)... indicates that providing more generous and better quality facilities for pedestrians can lead to large increases in walking'. The proposal will ensure that most residents of this development choose to get in their car, compounding the problems for those who do not or cannot, and contrary to para. 110 (c) of the NPPF by failing to create a place that is safe... and which minimises the scope for conflict between pedestrians, cyclists and vehicles.

Third Comments -

This proposal along with another at pre-application stage, along with the Cubis development (at Marksdales on the Frome Road) currently under construction, will increase pressure on Bruton's overburdened infrastructure, and particularly on her narrow medieval streets (a fortiori Quaperlake Street) which already have great difficulty accommodating existing traffic. It was proposed and seconded that if SSDC were to permit any new housing development along Brewham Road, on either the northern or southern sites or both, it should impose an absolute ceiling of 60 dwellings in total, and ideally they would be split equally between the two sites.

County Highway Authority:

Local concern acknowledged.

When compared to other sites, this scheme is not a large development and generally would not raise any

concerns with regard to highway safety or efficiency. However, the matter which has created concern is the

A number of solutions were suggested by the applicant's consultants including a pseudo-pathway which were not considered to provide safe refuge for vulnerable users by the SCC Safety Audit Team. A further proposal was presented and similarly sent for safety audit. It was suggested that a 1.2m wide footway with a full height kerb would provide a safe means of access for pedestrians which the Auditors accepted. The proposal did, however, create another concern; the narrowing of the carriageway over a length of Brewham Road. Through this length of road a priority working section was proposed.

This raised concerns that vehicles leaving Brelands may think that traffic heading westbound and giving way on Brewham Road are giving way to them, increasing the potential for side impact collisions. In order to ascertain the likelihood of such collisions occurring, this scheme has been compared to a similar layout on Higher Road, Woolavington which is shorter but has side roads within the section. Even with traffic data showing 1800 vehicles per day there have been no reported collisions. **The auditors are content therefore that the proposed priority working section could perform safely.**

The Authority has recently been advised that Brewham Road is subject to HGV traffic and large agricultural machinery which, when travelling eastbound, may need to use the full width of the carriageway in order to negotiate the junction of Brewham Road, and the A359. As such there is a risk of larger vehicles coming into conflict with pedestrians on the new footway.

Plan number 09637-HYD-XX-DR-TP-0109 Rev P02 shows the carriageway on the junction being retained at 5.5m which is generally accepted as being suitable for larger vehicles to negotiate the junction. However, the developer has agreed to provide an autotrack drawing to show how larger vehicles can negotiate the junction.

In the event that permission is granted, a number of conditions are proposed to be conditioned, including:

- A programme of phasing for the development
- A construction environmental management plan
- Provisions to ensure surface water does not discharge onto the highway
- Prior to first occupation, provision of
- Surface improvements on Darkey Lane
- A pedestrian/cycling link into the site from Darkey Lane
- A new 1.2 m wide footway along the southern side of Brewham Road between junction of Darkey lane and the existing footway on the southern side of Frome Road with a suitable dropped crossing/tactile paving at the junction of Brelands
- A section of priority working on Brewham Road including appropriate signage and lining
- A new gateway feature east of Darkey Lane to reinforce the 30mph speed limit
- Estate roads condition
- Each dwelling before it is occupied is served by consolidated and surfaced footpath and carriageway
- Provision of parking and turning areas
- Travel Plan
- Visibility splays (300mm, 2.4 back, 79m west, 84m east).

Following receipt of the tracking plans, the Highway Authority confirmed that this scheme is acceptable in highway terms provided the mitigation measures now shown are secured via an appropriate agreement.

SSDC Highway Consultant: Refer to SCC comments.

Environment Agency: No objections subject to a condition requiring compliance with the applicant's Flood Risk Assessment.

Lead Local Flood Authority: We have no objection to the proposed development, as submitted, subject to

the following drainage condition being applied.

No development shall be commenced until details of the surface water drainage scheme, based on sustainable drainage principles, together with details of a programme of implementation and maintenance for the lifetime of the development, have been submitted to and approved in writing by the Local Planning Authority. This scheme should aim to enhance biodiversity, amenity value, water quality and provide flood risk benefit (i.e. four pillars of SuDS) to meet wider sustainability aims, as specified by The National Planning Policy Framework (July 2018) and the Flood and Water Management Act (2010). The drainage scheme shall ensure that surface water runoff post development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works shall be carried out in accordance with the approved details.

These details shall include: -

- Details of phasing (where appropriate) and information of maintenance of drainage systems during construction of this and any other subsequent phases.
- Information about the design storm period and intensity, discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance (6 metres minimum), the sustainable methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters.
- Any works required off site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant).
- Flood water exceedance routes both on and off site, note, no part of the site must be allowed to flood during any storm up to and including the 1 in 30 event, flooding during storm events in excess of this including the 1 in 100yr (plus 40% allowance for climate change) must be controlled within the designed exceedance routes demonstrated to prevent flooding or damage to properties.
- A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management company or maintenance by a Residents' Management Company and / or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development

Reason: To ensure that the development is served by a satisfactory, sustainable system of surface water drainage and that the approved system is retained, managed and maintained throughout the lifetime of the development, in accordance with National Planning Policy Framework (July 2018) and the Technical Guidance to the National Planning Policy Framework.

Ecologist: The Ecologist was satisfied subject to a number of conditions relating to -

- Dormice /licence issued by Natural England
- A Construction Environmental Management Plan, Biodiversity
- A lighting design/ strategy for bats
- A Landscape and Ecological Management Plan
- Biodiversity enhancements

Somerset Wildlife Trust: We fully support the finding of the Clarkson & Woods Ecological Impact Assessment. We also fully support the proposal for mitigation and enhancement as outlined in section 6 of their report. These measures must be incorporated into the planning conditions and implemented in full if it is decided to grant planning permission.

Natural England: Natural England has no comments to make on this application.

Strategic Housing Officer: Policy requires 35% affordable housing split 80:20 affordable: intermediate product. This new split is evidenced in the Mendip, Sedgemoor, South Somerset and Taunton Deane

Strategic Housing Market Assessment (October 2016).

This would be 21 of the currently proposed 60 units and they would be split 17 for social rent and 4 for other intermediate affordable housing solutions.

After consulting with Homefinder Somerset and Help to Buy South West regarding demand for applicants wishing to rent and buy in Bruton I would like to propose the following property mix:

Social Rent

6 x 1 bed flats or houses

9 x 2 bed houses

2 x 3 bed houses

Other intermediate affordable

3 x 2 bed houses

1 x 2 bed houses

I would expect our prevailing minimum space standards should also be adhered to:

1 bedroom flat, 47 sqm; 1 bedroom house, 55sqm; 2 bedroom flat, 66sqm; 2 bedroom house, 76sqm (86sqm if 3 storey); and 3 bedroom house, 86sqm (94sqm if 3 storey).

I would expect the affordable units to be pepper potted throughout the site, that the units are developed to blend in with the proposed housing. I would prefer the flats to have the appearance of houses and expect the affordable dwellings to blend in with any other dwellings on the site.

I also expect that the rented units will be made available to anyone registered on Homefinder Somerset.

The s106 should also include a schedule of approved housing association partners for delivery of the affordable units.

The Housing Development Specialist to be informed of the selected HA prior to commencement of the development.

Somerset Waste Partnership: At this outline stage my main concern on the indicative layout would be the number of properties which appear to be accessed via private driveway. Our vehicles collect from public land only and I would like to see greater detail about proposed collection points for those properties with no immediate access to adopted public highway.

It would also be beneficial to see a tracked path for the largest refuse vehicle as per our specification when the layout is agreed.

Designing Out Crime Officer: No objections. No comments at this stage.

Rights Of Way Officer: Although there are no recorded Public Rights of Way (PROW) at the site, we have received a modification application (ref. 853) to add a restricted byway to the Definitive Map over Darkey Lane which abuts the site (please see attached plan). This application is currently awaiting investigation. Further details on the modification process can be found on the relevant SCC's webpage <http://www.somerset.gov.uk/environment-and-planning/rights-of-way/apply-to-add-delete-or-upgrade-a-public-right-of-way/>

Senior Historic Environment Officer (Archaeology): Following discussions with the applicant's archaeological consultant, we can advise that the archaeological issues for this application can be dealt with by condition.

We therefore recommend that the developer be required to carry out a programme of archaeological

investigations. This should initially comprise a field evaluation (geophysical survey and trial trench evaluation) to be followed by archaeological mitigation (archaeological monitoring/excavation where appropriate) as indicated in the National Planning Policy Framework (Paragraph 199). This should be secured by the use of the following conditions attached to any permission granted.

"Programme of Works in Accordance with a Written Scheme of Investigation (POW)

Before the commencement of the development hereby permitted the applicant, or their agents or successors in title, shall have secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) which has been submitted and approved in writing by the Planning Authority. The WSI shall include details of the archaeological excavation, the recording of the heritage asset, the analysis of evidence recovered from the site and publication of the results. The development hereby permitted shall be carried out in accordance with the approved scheme."

Education Authority: There are enough space in the early years setting and in Bruton Primary School, as well as secondary to accommodate the children which will be generated from 60 dwellings in this location. Bruton Primary has a capacity of 277 pupils, and its number on role for September 2018 was 236, with a falling role towards 2023 where the estimated number would be 194. The school has the added benefit of a space/classroom (netted off space) which could be brought back into use if the number of pupils require it. 60 dwellings could generate the following number of pupils for each education stream:

0.05 x 60 = 3 early years pupils

0.32 x 60 = 19.2 (20) primary pupils

0.14 x 60 = 8.4 (9) secondary pupils

Sports, Arts, & Leisure: The following provisions sought through a S106 Agreement - Financial contributions of £2,370 per dwelling to be paid to South Somerset District Council Sports, Arts, and Leisure, an overall level of obligation for 60 dwellings of: £142,202. Requirements comprised of:

- On-site - centrally located LEAP with minimum area of 500m² (capital contribution: £50,928; commuted sum: £29,417)
- Off-site - enhancement to Skatepark facilities at Jubilee Park (capital contribution: £10,000; commuted sum: £3,697)
- Off-site - enhance changing facilities at Jubilee Park recreation ground as per Council's adopted PPS (capital contribution: £43,271; commuted sum: £3,481)
- No current play pitches requirement
- 1% Locality Service Administration Fee (£1,408)

Neighbour Responses

6 letters of support, 5 letters of general representation, and 132 letters of objection (including a petition of 596 names)

108 letters have been received making the following points:

- Bruton doesn't need this many new homes
- Houses should be in Yeovil and Chard
- Homes should be truly affordable as house prices are too high in Bruton
- Not enough jobs in Bruton
- Covenant on land to prevent development
- Town Council shouldn't have initially supported this scheme
- If these are approved then larger site to the north of Brewham Road is inevitable
- Schools can't cope with additional burden
- Loss of greenfield
- Highway safety. Proposed footpath won't be safe and may require 3rd party land.
- Darkey Lane not a suitable pedestrian access.

- Lorries turning into Brewham Road from Frome Road need lots of space
- New priority system may cause delays/disruption.
- Impact on ecology
- Impact upon adjoining properties
- Doctors surgery is already full
- The land floods in this location
- Toxic emissions from vehicles
- Scheme needs more parking
- Lack of public transport in Bruton
- Construction will crat disruption
- Gardens and houses too small
- Houses too large and expensive for local people
- Sewers and drains can't cope with additional demand
- Too many people for town.
- Already losing too many shops in High Street
- Lack of parking in town
- We moved to Bruton because we like the way it is.
- There should be lots of affordable homes, 2 and 3-beds
- The Design and Access Statement appear to be missing from the website
- There is a housing crisis and we need to provide more homes
- Acorn are a quality developer who will provide the right type of homes for Bruton
- More residents will be good for local shops and services.
- I understand that there will be a range of housing with an emphasis on sustainable living and construction, in accordance with Bruton Town Councils requirements.
- The developer has provided impressive mitigation plans of local concerns, regarding safety, environmentalism and infrastructure.
- Wessex Water have confirmed there are no issues and the surface water issues have been addressed by a strategy to the satisfaction of the Environment Agency.

Applicant's Case

This is a well-designed scheme, providing quality houses that are appropriate for the town. There is a clear demand for housing within the town. The schools and other businesses provide employment. A recent application for commercial units in the town has been supported. No affordable homes have been delivered in the town since 2012. Over 70 applicants for affordable units that are being built at Cubis site. Increase in house prices in Bruton are making it increasingly unaffordable for local people. The average age of residents has also increased sharply. Scheme is proposing policy compliant 35% affordable housing of a range of sizes. Site is providing a pedestrian link that will benefit existing residents of Brue Avenue area who currently walk on the carriageway on their way to town. The site is very close to the railway station and other facilities thereby encouraging less car use. There are no technical objections from any statutory consultee. Highways, Ecology, Archaeology, Drainage, Conservation etc. have all confirmed that they have no objection to the proposed scheme. Acorn are committed to sustainable construction and design and will exceed Building Regulation requirements.

Planning Considerations

Principle of Development

Policy SS1 classifies Bruton as a Rural Centre because of the facilities and services that it offers. The policy states that the town should play a role in delivering a minimum of 203 dwellings.

The Council's latest monitoring data suggests that 118 dwellings have been completed in the Plan period, with commitments for a further 75. That leaves a residual requirement of 7 dwellings to reach the minimum target. Should this application be approved, Bruton will have potential to provide 253 dwellings in the Plan period, a baseline exceedance of only 26.5%.

In making a decision on this application, the Council's under supply and under delivery of housing must be kept in mind. Paragraph 11 of the NPPF explains that decision should apply a presumption in favour of sustainable development, and that for decision-taking that means:

- *approving development proposals that accord with an up-to-date development plan without delay; or*
- *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - 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; or*
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

Footnote 7, page 6, of the NPPF states that the policies which are most important for determining the application are out-of-date if "...for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites..."

The Council is currently only able to demonstrate a 4 year supply of deliverable housing land. Therefore, the policies which are most important for determining this housing application must be considered out-of-date, and the application should be approved unless points i and ii apply.

According to the Supreme Court judgement, *Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant)*, "[i]f the policies for the supply of housing are not to be considered as being up to date, they retain their statutory force, but the focus shifts to other material considerations. That is the point at which the wider view of the development plan policies has to be taken."

Recent decisions suggest that whilst a notable exceedance of the minimum housing target may constitute 'harm' - to the Council's settlement strategy (SS1) - it is not in isolation so significantly and demonstrably harmful that it would outweigh the benefits of the scheme, namely new dwellings to help redress the Council's undersupply of housing land.

Highways

As aforementioned, the site is considered to be in a sustainable location in relation to its connectivity and accessibility to key services. The site is adjoined by Darkey Lane, a public right of way that provides pedestrian and cycle access to the station and town centre, and Brewham Land which runs along the north of the site terminates to the west at Qupperlake Street / High Street and the town centre.

Currently, Brewham Road does not benefit from a pavement so concerns have been raised about the pedestrian journey to the town centre. It is proposed to be controlled by condition that a suite of mitigation measures be provided to limit the speed of the road and provide a pavement on the southern side of the road. The mitigation scheme requires –

- Surface improvements on Darkey Lane;
- A pedestrian/cycling link into the site from Darkey Lane;
- A new 1.2 m wide footway along the southern side of Brewham Road between junction of Darkey lane and the existing footway on the southern side of Frome Road with a suitable dropped crossing/tactile paving at the junction of Bruelands;
- A section of priority working on Brewham Road including appropriate signage and lining; and
- A new gateway feature east of Darkey Lane to reinforce the 30mph speed limit

The two main local concerns in this respect appear to be the safety and inclusivity of the proposed footpath, and the width of the Frome Road / Brewham Road junction.

Though the pavement does not meet the 2 metres or minimum 1.7 metres sought by the Town Council to allow for two wheelchair users to pass, or one to pass beside a pedestrian on foot, it provides pedestrians with a sufficiently useable and safe method of travelling to the town centre. It is also an improvement on what exists for existing users. Moreover, the lack of width is not considered sufficient to justify refusing the application given that the bar set by paragraph 11 of the NPPF is that the harm must be significantly and demonstrably more than the benefits of the scheme.

It has been suggested that the mitigation measures, including the new footpath, could not be implemented due to the need to use third party land. However, the agent has confirmed that the proposed highways and pedestrian improvements along Brewham Road have been designed to be contained wholly within the adopted highway (Somerset County Council highway maintained at the public expense). These proposed works therefore do not impinge upon third party land. Weight is added to this argument due to the support of the Highway Authority who will maintain a record of their land ownership.

The Highway Authority and their safety audit process has deemed this revised highway layout to be acceptable. The presence of tyre marks on the verge are noted. However, this does not demonstrate that the revised junction width would be too small. Rather, it shows that if there is additional space to be used for turning then it can and will be used. A swept path analysis has been prepared which shows that the junction width is capable of accommodating turning of HGV and other large vehicles. The Highway Authority has seen the analysis and has confirmed its acceptability.

It is understood that there are local concerns about the width of the pavements on the main road through the town (A359) and the proximity of pedestrians to vehicles and larger lorries. Bruton, as with many other small historic towns, is positioned on a busy main road. The town's historical layout was not designed with larger vehicles in mind and therefore there are certain pinch points and locations where the pavement is of restricted width. There is no current policy requirement for development to address the pedestrian experience throughout the town and it is not considered that this matter warrants the refusal of the application.

At this stage there is no reason to believe that on-site parking will necessarily present an issue. This will be scrutinised further at the reserved matters stage.

Notwithstanding the objections received, the scheme, as amended, has the support of the highway authority and is considered not to prejudice highway safety, in accordance with policy TA5.

Landscape

The site is located immediately to the east of the existing built up area of the town, so forms a nature extension to the town. With three dwellings having already been erected within this plot to the east of Darkey Lane and south of Brewham Road, and with built form to the north, an electricity substation to the east, and the Brue to the south, the site reads as a sensible development plot.

The Council's Peripheral Landscape Study shows that the site has a moderate capacity to accommodate built form. A landscape assessment has also been submitted that demonstrates that the development, with a comprehensive planting scheme, could be achieved without undue harm to landscape character.

In line with the Tree Survey & Arboricultural Impact Assessment submitted, it is not considered that the development would result in an undue loss of vegetation.

Character and Appearance

To the east of the site is an electricity substation that serves Bruton. To the east is a development, likely to be from the 1970's that uses reconstructed stone and tiles.

The applicant has expressed their intention to provide a scheme that seeks to reflect Bruton's local character. They state that the proposal is for traditionally designed 2 storey buildings with pitched roofs and gables, using a palette of materials. Though this may reflect the intention of the developer at this stage, this will be for further consideration at the reserved matters stage.

It is not considered that the proposal would have an unduly adverse impact on the character and appearance of the area, in accordance with policy EQ2.

Impact upon Heritage Assets

The site is not close to the town's Conservation Area and this scheme would not have no clear impact upon the historic centre of Bruton.

There are no listed buildings within the immediate vicinity of the site. The Dovecote is visible from the site, as it is from most of Bruton, but the distances involved mean that this scheme would not affect the Dovecote's setting.

The proposal is not considered to result in harm to the historic environment and is compliant with policy EQ3.

Flooding and Drainage

The very southern edge of the site falls within Flood Zone 3 however the indicative information has shown how the layout can be achieved without development being located in that area.

The Lead Local Flood Authority and Environment Agency are satisfied with the scheme subject to a condition to agree detail prior to commencement. A requirement of the detail is that it is evidenced that *"no part of the site must be allowed to flood during any storm up to and including the 1 in 30 event, flooding during storm events in excess of this including the 1 in 100yr (plus 40% allowance for climate change) must be controlled within the designed exceedance routes demonstrated to prevent flooding or damage to properties."*

The SuDS compatible scheme should ensure that the site achieves better attenuation than at present, resulting in a reduction in discharge rates into the Brue. Despite being located downstream from the Bruton alleviation scheme, the proposal should not be seen as having potential to result in increased flood risk to Bruton.

Subject to the imposition of the proposed condition, it is not considered that the proposal will result in harm to flooding or drainage, in accordance with EQ1.

The agent has provided a copy of correspondence between them and Wessex Water in relation to this scheme. It shows that the utilities provider do not object to the proposal but stress the need to review capacity further as the site progresses. The agent advised that they have been in discussions with Wessex Water since the pre-application stage and that they had suggested the site connect to 'MH7102' (via rising main up Darkey Lane), further west in Brewham Road than the developers initially proposed. The developers have agreed to follow Wessex Water's advice and state that although the local foul sewer network has current local capacity available to serve the proposed development, they will endeavour to liaise with the utilities provider as necessary to review capacity further as the site progresses.

Residential Amenity

Though further details will be provided at reserved matters stage, it is not considered that the proposal for up to 60 dwellings would result in demonstrable harm to residential amenity, in accordance with policy EQ2.

Ecology

The applicant's ecologist has been working closely with the County Ecologist to ensure that the proposal is acceptable. Various changes have been made to the detail of the scheme to reflect the comments of the Council. Subject to the conditions proposed, it is considered that the proposal will have an acceptable impact on biodiversity, in accordance with EQ4.

Archaeology

The applicant has submitted a robust archaeological assessment of the site.

The County Archaeologist has confirmed that they are agreeable to the approach adopted by the consultant archaeologist and recommend that an appropriate condition be imposed.

Affordable Housing and Contributions

The proposal accepts the policy HG4 position of 35% affordable housing. For a 60 dwelling scheme, this would provide 21 affordable dwellings to be secured by the Local Authority in an '80:20' split of 17 dwellings for social rent and 4 for other intermediate affordable housing solutions.

The delivery of affordable housing in Bruton over the last 10 years has been very low and no unit has been delivered since 2012. During this period house prices have risen and affordability is becoming an increasing issue.

The developer has agreed to an on-site LEAP (play area) which will either be maintained by a management company or the local authority (subject to a payment). Contributions will also be paid for enhancements of the skate park facilities and changing facilities at Jubilee Park.

Somerset County Council has confirmed that there is adequate capacity at all levels of education within Bruton. The Primary school has seen a downturn in numbers of new children and has a significant amount of space within the existing building.

The proposal will be CIL liable at the reserved matters stage.

Climate Emergency

The Energy & Sustainability Statement provided sets out opportunities for sustainable dwellings to be provided that would accord with the Council's aims to combat the 'climate emergency'. Detail can be secured at the reserved matters stage but given the statement's conclusion that "*sustainable construction principles are to be applied to the proposed dwellings, with a fabric specification which exceeds the minimum elemental requirements of Part L1A of the Building Regulations*", that this material has been submitted to be considered in the planning balance, and with the agreement of the applicant and agent, it is considered reasonable to secure this by condition.

Other Issues

Reference has been made to the presence of a covenant that prevents any development taking place behind the adjoining properties on Brewham Road. It is important to stress that this is a civil matter between the applicants and the relevant householders. The interpretation of a legal covenant is not a matter in which the planning process should become involved.

Many of the GP surgeries across the district (and the country) are perceived to have little to no capacity to take on additional patients.

The Infrastructure Delivery Plan that has been produced by SSDC in liaison with the NHS has not revealed any critical areas within South Somerset. The current health infrastructure is not therefore considered to be a justified reason to refuse this application.

The Council will continue to review and update its Infrastructure Delivery Plan, working with expert bodies including those pertaining to healthcare to address the issues they may raise.

Conclusion

The Council's lack of a five year housing land supply lends significant weight when considering the planning balance. In this case, the site is located in a sustainable location with access to a high range of services and facilities. The proposal is not considered to result in a significant and adverse impact upon the settlement

hierarchy, historic environment, visual amenity, residential amenity, highway safety, flood risk, or ecology/biodiversity. Therefore, in terms of the 'planning balance', it is considered that there are no adverse impacts that would 'significantly and demonstrably' outweigh the benefits of providing up to 60 homes (35% of which will be affordable) to the Council's under-supply. The proposal is considered to be in accordance with policies SD1, SS5, SS6, HG3, HG5, TA1, TA4, TA5, HW1, EQ1, EQ2, EQ3, EQ4, and EQ5 of the South Somerset Local Plan 2006-2028 and the aims and objectives of the NPPF.

RECOMMENDATION

Permission be granted subject to -

- a) The prior completion of a section 106 agreement (in a form acceptable to the Council's solicitor(s)) before the decision notice granting planning permission is issued to secure:
 - i. A Travel Plan to the satisfaction of the Highway Authority;
 - ii. The provision of 35% affordable housing with a split of 80:20, social rent : intermediate product;
 - iii. Financial contributions of £2,370 per dwelling to be paid to South Somerset District Council Sports, Arts, and Leisure;
 - iv. Provision of a centrally located area of 500m² for a LEAP;
 - v. Details of the management company to maintain the informal open space

b) planning conditions

For the following reason;

- 01. The Council's lack of a five year housing land supply lends significant weight when considering the planning balance. In this case, the site is located in a sustainable location with access to a high range of services and facilities. The proposal is not considered to result in a significant and adverse impact upon the settlement hierarchy, historic environment, visual amenity, residential amenity, highway safety, flood risk, or ecology/biodiversity. Therefore, in terms of the 'planning balance', it is considered that there are no adverse impacts that would 'significantly and demonstrably' outweigh the benefits of providing up to 60 homes (35% of which will be affordable) to the Council's under-supply. The proposal is considered to be in accordance with policies SD1, SS5, SS6, HG3, HG5, TA1, TA4, TA5, HW1, EQ1, EQ2, EQ3, EQ4, and EQ5 of the South Somerset Local Plan 2006-2028 and the aims and objectives of the NPPF.

SUBJECT TO THE FOLLOWING:

- 01. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: As required by Section 92(2) of the Town and Country Planning Act 1990.

- 02. Application for approval of the scale, layout, appearance, and landscaping of the development, referred to in this permission as the reserved matters, shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92(2) of the Town and Country Planning Act 1990.

- 03. The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan (Drg 200)

Drawing No. 09637-HYD-XX-XX-DR-TP-0101 revision P04

Drawing No. 09637-HYD-XX-XX-DR-TP-0109

Reason: For the avoidance of doubt as to the development authorised and in the interests of proper planning.

04. The dwellings hereby permitted shall be constructed to accord with sustainable construction principles with a fabric specification which exceeds the minimum elemental requirements of Part L1A of the Building Regulations.

Reason: To provide low energy, sustainable dwellings, in accordance with policy EQ1 of the South Somerset (2006-2028) and the provisions of the NPPF.

05. Before any work is commenced a programme showing the phasing of the development shall be submitted to and approved in writing by the Local Planning Authority and the development of the estate shall not proceed other than in accordance with the approved programme.

Reason: In the interests of highway safety, efficiency, and for the encouragement of modal shift, in accordance with policies TA1 and TA5 of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

06. No development shall commence unless a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved plan. The plan shall include:

- Construction vehicle movements;
- Construction operation hours;
- Construction vehicular routes to and from site;
- Construction delivery hours;
- Expected number of construction vehicles per day;
- Car parking for all contractors;
- Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;
- A scheme to encourage the use of Public Transport amongst contractors;
- Measures to avoid traffic congestion impacting upon the Strategic Road Network;
- On-site vehicle wheel washing facilities

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

07. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such provision shall be installed before occupation and thereafter maintained at all times.

Reason: In the interests of proper surface water management and highway safety and efficiency, in accordance with policies EQ1 and TA5 of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

08. Prior to first occupation of any dwelling a package of mitigation measures shall be constructed entirely at the developer's expense. These measures, as shown on plan number 09637-HYD-XX-XX-DR-TP-0109 rev P02 shall include;

- Surface improvements on Darkey Lane

- A pedestrian/cycling link into the site from Darkey Lane
- A new 1.2m wide footway along the southern side of Brewham Road between the junction of Darkey Lane and the existing footway on the southern side of Frome Road with a suitable dropped crossing/tactile paving at the junction of Bruelands
- A section of priority working on Brewham Road including appropriate signage and linin
- A new gateway feature east of Darkey Lane to reinforce the 30mph speed limit

Reason: In the interests of highway and pedestrian safety, in accordance with policy TA5 of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

09. The proposed estate roads, footpaths, tactile paving, cycleways, bus stops/ bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, car, motorcycle and cycle pavement, and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: In the interests of highway safety and the creation of quality places, in accordance with policies TA5 and EQ2 of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

10. The proposed roads, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

Reason: To allow future occupants to traverse the site safely and conveniently during the construction phase.

11. The development hereby permitted shall not be occupied until parking spaces for each dwelling are properly consolidated and surfaced turning spaces for vehicles have been provided and constructed within the site in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. Such parking and turning spaces shall be kept clear of obstruction at all times and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

Reason: To secure adequate on-site parking and turning provisions and in the interests of highway safety, in accordance with policies TA5 and TA6 of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

12. There shall be no obstruction to visibility greater than 300 millimetres above adjoining road level in advance of lines drawn 2.4 metres back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 79m to the west and 84m to the east of the new access. Such visibility shall be fully provided before the development hereby permitted is first occupied and shall thereafter be maintained at all times.

Reason: In the interests of highway safety, in accordance with policy TA5 of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

13. Before the commencement of the development hereby permitted the applicant, or their agents or successors in title, shall have secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) which has been submitted and approved in writing by the Planning Authority. The WSI shall include details of the archaeological excavation, the recording of the heritage asset, the analysis of evidence recovered from the site and publication of the

results. The development hereby permitted shall be carried out in accordance with the approved scheme.

Reason: To secure a programme of archaeological work and record any heritage assets, in accordance with policy EQ3 of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

14. The works (including ground works and vegetation clearance) shall not in any circumstances commence unless the local planning authority has been provided with either:
- a) a copy of the licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead; or
 - b) a statement in writing from the licensed hazel dormouse ecologist to the effect that he/she does not consider that the development will require a licence.

Reason: A pre-commencement condition in the interests of the strict protection of a European protected species and in accordance with policy EQ4 of the South Somerset Local Plan.

15. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of biodiversity protection zones.
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

The CEMP will also include details of protection measures to be put into place to protect roosting bats, breeding birds, badgers, reptiles, amphibians and all retained boundary habitat during the construction phase in addition to measures to prevent damage to the drain of the River Brue and sensitive ecological habitats and also pollution prevention measures to protect the water courses in line with the Environment Agency guidelines.

Reason: To safeguard ecology/biodiversity, in accordance with policy EQ4 of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

16. Prior to the first occupation for any reason, a lighting design for bats shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) show how and where external lighting will be installed (through the provision of lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb

or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: In the interests of the Favourable Conservation Status of populations of European protected species and in accordance with policy EQ4 of the South Somerset Local Plan.

17. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement or occupation of the development [or specified phase of development]. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management. [biodiversity enhancements including]
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) On-going monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: In the interests of the Favourable Conservation Status of populations of European protected species, UK protected species and biodiversity generally and in accordance with policy EQ4 of the South Somerset Local Plan.

18. The following will be integrated into the structure of the dwelling or mounted on trees:

- a) Five Schwegler 1A swift bricks or similar not less than 60cm apart under the eaves, away from windows and at least 5m above ground level of northerly elevations of five houses
- b) A Schwegler 1SP sparrow terrace or similar under the eaves and away from windows of northerly facing elevations on five house
- c) Five Schwegler 1B nest boxes (32mm hole) mounted accordingly on suitable trees
- d) A bee bricks will be installed 1 metre above ground level on a south or southeast facing elevation of each house

A scheme showing the locations of the installed features will be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the structural works. The features will be installed in accordance the approved scheme.

Reason: In accordance with Government policy for the enhancement of biodiversity within development as set out in paragraph 170(d) of the National Planning Policy Framework

19. No development shall be commenced until details of the surface water drainage scheme, based on sustainable drainage principles, together with details of a programme of implementation and

maintenance for the lifetime of the development, have been submitted to and approved in writing by the Local Planning Authority. This scheme should aim to enhance biodiversity, amenity value, water quality and provide flood risk benefit (i.e. four pillars of SuDS) to meet wider sustainability aims, as specified by The National Planning Policy Framework (July 2018) and the Flood and Water Management Act (2010). The drainage scheme shall ensure that surface water runoff post development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works shall be carried out in accordance with the approved details.

These details shall include: -

- Details of phasing (where appropriate) and information of maintenance of drainage systems during construction of this and any other subsequent phases.
- Information about the design storm period and intensity, discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance (6 metres minimum), the sustainable methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters.
- Any works required off site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant).
- Flood water exceedance routes both on and off site, note, no part of the site must be allowed to flood during any storm up to and including the 1 in 30 event, flooding during storm events in excess of this including the 1 in 100yr (plus 40% allowance for climate change) must be controlled within the designed exceedance routes demonstrated to prevent flooding or damage to properties.
- A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management company or maintenance by a Residents' Management Company and / or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development.

Reason: To ensure that the development is served by a satisfactory, sustainable system of surface water drainage and that the approved system is retained, managed and maintained throughout the lifetime of the development, in accordance with National Planning Policy Framework (July 2018) and the Technical Guidance to the National Planning Policy Framework.

20. The development shall be carried out in accordance with the submitted flood risk assessment (Hydrock, Reference BRB-HYD-XX-XX-RP-D-5001) and the following mitigation measure it details in paragraph 6.2.1 'Flood Resistance and Resilience':

- Finished floor levels shall be set no lower than 62.5Maod
- The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

Informatives:

01. Please be advised that subsequent full or reserved matters approval by South Somerset District Council will attract a liability payment under the Community Infrastructure Levy. CIL is a mandatory financial charge on development and you will be notified of the amount of CIL being charged on this development in a CIL Liability Notice.

You are required to complete and return Form 1 Assumption of Liability as soon as possible and to avoid additional financial penalties it is important that you notify us of the date you plan to commence development before any work takes place Please complete and return Form 6 Commencement Notice.

You are advised to visit our website for further details <https://www.southsomerset.gov.uk/cil> or email cil@southsomerset.gov.uk

02. The applicant will be required to secure an appropriate legal agreement/ licence for any works within or adjacent to the public highway required as part of this development, and they are advised to contact Somerset County Council to make the necessary arrangements well in advance of such works starting.
 03. Water efficiency measures should be incorporated into this scheme. This conserves water for the natural environment and allows cost savings for future occupants. The development should include water efficient systems and fittings such as: dual-flush toilets; water-saving taps; water butts; showers and baths. Greywater recycling and rainwater harvesting should also be considered.
 04. Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site. Such safeguards should cover the use of plant and machinery, oils/chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of work and storage areas and compounds and the control and removal of spoil and wastes. We recommend the applicant refer to our Pollution Prevention Guidelines, which can be found at: <https://www.gov.uk/guidance/pollution-prevention-for-businesses>.
 05. If any controlled waste is to be removed off site, then site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility. If the applicant require more specific guidance it is available on our website <https://www.gov.uk/how-to-classify-different-types-of-waste>.
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Agenda Item 12

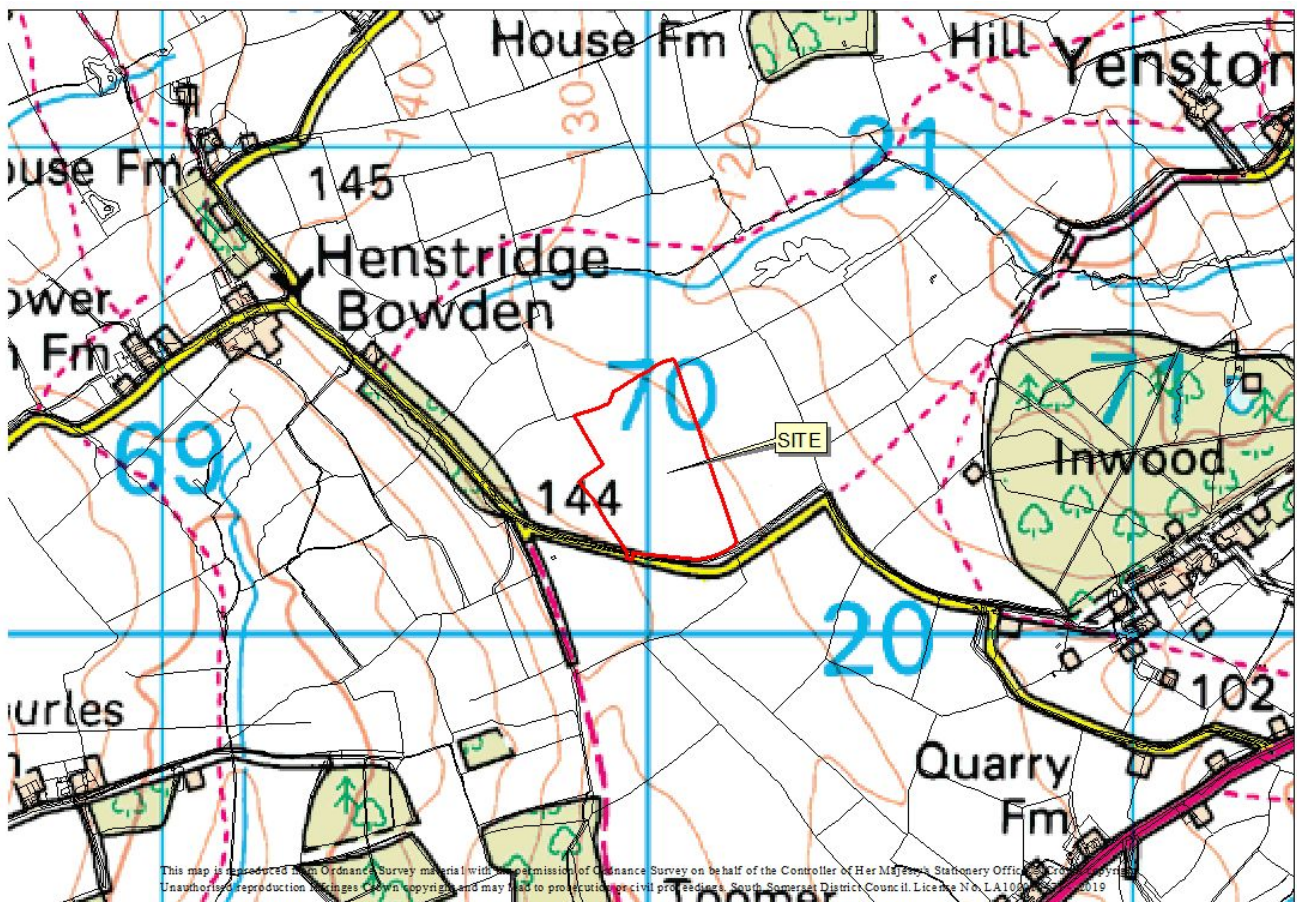
Officer Report On Planning Application: 19/01379/S73A

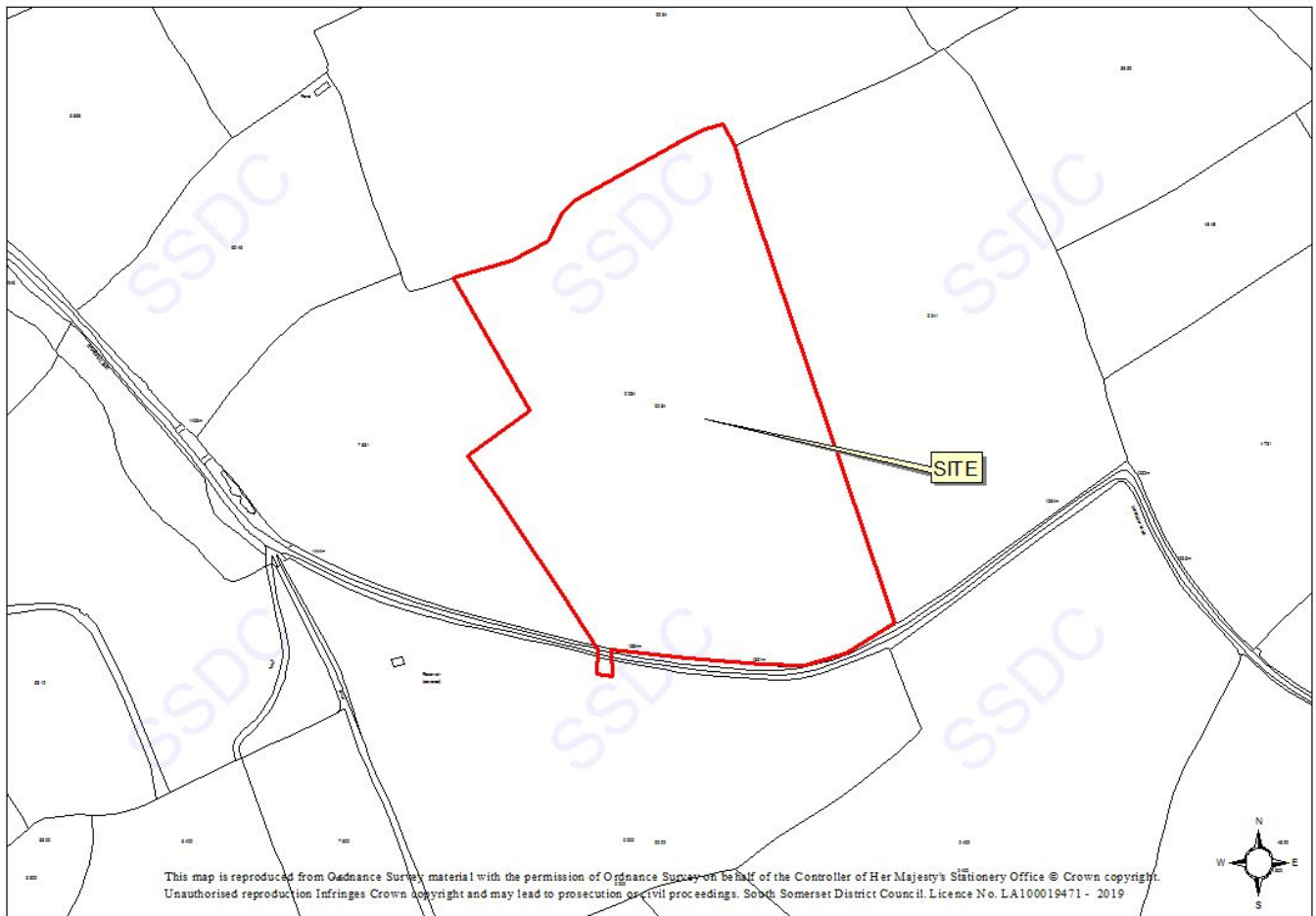
Proposal :	Construction of a Photovoltaic Park with associated equipment including access track and cable route (without complying with Condition 2 of planning permission 17/00242/S73A, to extend the operational time to 40 years)
Site Address:	Solar Site Land OS 0034 Bowden Lane
Parish:	Henstridge
BLACKMOOR VALE Ward (SSDC Member)	Cllr William Wallace Cllr Hayward Burt
Recommending Case Officer:	David Kenyon
Target date :	14th August 2019
Applicant :	Nextenergy Solar Holdings VI Ltd
Agent: (no agent if blank)	Intelligent Alternatives 100 Brand Street Glasgow G511DG
Application Type :	Major Other f/space 1,000 sq.m or 1 ha+

REASON FOR REFERRAL

The application is referred to Committee in terms of the Council's Scheme of Delegation as it comprises a large scale major development proposal ('Major Major').

SITE DESCRIPTION AND PROPOSAL





The 9 ha site is located 1.8 km to the south-west of the village of Templecombe, and 1.9 km north-west of Henstridge in open countryside. It comprises a single large field. The nearest dwellings to the north and north-west are more than 500m from the site edges. The land slopes gently northwards from the highway access onto Bowden Lane, which forms the southern boundary. On three sides, the site is bounded by mature hedging.

Permission was granted (15/02718/FUL) for the installation of a solar array across most of the field, aimed at generating 5 MW of power to be connected to the general electricity grid, together with associated inverter stations, switch housing, access track, security fencing and cameras. The permission was for a temporary period of 25 years from the date of approval, 19 October 2015. Condition 03 attached to that permission stated:

The development hereby permitted shall be removed and the land restored to its former condition within 25 years of the date of this permission or within six months of the cessation of the use of the solar farm for the generation of electricity whichever is the sooner in accordance with a restoration plan to be submitted to and approved in writing by the Local Planning Authority. The restoration plan will need to include all the works necessary to revert the site to open agricultural land including the removal of all structures, materials and any associated goods and chattels from the site.

Subsequently, application (17/00242/S73A) was made to vary that condition 03 in order to extend the period of temporary operation to cover a period of 25 years from the date of first generation of electricity from the site. Permission was granted on 10th March 2017 along the lines requested. Condition 02 attached to that permission states:

The development hereby permitted shall be removed and the land restored to its former condition before 31 March 2042, or within six months of the cessation of the use of the solar farm for the generation of electricity whichever is the sooner in accordance with a restoration plan to be submitted to and approved in writing by the Local Planning Authority. The restoration plan will need to include all the works necessary to revert the site to open agricultural land including the removal of all structures, materials and any associated goods and chattels from the site.

This current S73A application seeks to amend condition 02 of the 2017 permission. It is requested that this condition is amended to read as follows:

"The development hereby permitted shall be removed and the land restored to its former condition within 40 years of the date of grid connection, or within six months of the cessation of the use of the solar farm for the generation of electricity whichever is the sooner in accordance with a restoration plan to be submitted to and approved in writing by the Local Planning Authority. The restoration plan will need to include all the works necessary to revert the site to open agricultural land including the removal of all structures, materials and any associated goods and chattels from the site."

HISTORY

15/01771/EIASS. Request for EIA screening opinion in respect of proposed Photovoltaic Park.
EIA not required 01.05.2015.

15/02718/FUL. Construction of a Photovoltaic Park with associated equipment including access track and cable route.
Application permitted with conditions 19.10.2015.

15/05036/DOC. Discharge of conditions 4, 5, 6, 9, 10, 11, 12, 13, 15 and 16 of approved application 15/02718/FUL.
Conditions discharged.

16/04028/NMA. Application for non-material amendment to planning permission 15/02718/FUL for minor alterations: Reduction in number of panels; Panel height and degree; Inverter specification; Inclusion of two satellites; and Minor alteration to the spares container location.
Permitted 21.09.2016.

17/00242/S73A. Application to vary planning condition 3 of approval 15/02718/FUL to allow the developer a 25 year period from the date of first generation of the solar park and not from the date of the planning permission.
Application permitted with conditions 10.03.2017.

17/01645/DOC. Discharge of condition No. 03 (site management plan), 04 (landscaping), 08 (means of connection) and 11 (wildlife) of 17/00242/S73A.
Conditions discharged.

17/01776/NMA. Non-material amendment application to planning permission 15/02718/FUL and 17/00242/S73A relating to minor amendments which have arisen during construction (retrospective).
Permitted 03.05.2017.

19/02463/EIASS. Request for a screening opinion: Construction of a Photovoltaic Park with associated equipment including access track and cable route (without complying with Condition 2 of planning permission 17/00242/S73A, to extend the operational time to 40 years).
EIA not required 05.09.2019.

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and paragraphs 2, 11 and 12 of the NPPF state 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 South Somerset Local Plan (2006 - 2028)

SD1 - Sustainable Development
TA5 - Transport Impact of New Development
TA6 - Parking Standards
EQ1 - Addressing Climate Change in South Somerset
EQ2 - General Development
EQ4 - Biodiversity
EQ5 - Green Infrastructure
EQ7 - Pollution Control

National Planning Policy Framework - February 2019

Chapter 2 - Achieving Sustainable Development
Chapter 4 - Decision Making
Chapter 8 - Promoting Healthy and Safe Communities
Chapter 11 - Making Effective Use of Land
Chapter 12 - Achieving Well-designed Places
Chapter 14 - Meeting the Challenge of Climate Change, Flooding and Coastal Change
Chapter 15 - Conserving and Enhancing the Natural Environment

National Planning Practice Guidance

Policy-related Material Considerations

Somerset County Council Parking Strategy (September 2013)
Somerset County Council Highways Development Control - Standing Advice (June 2017)

CONSULTATIONS

Henstridge Parish Council: No comments received.

Milborne Port Parish Council: No comments received.

North Dorset District Council: No comments received.

West Dorset District Council: No comments received.

Highways Authority: No observations.

SSDC Highway Consultant: No highways issues - no objection.

Environment Agency: No comments received.

Wessex Water: No comments received.

REPRESENTATIONS

Two nearby residential properties have been notified, a site notice displayed and an advertisement has been placed in the local newspaper. No representations have been received.

CONSIDERATIONS

Permission exists for the establishment of a solar array on the site, which has been implemented. The original permission was granted for a temporary period of 25 years (condition 03 of 15/02718/FUL), which has been the general practice with solar farms in the District, and generally throughout the country.

The solar farm was due to commence operating - i.e. generating electricity for feeding into the grid - on 31 March 2017, a period of 17 months into the 25-year permission. For that reason, a S73A application (17/00242/S73A) was submitted in 2017 requesting that the period for operating the solar farm be extended to accommodate the delay between obtaining the permission and commencement of generation. The permission for a temporary period of 25 years, extended to allow for the construction and installation period, was considered acceptable, and would have no material impact on the temporary nature of the permission, or the likely impact on the setting and local environment. For those reasons, permission to vary the temporary operating period was granted during March 2017 and condition 02 attached accordingly.

This current application seeks variation of the temporary time limits imposed both by condition 03 of the original permission 15/02718/FUL and by condition 02 of the subsequent permission 17/00242/S73A to extend the operational lifespan of the approved solar farm from 25 years to 40 years.

In giving this consideration, this is a relatively sizeable increase in time, however there are no obvious concerns raised. While it is acknowledged that approval would result in the effects of the development being longer in duration, there would be no change in the nature of the impacts, while it is noted that these remain temporary and would be fully reversible in time. The benefits of the proposal include the opportunity to continue generating renewable energy, supporting national and local objectives relating to the installation and continuation of renewable energy sources.

Overall, there are considered to be no long-term adverse impacts resulting from the proposal to extend the operational lifespan of the solar park from 25 years to 40 years.

The agent has suggested varying the wording of the new condition to read:

"The development hereby permitted shall be removed and the land restored to its former condition within 40 years of the date of grid connection, or within six months of the cessation of the use of the solar farm for the generation of electricity whichever is the sooner in accordance with a restoration plan to be submitted to and approved in writing by the Local Planning Authority. The restoration plan will need to include all the works necessary to revert the site to open agricultural land including the removal of all structures, materials and any associated goods and chattels from the site."

However, to avoid any ambiguity as to when the "date of grid connection" commenced, it is considered that the suggested wording is amended so that an actual end date is clearly stated in any amended condition, namely 31st March 2057, being the 15 additional years being requested over and above the 25 years already permitted. The wording would therefore read:

"The development hereby permitted shall be removed and the land restored to its former condition before 31 March 2057, or within six months of the cessation of the use of the solar farm for the generation of electricity whichever is the sooner in accordance with a restoration plan to be submitted to and approved in writing by the Local Planning Authority. The restoration plan will need to include all the works necessary to revert the site to open agricultural land including the removal of all structures, materials and any associated goods and

chattels from the site."

In addition to the amendment of the above mentioned conditions, there are other conditions such as the time limit for commencement, and conditions referring to older, now superseded plans, that should be removed or varied in order to issue a new decision.

Conclusion

The proposal to vary the operational lifespan of the solar farm for a temporary period of 40 years is considered acceptable, and has no material impact on the temporary nature of the permission, which continues to respect the character of the area and causes no demonstrable harm to neighbour amenity and highway safety or the impact on the setting and local environment. The proposal is in accordance with the aims and objectives of the NPPF and Policies SD1, TA5, EQ1, EQ2, EQ4, EQ5 and EQ7 of the South Somerset Local Plan and the application is recommended for approval.

RECOMMENDATION

That application reference 19/01379/S73A be approved for the following reason:

01. The proposal to vary the operational lifespan of the solar farm for a temporary period of 40 years is considered acceptable, and has no material impact on the temporary nature of the permission, which continues to respect the character of the area and causes no demonstrable harm to neighbour amenity and highway safety or the impact on the setting and local environment. The proposal is in accordance with the aims and objectives of the NPPF and Policies SD1, TA5, EQ1, EQ2, EQ4, EQ5 and EQ7 of the South Somerset Local Plan.

SUBJECT TO THE FOLLOWING:

01. The development hereby permitted shall be carried out in accordance with the following approved plans which form parts of the planning permissions dated 19th October 2015 (ref 15/02718/FUL) and 10th March 2017 (ref 17/00242/S73A):

- Planning Layout Drg. No. 1253-0201-01 Issue 04;
- Site Location Plan Drg. No. 1253-0200-05 Issue 01;
- Construction Access and Cable Route Drg. No 1253-0201-05;
- Proposed Compound Area Drg. No. 1253-0201-20 Issue 01;
- CCTV Detail Drg. No. 1253-0204-00 Issue 01;
- Steel and Timber Fencing Detail 22 degrees Panel Angle - Drg. No. 1253-0205-03 Issue 01;
- Mounting System Detail Drg. No. 1253-0206-09 Issue 01;
- Bowden Lane Inverter Station Detail SMA SC Drg. No. 1253-0207-14 Issue 01
- Bowden Lane Satellite Mounting System Drg. No. 1253-0207-20 Issue 01
- Spares Container Detail Drg. No. 1253-0207-40 Issue 01;
- SSE DNO Access Road Section - Drg. No. 1253-0208-10 Issue 01;
- Private Switchgear - Drg. No. 1253-0208-54 Issue 01;
- DNO Switchgear Drg. No. 1253-0208-71 Issue 01;
- Water main easement - Drg. No. 1253-0200-50 Issue 01;
- Drg. No. 1510728 4 Module Quer ES120 1/ 2; and
- Drg. No.1510728 4 Module Quer ES120 2 /2.

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

02. The development hereby permitted shall be removed and the land restored to its former condition before 31 March 2057, or within six months of the cessation of the use of the solar farm for the

generation of electricity whichever is the sooner in accordance with a restoration plan to be submitted to and approved in writing by the Local Planning Authority. The restoration plan will need to include all the works necessary to revert the site to open agricultural land including the removal of all structures, materials and any associated goods and chattels from the site.

Reason: In the interests of landscape character and visual amenity in accordance with the aims of the NPPF and Policies SD1, EQ1 and EQ2 of the South Somerset Local Plan.

03. The site management plan for tree, hedge and grass maintenance of the site approved by the Local Planning Authority under application 15/05036/DOC (Discharge of Conditions for application 15/02718/FUL) shall be fully implemented for the duration of the use hereby permitted, unless any variation is agreed in writing with the Local Planning Authority.

Reason: In the interests of visual amenity and to safeguard the character and appearance of the landscape in accordance with the aims of the NPPF and Policy EQ2 of the South Somerset Local Plan.

04. The scheme of landscaping and planting approved by the Local Planning Authority under application 15/05036/DOC (Discharge of Conditions for application 15/02718/FUL), having been completely carried out within the first available planting season from the date of commencement of the development, shall, for the duration of this permission, be protected and maintained, and any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity and landscape character in accordance with the aims of the NPPF and Policy EQ2 of the South Somerset Local Plan.

05. No means of external illumination/lighting, other than those approved by the Local Planning Authority under application 15/05036/DOC (Discharge of Conditions for application 15/02718/FUL) shall be installed without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity and to safeguard the character and appearance of the landscape in accordance with the aims of the NPPF and Policies EQ2 and EQ7 of the South Somerset Local Plan.

06. No CCTV equipment or other cameras shall be installed on the site other than that shown on the submitted layout plan ref. 1253-0201-01, in accordance with the CCTV design details submitted with the application.

Reason: In the interests of visual amenity and to safeguard the character and appearance of the landscape in accordance with the aims of the NPPF and Policy EQ2 of the South Somerset Local Plan.

07. No form of audible alarm shall be installed on the site without the prior written consent of the Local Planning Authority.

Reason: In the interests of amenity and to safeguard the rural character of the setting in accordance with the aims of the NPPF and Policies EQ2 and EQ7 of the South Somerset Local Plan.

08. The means of connection to the electricity grid from the site shall be in accordance with the details approved by the Local Planning Authority under application 15/05036/DOC (Discharge of Conditions for application 15/02718/FUL), unless otherwise agreed in the writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the area in accordance with the aims of the NPPF and Policy EQ2 of the South Somerset Local Plan.

09. The applicant shall ensure that all vehicles leaving the site are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. In particular (but without prejudice to the foregoing), efficient means having been installed prior to the granting of this permission, shall thereafter be maintained and employed for cleaning the wheels of all lorries leaving the site, in accordance with details approved by the Local Planning Authority under application 15/05036/DOC (Discharge of Conditions for application 15/02718/FUL).

Reason: In the interest of highway safety to accord with TA5 of the South Somerset Local Plan.

10. The details of measures for the benefit of wildlife (e.g. bat and bird boxes, wildflower sowing and management) approved by the Local Planning Authority under application 15/05036/DOC (Discharge of Conditions for application 15/02718/FUL), having been fully implemented prior to the granting of this permission, shall thereafter be maintained unless otherwise approved in writing by the Local Planning Authority.

Reason: For the enhancement of biodiversity in accordance with NPPF and Local Plan Policy EQ4.

11. The details of the finished colour of the security fencing and the finished colour and position of the CCTV equipment agreed by the Local Planning Authority under application 15/05036/DOC (Discharge of Conditions for application 15/02718/FUL), having been carried out prior to the granting of this permission, shall thereafter be retained and maintained, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of landscape character and visual amenity in accordance with Policy EQ2 of the South Somerset Local Plan.

12. The supporting posts to the solar array shall not be concreted into the ground.

Reason: In the interest of sustainable construction and to accord with part 10 of the National Planning Policy Framework.

13. The details of the access to the site agreed by the Local Planning Authority under application 15/05036/DOC (Discharge of Conditions for application 15/02718/FUL), including visibility splays, layout and surfacing materials, having been fully implemented prior to the granting of this permission, shall thereafter be retained and maintained for the lifetime of the permission, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety, and to accord with the NPPF and Policy TA5 of the South Somerset Local Plan.

Agenda Item 13

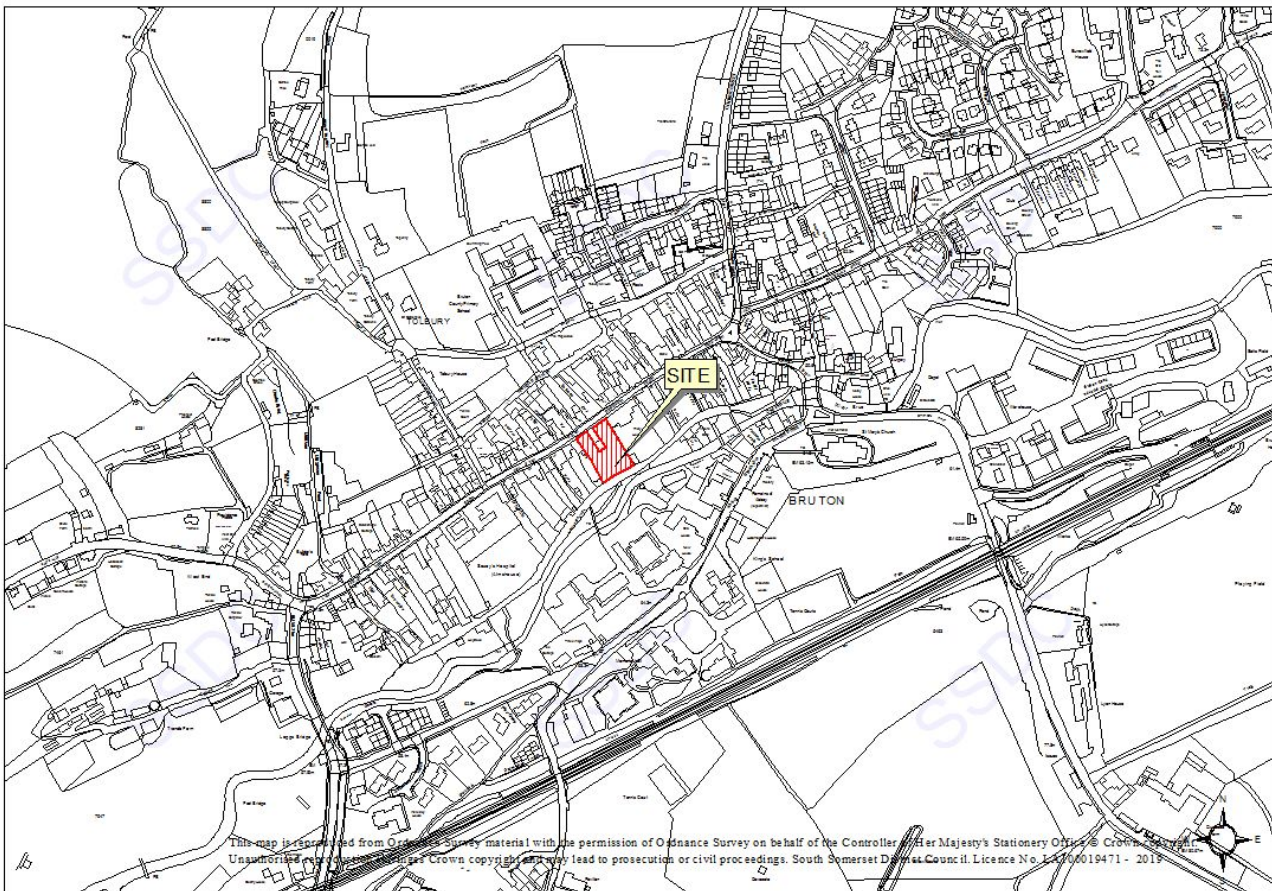
Officer Report On Planning Application: 19/01275/LBC

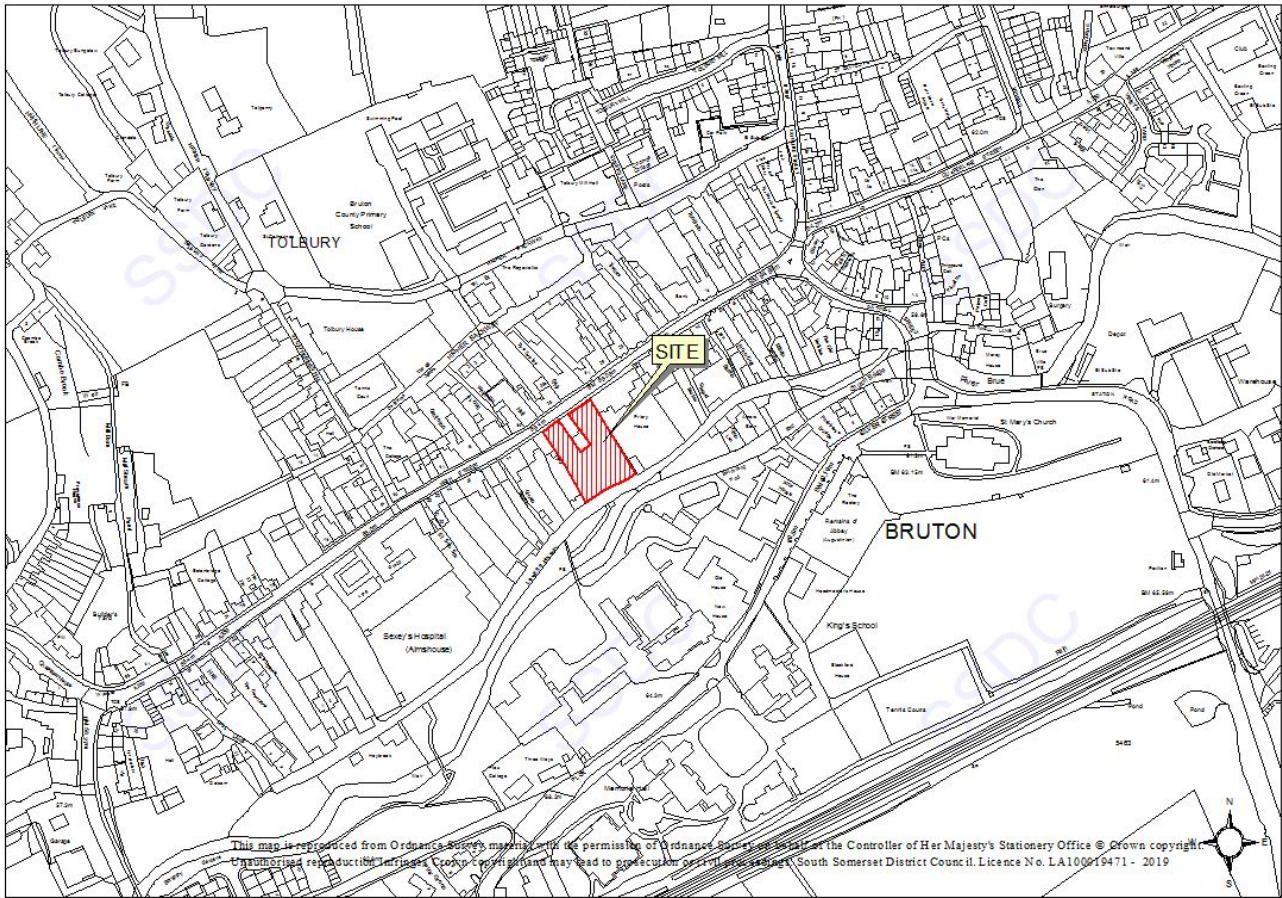
Proposal :	Replacement windows
Site Address:	Arion House 38 High Street Bruton
Parish:	Bruton
BRUTON Ward (SSDC Member)	Cllr Lucy Trimnell
Recommending Case Officer:	Stanley Norris Tel: 01935 462462 Email: planningcaseteam@southsomerset.gov.uk
Target date :	15th August 2019
Applicant :	Mr Andrew Williams
Agent: (no agent if blank)	Mr Andrew Williams Kings School Plox Bruton BA10 0ED
Application Type :	Other LBC Alteration

This application is referred to Area East Committee at request of the Area Chair to be deliberated further.

Site Context/Description

Arion House is a Grade 2 Listed Building situated in a prominent location on the main high street of Bruton.





Relevant Property History

Application Number: 15/03275/FUL (Full Application)

Description: Renovation and conversion of the Coach House into residential accommodation for staff associated with Arion Boarding House (GR:368250/134780)

Close Date:08/09/2015

Status: Application permitted with conditions

Policy

Section 16 of the Planning (Listed Building and Conservation Areas) Act 1990 is the starting point for the exercise of listed building control. This places a statutory requirement on local planning authorities to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'

NPPF: Chapter 16 - Conserving and Enhancing Historic Environment is applicable. This advises that 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.'

Whilst Section 38(6) of the 2004 Planning Act is not relevant to this listed building application, the following policies should be considered in the context of the application:

Policies of the South Somerset Local Plan (2006-2028)

Policy EQ2- General Development

Policy EQ3 - Historic Environment

Conservation Officer Comments - Tony Garrett, Verbal Response - Objects on the basis of Double

Glazing, was revealed at the pre-application stage that he would not be able to support the application.

Bruton Town Council - Recommend approval

Considerations

As this is an application for listed building consent the main considerations are what impact the development would have on the character and appearance of the listed building and what impact the development has on the character and appearance of the conservation area.

The opinion of the Conservation Officer is considered to hold considerable weight in applications of this nature, following on from the comments lodged by the Conservation Officer it is considered that the replacement of the existing window units with new double glazed window units would adversely affect the historic character of the listed building and the character of the designated Conservation Area. Contrary to Policy EQ3 of the South Somerset Local Plan 2006-28 and the provisions of the National Planning Policy Framework 2012.

Recommendation :

Refuse Listed Building consent

FOR THE FOLLOWING REASON

01. The proposal by reason of its intervention into the historic fabric of this listed building is considered to cause harm to the historic and architectural interests of the designated heritage asset and the Conservation Area, contrary to Policies EQ2 and EQ3 of the South Somerset Local Plan 2006-28 and the provisions of the National Planning Policy Framework 2019.
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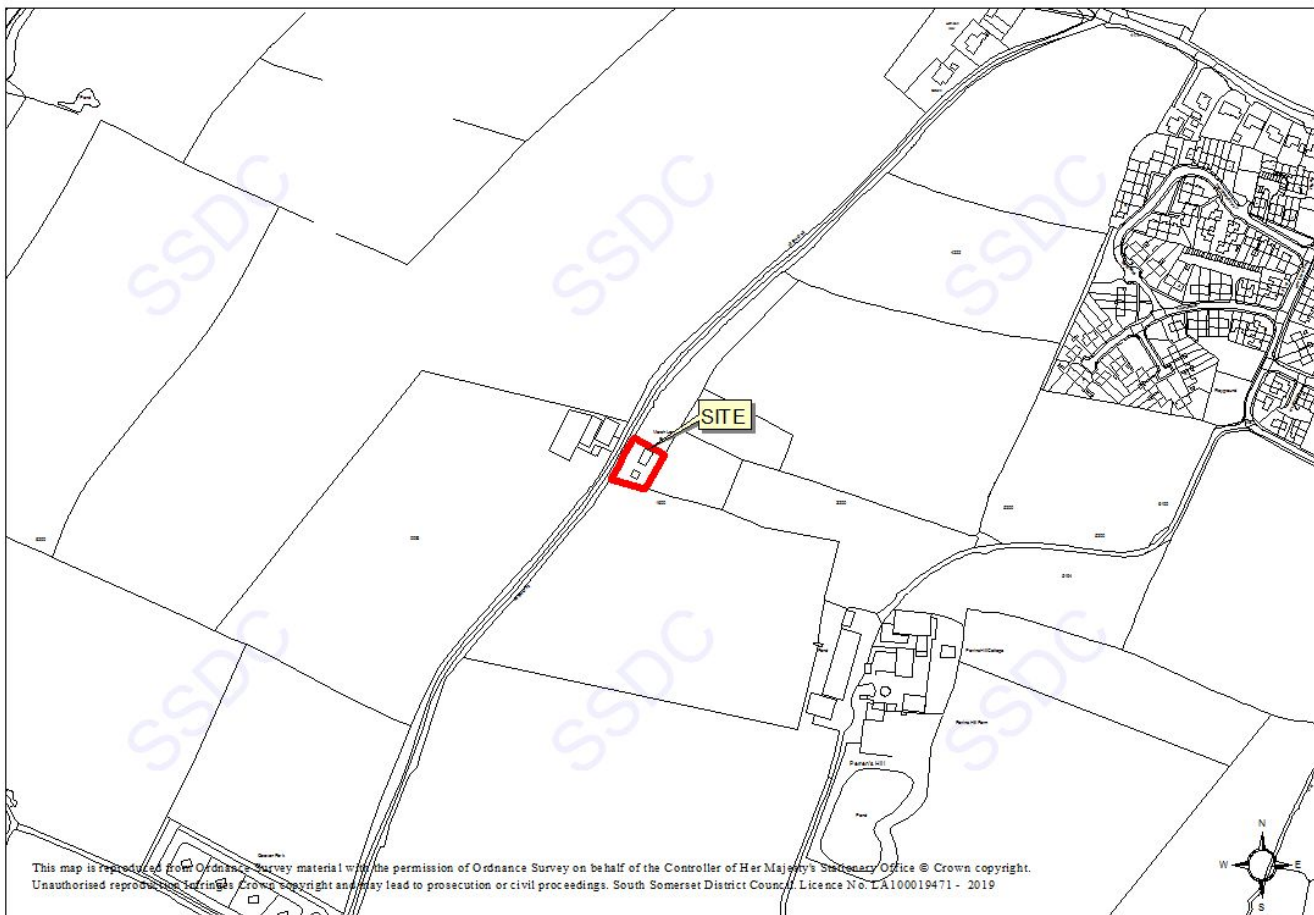
Agenda Item 14

Officer Report On Planning Application: 19/01505/S73

Proposal :	Application to remove agricultural occupancy condition (condition 1) of permission 780953.
Site Address:	Marsh Lane Farm Marsh Lane Tintinhull
Parish:	Tintinhull
Northstone, Ivelchester & St Michaels Ward (SSDC Member)	Cllr Charlie Hull Cllr Tony Capozzoli Cllr Paul Rowsell
Recommending Case Officer:	Ian Cousins Tel: 01935 462430 Email: alex.skidmore@southsomerset.gov.uk
Target date :	12th July 2019
Applicant :	Mrs Laura Steggles
Agent: (no agent if blank)	Battens Solicitors Ltd Mansion House Princes Street Yeovil Somerset BA20 1EP
Application Type :	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL

The application has been referred to Area East Committee at the request of the Ward Members Cllrs Hull, Rowsell and Capozzoli and with the agreement of the Area Chair Cllr Hobhouse to allow the merits of the application to be considered further.





SITE DESCRIPTION AND PROPOSAL

The site comprises a brick built, single storey dwelling located in a rural location.

This application seeks to remove Condition 1 of planning application 780953 that restricts the occupation of the dwelling to persons employed or last employed full time locally in agriculture.

RELEVANT HISTORY

780953 - Erection of an agricultural bungalow - Application permitted - May 1978

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, and 12 of the NPPF indicate it is a matter of law that applications are 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 South Somerset Local Plan (2006-2028)

SD1 - Sustainable Development

HG10 - Removal of Agricultural and Other Occupancy Conditions

CONSULTATIONS

Tintinhull Parish Council: Support the application.

County Highway Authority: Referred to their standing advice.

SSDC Highway Consultant: The acceptance of this proposal must be largely a planning matter based on evidence and justification.

REPRESENTATIONS

None

CONSIDERATIONS

Principle of Development

The acceptability of the proposal is considered against Policy HG10 of the South Somerset Local Plan (2006-2028). This states that Planning Permission for the removal of a restrictive occupancy condition will only be given where there is no longer a continued need for the property on the holding or for the business; There is no long term need for a dwelling to serve local need in the locality and the property has been marketed locally for an appropriate period (minimum 18 months) at an appropriate price and evidence of marketing is demonstrated.

A valuation report has been undertaken and submitted in support of the application. This outlines that, internally, the dwelling is in a poor state of repair but does not make any reference to the structural condition of the building. It also gives a valuation of the dwelling and the holding both with and without the agricultural tie.

The original application was also subject to a Section 52 agreement that tied surrounding land to the dwelling. This agreement is no longer in force as such agreements are no longer considered to be fair or necessary.

No evidence has been submitted in support of the application demonstrating that the dwelling is no longer required within the local agricultural community or that any form of marketing has been undertaken for the requisite period of time at a price that reflects the presence of the agricultural restriction or the internal state of the building.

Whilst the removal of the Section 52 agreement is noted, this is not a reason to remove the occupancy condition as there may still be a need within the community for such a dwelling.

In addition to this, it is not disputed that internally, the dwelling is in a poor state of repair, however, this is not a reason in itself to relieve the applicant of the requirements of the policy.

Accordingly, it is considered that the requirements set out in policy HG10 have not been satisfactorily met.

Conclusions and Planning Balance

Given the absence of any evidence demonstrating that the dwelling is no longer required within the local agricultural community or that any form of marketing has been undertaken for the requisite period, the application, as submitted, is considered to be contrary to policy HG10 of the Local Plan.

RECOMMENDATION

Refuse permission for the following reason:

01. It is considered that the application fails to demonstrate that the dwelling is no longer required within the local agricultural community or that any form of marketing has been undertaken for the requisite time period. As such, the proposal is considered to be contrary to policy HG10 of the South Somerset Local Plan (2006 - 2028).
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