

**South Somerset District Council**

*Notice of Meeting*



# Area West Committee

*Making a difference where it counts*

**Wednesday 18th July 2018**

**6.00 pm**

**The Guildhall, Fore Street,  
Chard, TA20 1PP**

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



The following members are requested to attend this meeting:

Jason Baker  
Marcus Barrett  
Mike Best  
Amanda Broom  
Dave Bulmer  
Carol Goodall

Val Keitch  
Jenny Kenton  
Paul Maxwell  
Sue Osborne  
Ric Pallister  
Garry Shortland

Angie Singleton  
Andrew Turpin  
Linda Vijeh  
Martin Wale

Consideration of planning applications will commence no earlier than 6.30pm.

For further information on the items to be discussed, please contact the Case Services Officer (Support Services) on 01935 462055 or [democracy@southsomerset.gov.uk](mailto:democracy@southsomerset.gov.uk)

This Agenda was issued on Monday 9 July 2018.

**Alex Parmley**, *Chief Executive Officer*

This information is also available on our website  
[www.southsomerset.gov.uk](http://www.southsomerset.gov.uk) and via the mod.gov app



INVESTORS IN PEOPLE

## **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 West Committee are held monthly, usually at 5.30pm, on the third Wednesday of the month (except December) in village halls throughout Area West (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](http://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%20council%20meetings.pdf>

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# **Area West Committee**

## **Wednesday 18 July 2018**

### **Agenda**

#### *Preliminary Items*

- 1. To approve as a correct record the Minutes of the Previous Meetings held on 17th May 2018 and 20th June 2018**
- 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 Mike Best, Angie Singleton and Martin Wale.

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 and Venue for Next Meeting**

Councillors are requested to note that the next Area West Committee meeting is scheduled to be held on Wednesday 15<sup>th</sup> August 2018 at 5.30pm at The Guildhall, Chard.

- 5. Public Question Time**

This is a chance to ask questions, make comments and raise matters of concern.

Parish/Town Councils may also wish to use this opportunity to ask for the District Council's support on any matter of particular concern to their Parish/Town.

Anyone wishing to raise matters in relation to items on the agenda may do so at the time the item is considered.

## **6. Chairman's Announcements**

### *Items for Discussion*

- 7. Grant to Avishayes Junior Football Club (Executive Decision)** (Pages 6 - 10)
- 8. Progress Report - LEADER Programmes in Area West** (Pages 11 - 14)
- 9. Area West Committee - Forward Plan** (Pages 15 - 16)
- 10. Planning Appeals** (Pages 17 - 41)
- 11. Schedule of Planning Applications to be Determined by Committee** (Pages 42 - 43)
- 12. Planning Application: 16/02289S73 - Donyatt Garage, Donyatt, Ilminster** (Pages 44 - 59)

**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 7

## Grant to Avishayes Junior Football Club (Executive Decision)

*Strategic Director:* Martin Woods, Service Delivery  
*Assistant Director:* Helen Rutter, Communities  
*Lead Officer:* Alison Baker, Area West Neighbourhood Development Officer  
*Contact Details:* alison.baker@southsomerset.gov.uk or 01460 260359

### Purpose of the Report

Councillors are asked to consider the awarding of a grant for £3,842.50 towards a new toilet block for Avishayes Junior Football Club.

### Public Interest

Avishayes Junior Football Club has applied for financial assistance from the Area West Community Grants programme. The application has been assessed by the Neighbourhood Development Officer who has submitted this report to allow the Area West Committee to make an informed decision on the application.

### Recommendation

It is recommended that Councillors award a grant of £3,842.50 to Avishayes Junior Football Club, the grant to be allocated from the Area West Capital Grants programme subject to SSDC standard conditions for community grants (appendix A) and the following special conditions:

- Establish and maintain a “sinking and repairs fund” to support future repairs and maintenance of the new toilet block

### Application Details

Name of applicant	Avishayes Football Club
Project	New Toilet Block
Total project cost	£7,685
Amount requested from SSDC	£3,842.50
Recommended special conditions	Establishment of sinking fund for future maintenance, repairs and replacement.
Application assessed by	Alison Baker, Neighbourhood Development Officer, Area West

### Community Grants Assessment Score

The table below shows the grant scoring for this application. In order to be considered for SSDC funding under the Community Grants policies, applications need to meet the minimum score of 22.

Category	Actual Score	Maximum score possible
A Eligibility	Y	Y
B Equalities Impact	5	7
C Need for project	3	5
D Capacity of Organisation	12	15
E Financial need	4	7
F Innovation	3	3
<b>Grand Total</b>	<b>27</b>	<b>37</b>

## Background

Avishayes Junior Football Club was originally formed in 1995 and has 158 players registered for this season. Membership has been increasing steadily over the last few years.

The Club want to replace an old Portaloo on the Avishayes School site with a more modern toilet block to better cater for the needs of the growing membership.

## Parish Information

Parish*	Chard
Parish Population*	13,074
No. of dwellings*	6,066

\*Taken from the 2011 census profile

## The project

The Club use Avishayes School for the mini section of the club which is rapidly expanding every year. In the season 2016-2017 there were 55 children from reception to u10s; So far this season (2018-19) there are 75 registered.

The mini section train at the school site twice a week and have matches on Saturday's and Sundays throughout the season.

As a growing Club Avishayes are always looking at ways to improve for players, managers and spectators. – including spectators.

At present the Club are using an old porta-loo (with one toilet) which costs the club £25 a week for maintenance and cleaning. The club feel that this is inadequate for their means.

It is proposed to provide a new 'temporary' toilet block which will have 2 toilets and will be easier to clean and maintain.

Avishayes School have also said that they would use the toilet block during school times for play time and after school sports clubs. The school currently have around 240 pupils.

The Club have not asked Chard Town Council for a contribution towards this project. The Town Council recently supported the Club by giving them a £1000 grant towards helping to develop goalkeepers.

The Club do not pay any hire fees to the School for the use of the pitch but maintain the site on the School's behalf.

## Local Support / evidence of need

Anecdotal evidence from the Club (talking to parents and supporters etc.) has indicated that a new provision for toilet facilities would be much needed.

## Project Costs

Supply new double toilet block	£3,426
Delivery	£260
Water and Electricity connection	£325
Expose drain, new are for bin store and fencing	£3,674
<b>Total project cost</b>	<b>£7,685</b>

## Funding Plan

Funding Source	Funds secured
Own funds (inc fundraising)	£3,842.50
<b>Total secured</b>	<b>£3,842.50</b>
Amount recommended from SSDC	<b>£3,842.50</b>

The Club has requested £3,842.50 from SSDC. This equates to 50% of the total budget cost.

## Previous grants

None during the last three years.

## Consents and permissions

The new toilet block will need both Panning Permission and Building Regs. This is being dealt with by the School as it is on Somerset County Council land.

## Conclusion and Recommendation

It is recommended that a grant of £3,842.50 is awarded.

## Financial Implications

It is recommended that this grant is awarded from the Area West Community Grants Capital fund. There is currently £76,961 unallocated in the Capital fund (excluding this grant) until the end of this financial year.

## Council Plan Implications

The project supports:

### Our Vision for South Somerset

A place where businesses flourish, communities are safe, vibrant and healthy; where residents enjoy good housing, leisure, cultural and sporting activities

### Economy

- Capitalise on our high quality culture, leisure and tourism opportunities to bring people to South Somerset.

### Health and Communities

- Support communities so that they can identify their needs and develop local solutions.
- Help people to live well by enabling quality cultural, leisure, play, sport & healthy lifestyle facilities & activities.



## **Area West Development Plan Implications**

**Priority 4 - Health & Wellbeing** of individuals - Supporting community groups and the voluntary sector to work with statutory providers to improve access to advice, services, social activities, with an emphasis on vulnerable individuals and groups– e.g. LIC's, youth support, activities for older people, making better use of halls, digital inclusion skills etc.

## **Equality and Diversity Implications**

The Club is fully inclusive and has an equality statement as part of its constitution.

***Background Papers:*** *grant file*

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## Appendix A

### Standard conditions applying to all Community Grants.

This grant offer is made based on the information provided in the application form and represents 50 % of the total project costs. The grant will be reduced if the costs of the total project are less than originally anticipated. Phased payments may be made in exceptional circumstances (e.g. to help with cash-flow for a larger building project) and are subject to agreement.

The applicant agrees to: -

- Notify SSDC if there is a material change to the information provided in the application.
- Start the project within six months of this grant offer and notify SSDC of any changes to the project or start date as soon as possible.
- Confirm that all other funding sources have been secured if this was not already in place at the time of the application and before starting the project.
- Acknowledge SSDC assistance towards the project in any relevant publicity about the project (e.g. leaflets, posters, websites, and promotional materials) and on any permanent acknowledgement (e.g. plaques, signs etc).
- Work in conjunction with SSDC officers to monitor and share the success of the project and the benefits to the community resulting from SSDC's contribution to the project.
- Provide a project update and/or supply before and after photos if requested.
- Supply receipted invoices or receipts which provide evidence of the **full** cost of the project so that the grant can be released.

### Standard conditions applying to buildings, facilities and equipment

- Establish and maintain a "sinking fund" to support future replacement of the building / facility / equipment as grant funding is only awarded on a one-off basis.
- Use the SSDC Building Control service where buildings regulations are required.
- Use a contractor selected from the SSDC approved list for play area facilities.
- Incorporate disabled access and provide an access statement where relevant.

### Special conditions

Access Review to help with future improvements.

# Agenda Item 8

## **Progress Report – LEADER Programmes in Area West**

*Portfolio Holder:* Cllr Val Keitch  
*Director:* Martin Woods – Service Delivery  
*Lead Officer:* Helen Rutter - Communities  
*Contact Details:* helen.rutter@southsomerset.gov.uk or (01963) 435012

### **Purpose of the Report**

To update the Committee on the projects that have been supported through the two LEADER Programmes operating across Area West.

### **Public Interest**

The whole of rural South Somerset benefits from the LEADER Programme, which supports locally designed rural development and enterprise initiatives. This is a 5 year EU funded programme that went live in November 2015. It focuses on supporting rural job creation and economic development. There are 3 schemes operating in South Somerset.

Due to BREXIT the programme will finish early, all projects should be contracted by March 2019 and the current guidance is that project spend should be completed (ie final claims paid) by December 2019.

### **Recommendation**

That Members note and comment on the report.

### **Background**

Projects funded under the new LEADER Programme (2015-2020) focus on delivering jobs and growth, 70% of the projects funded under LEADER will directly support the rural economy (eg: through creating and developing micro and small sized rural businesses). 30% of projects will also need to demonstrate that they are contributing to improving the rural economy. The programme has 6 priorities:

- (1) increasing farm productivity
- (2) micro & small enterprise and farm diversification
- (3) rural tourism
- (4) rural services
- (5) cultural & heritage activity and
- (6) forestry productivity.

The launch of the programme was delayed for over 9-months due to the 2015 General Election and a total revision of all the documentation required. During this period the Programme Managers undertook an active programme of awareness raising. A first call for expressions of interest was put out in November 2015.

In Area West there are 2 LAGs; Making it Local that covers all but 3 wards and Heart of Wessex that cover the remaining 3 most easterly wards of Crewkerne, Eggwood and Parrett. The attached map shows the extent of all 3 LAGs.

## Making It Local

Making it Local (MIL) covers all of the Blackdown Hills and East Devon AONB areas, along with the surrounding market towns; this includes Chard, Ilminster and the wards of Blackdown, Neroche, Windwhistle and Tatworth & Forton.

The Accountable Body for MIL is Devon County Council and the Project Manager and Admin Officer are based in Exeter, but also make use of offices in Honiton and Sidmouth. Councillor Martin Wale sits on the Executive for the LAG. The website [www.makingitlocal.org](http://www.makingitlocal.org) keeps people up-to-date with details of the programme.

Making it Local is the best performing LAG in the country; it has approximately £120k remaining, due to the fluctuations in exchange rates and it is accepting EOIs until 30 July 2018 with full applications by 31 August. So far there have been awards of £1,582,823 to 50 projects across the MIL area, the following projects are located in Area West:

- **Ferne Animal Sanctuary** - £98,245 grant, intervention rate 22.11%. This enabled them to build and equip a new visitor centre, which has resulted in 3 new jobs
- **Perry's Cider** - £21,744 grant, intervention rate 40%. Towards the purchase of keggings equipment allowing them to now sell barrels of cider to pubs, this created 2 new jobs.
- **Glanville** (Farmer) - £12,498 grant, 40% intervention rate. To purchase rumination collars
- **Scott** (Farmer) - £34,710 grant, 40% intervention rate to install a voluntary milking system
- **Whitestaunton PCC** - £2,576 grant, 15% intervention rate. Restoration of church bells
- **Snowden Hill Farm Chard** - £33,600 grant. 40% intervention rate. One Pass Strip Till Drill.

In summary 6 projects from the Area have benefitted with £204,374 of grant resulting in project investment of £720,135

## Heart of Wessex

The Heart of Wessex LAG covers south Wiltshire, part of Mendip, the Area East part of South Somerset and part of Area West. The Managing Agent and Accountable Body for the heart of Wessex LAG is Wiltshire Council. The Project Manager and Administrator are based at Balsam Centre in Wincanton. Cllr Mike Lewis, Area East, serves on the Executive for the LAG. All Members in the area of benefit have been kept in contact through the newsletter from the LAG and further details of the programme are on the website: [www.heartofwessex.co.uk](http://www.heartofwessex.co.uk) . All of the areas covered by this LAG in South Somerset are new to LEADER programmes.

- The Heart of Wessex LAG has allocated £1,108,858 of LEADER grant funding to 32 projects across the LAG area. Two of these are in Area West
- The LAG Forum is open to all interested businesses, community groups and individuals. The Forum exists to enable the wider community to get involved in shaping the programme, hear from successful projects and to help promote the availability of grants
- There are 5 projects working towards submitting applications to be considered by the LAG Executive at the July meeting = £287,138 (will then be 93% committed). The remaining headroom, therefore is £105,335.
- Heart of Wessex Total Project Allocation £1,485,388.00. Total committed to date £1,092,715 (74% of project allocation)
- Potential further investment in project pipeline = £521,382
- The Heart of Wessex LAG is now closed to new project applications, pending the availability of any further funding
- All grant funds are paid retrospectively and all claims must be fully evidenced

- Business advice is available from various sources to help businesses establish and grow. This includes the NDO (economy), SSDC Economic Development Team and a range of other sources/websites for various aspects of business growth, funding, etc. A factsheet has been produced to help businesses find the help they need

The 2 grants allocated in Area West are:

- **Yarcombe Woodland Products, Hinton St George** £88,044 grant, intervention rate 40% - to enable the company to build an extension to an existing workshop purchase and install an automatic panel manufacturing machine and stacking line to increase production to meet high demand. Total project value £220,110
- **Baker Kingston Farms, Haselbury Plucknett** £24,932, grant intervention rate 40% total project value £62,330- Dairy productivity improvement project

In summary 2 projects from the Area have benefitted with of grant of £112,976 resulting in project investment of £282,440

### **Next steps**

Both Programmes have a full pipeline of projects. Applications are now closed to new enquiries for HoW and close shortly for MIL. Projects are now being implemented and the teams are working with beneficiaries of the grants to ensure successful delivery of their projects.

In the case of MIL, an additional sum of £249,175.06 was added to available funds from a LAG that closed. The current guidance from the RPA states that all funds should be contracted by end March 2019.

### **Financial Implications**

None directly arising from this report.

### **Corporate Priority Implications**

The current Council Plan states that:

- We want a strong economy, which has low unemployment and thriving businesses – one of stated ways which we will address this is to:
  - Work in partnership to deliver investment and development that local people value

### **Carbon Emissions & Climate Change Implications**

In due course this designation could provide a way of supporting local employment and promote local produce/services in our communities contributing to greater self-containment, thereby reducing carbon emission.

### **Equality and Diversity Implications**

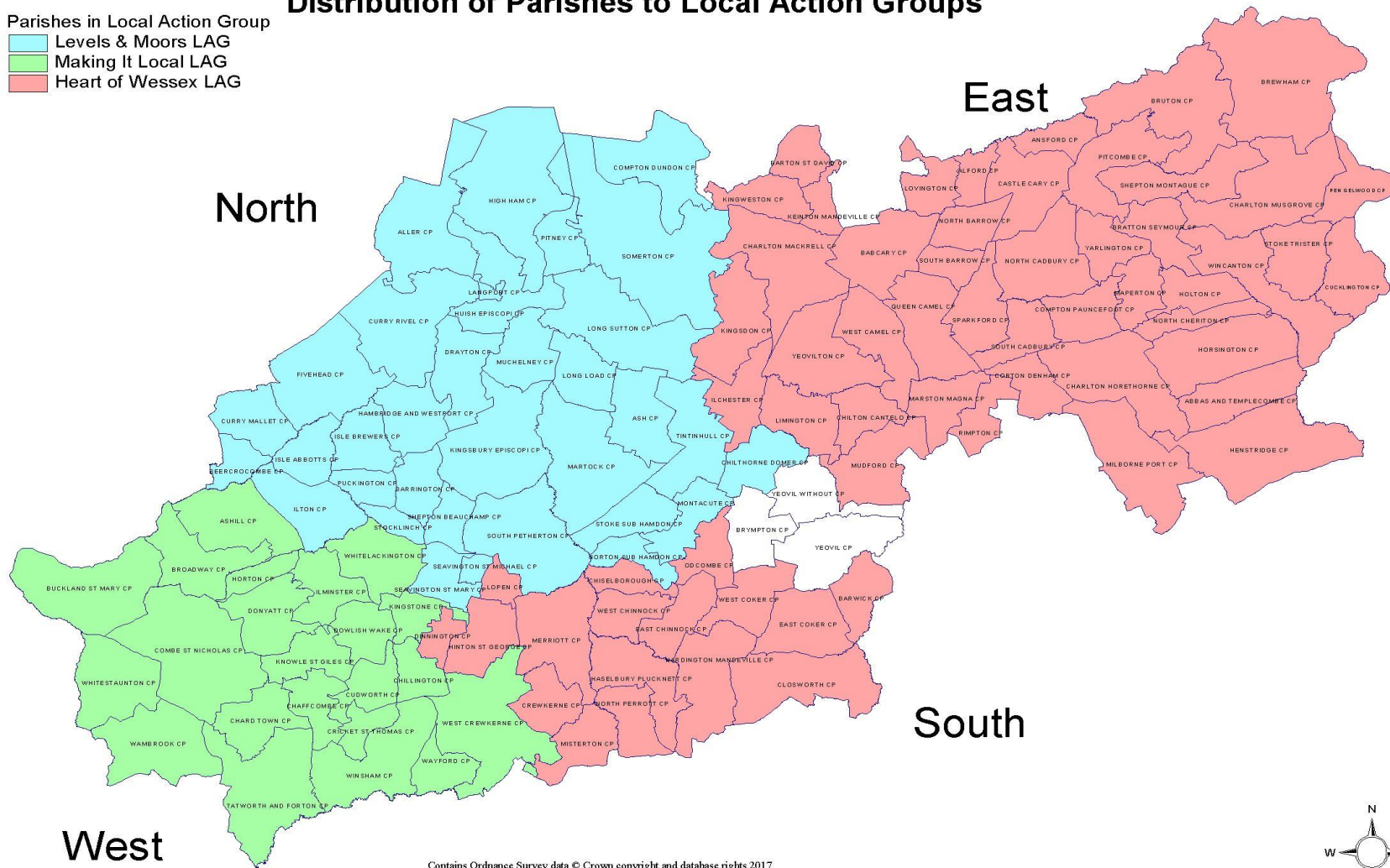
Rural communities are vulnerable to isolation from services & markets and face higher transport costs. This programme provides an opportunity to support locally important economic initiatives.

**Background Papers:** See websites

# Distribution of Parishes to Local Action Groups

Parishes in Local Action Group

- Levels & Moors LAG
- Making It Local LAG
- Heart of Wessex LAG

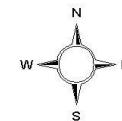


North

East

South

West



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# Agenda Item 9

## **Area West Committee - Forward Plan**

*Communities Lead:* Helen Rutter, *Communities Lead*  
*Service Manager:* Tim Cook, *Locality Team Manager*  
*Agenda Co-ordinator:* Jo Morris, *Case Services Officer (Support Services)*  
*Contact Details:* jo.morris@southsomerset.gov.uk or 01935 462055

### **Purpose of the Report**

This report informs members of the proposed Area West Committee Forward Plan.

### **Recommendation**

Members are asked to:-

- (1) comment upon and note the proposed Area West Committee Forward Plan as attached.
- (2) identify priorities for further reports to be added to the Area West Committee Forward Plan.

### **Forward Plan**

The Forward Plan sets out items and issues to be discussed by the Area West Committee over the coming few months.

The Forward Plan will be reviewed and updated each month in consultation with the Chairman. It is included each month on the Area West Committee agenda and members may endorse or request amendments.

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.

Councillors, service managers, partners and members of the public may request that an item is placed within the forward plan for a future meeting by contacting the agenda co-ordinator.

***Background Papers:*** None.

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**Notes**

- (1) Items marked in italics are not yet confirmed.
- (2) Further details on these items, or to suggest / request an agenda item for the Area Committee, please contact the Agenda Co-ordinator; Jo Morris, 01935 462055 or e-mail jo.morris@southsomerset.gov.uk

<b>Meeting Date</b>	<b>Agenda Item</b>	<b>Background / Purpose</b>	<b>Lead Officer(s) SSDC unless stated otherwise</b>
<b>15<sup>th</sup> August 2018</b>	<i>Speedwell Hall, Crewkerne Grant Application</i>	<i>To consider an application for funding</i>	<i>Alison Baker, Area Development Officer</i>
<b>19<sup>th</sup> September 2018</b>	<i>Chard Regeneration Scheme</i>	<i>Update report</i>	<i>David Julian, Economic Development Manager</i>
	<i>Impact of closure of Ilminster Community Office</i>	<i>At the November 2017 meeting a decision was taken to provide face to face services in an alternative way to best suit customer demand including the withdrawal from Ilminster Community Office with effect from 1 February 2018.</i>	<i>Debbie Haines, Deputy Community Office Support Manager</i>
<b>17<sup>th</sup> October 2018</b>	<i>Town Centre Events Programme</i>	<i>Update on the events funded by the Town Centre Events Programme</i>	<i>Tim Cook, Locality Team Manager</i>
<b>21<sup>st</sup> November 2018</b>	<i>Highways Update report</i>	<i>To update members on the highways maintenance work carried out by the County Highway Authority.</i>	<i>Mike Fear, Assistant Highway Service Manager, Somerset County Council</i>
<b>12<sup>th</sup> December 2018</b>	<i>AONB Management Plan</i>	<i>To approve the draft AONB Management Plan</i>	<i>Tim Cook, Locality Team Manager Nicky Doble, Neighbourhood Development Project Officer</i>



# Agenda Item 10

## **Planning Appeals**

*Director:* Martin Woods, Service Delivery  
*Lead Specialist:* 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**

16/05220/S73 – Land OS 7562 Part Stonage Lane, Haselbury Plucknett, Crewkerne, Somerset  
Application to vary condition No. 04 of 11/00915/FUL and condition No. 04 of 11/03462/S73 to allow a restricted amount of commercial use.

### **Appeals Allowed**

17/02636/FUL – Sunnyside Pottery Road, Ilminster, Somerset, TA19 9QW (Officer Decision)  
The erection of 2 No. dwellings, one for private residential use and one for holiday accommodation.

15/04770/FUL – North Street Trading Estate, North Street, Crewkerne, TA18 7AW (Officer Decision)  
Erection of 42 No. dwellings and associated works including access improvements onto North Street, parking for Ashlands School and separate footpath link to North Street via Ashlands School.

### **Appeals Dismissed**

16/02939/FUL – Manor Farm, Donyatt, Ilminster, TA19 0RG  
Demolish redundant agricultural buildings, extension, alteration and conversion of existing barns to provide 4 No. dwellings and the erection of 2 No. new detached dwellings to include the provision of 2 No. intermediate affordable units.

### **Background Papers**

Appeal decision notice attached

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## Appeal Decision

Site visit made on 29 May 2018

**by Colin Cresswell BSc (Hons) MA MBA MRTPI**

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

**Decision date: 06 June 2018**

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**Appeal Ref: APP/R3325/W/17/3187975**

**Sunnyside, Pottery Road, Horton, Ilminster, Somerset TA19 9QW**

- 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 Mike Baker against the decision of South Somerset District Council.
  - The application Ref 17/02636/FUL, dated 7 June 2017, was refused by notice dated 16 August 2017.
  - The development proposed is 'erection of 2 No dwellings comprising 1 No two storey private residential dwelling and 1 No single storey dwelling to be used for holiday accommodation'.
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### Decision

1. The appeal is allowed and planning permission is granted for 'erection of 2 No dwellings comprising 1 No two storey private residential dwelling and 1 No single storey dwelling to be used for holiday accommodation' at Sunnyside, Pottery Road, Horton, Ilminster, Somerset TA19 9QW in accordance with the terms of the application, Ref 17/02636/FUL, dated 7 June 2017, subject to the Schedule of conditions set out at the end of this decision.

### Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

### Reasons

3. Pottery Road extends out of the village centre towards the open countryside. It is mainly characterised by detached properties on either side of the road, most of which have large gardens or open areas to the rear. Although the pattern of development along Pottery Road is not entirely consistent, many of these dwellings back on to open countryside (particularly towards the southern end of the street) with no other properties behind them. This results in a linear form of development, characterised by low densities and an open and leafy appearance, consistent with the edge of village location.
4. Sunnyside is detached house within a row of other detached properties in Pottery Road. The area behind the house is much larger than the rear gardens of most of its neighbours. It contains various outbuildings, including a sizeable barn, as well as areas of open garden. Trees and a mature hedgerow separate the site from the agricultural land situated immediately to the east.

5. It is proposed to construct two detached dwellings to the rear of the existing house. Plot 1 would contain a relatively substantial two storey dwelling which would be situated in the northern part of the garden. Plot 2 would contain a single storey dwelling to be used as holiday accommodation. While the Council raises no objection to the principle of new housing development in the village, concern has been expressed at the effect of this particular proposal on the character and appearance of the area.
6. As the proposed dwellings would be situated well behind existing housing in Pottery Road, they would be mainly screened from public vantage points within the street. The access drive would not be a very conspicuous feature and would be in keeping with the residential character of Pottery Road, which has a number of existing driveways along its length. Hence, the development would have very little effect on the street scene.
7. The dwellings would be more visible from the rear of surrounding properties. This includes the housing in Langworthy Orchard to the north, which is separated from Sunnyside by open agricultural land. When seen from this perspective, the proposed single storey dwelling would remain relatively inconspicuous due to its low height and the intervening trees. The larger, two storey dwelling would clearly be more prominent. Nonetheless, it would also benefit from a degree of screening from trees and would be viewed alongside Longacre, which protrudes further to the east than the established line of development within Pottery Road. Both proposed dwellings would be contained within the existing hedgerow boundaries of Sunnyside and so would remain visually separated from the nearby agricultural land.
8. The proposed dwellings would also be seen from the rear of neighbouring housing in Pottery Road. However, the principal outlook from the windows and gardens of these properties is towards the open agricultural land directly to the east and not towards the new dwellings. Furthermore, the density of development within the site would remain low and the trees and vegetation would maintain the leafy characteristics of the area.
9. It therefore seems to me that the proposal would not harm the character or appearance of the area, even though it would deviate from the linear pattern of development along this part of Pottery Road. My decision is based on the individual circumstances of this case (including the visual relationship between the site and Longacre to the east) and does not necessarily establish a precedent. Differing site circumstances and the potential for cumulative harm would represent matters to be considered if similar proposals were to be advanced elsewhere within Pottery Road in the future.

## **Conclusion**

10. I conclude that the proposal would have an acceptable effect on the character and appearance of the area. There would be no conflict with Policy EQ2 of the South Somerset Local Plan 2015 which seeks to reinforce local distinctiveness and protect landscape character. For the above reasons, and having regard to all other matters raised, the appeal should therefore be allowed.
11. In the interests of clarity, standard conditions requiring the development to be carried out in accordance with the plans and within a time limit have been imposed. To help protect the character and appearance of the area, I have

also imposed the conditions suggested by the Council requiring further details of materials, hardstanding and tree protection.

*Colin Cresswell*

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: Location Plan, 1703.01, 1703.02, 1703.03, 1703.04, 1703.05, 1703.06, 1703.07, 703.08, 1703.09, 1703.10, 1703.11, 1703.14, 1703.15, 1703.16, 1703.17, 1703.18, 1703.19, 1703.20A.
- 3) No development hereby approved shall be carried out until particulars of following have been submitted to and approved in writing by the Local Planning Authority; a) details of materials (including the provision of samples where appropriate) to be used for the external walls and roofs; b) details of all hardstanding and boundaries (including the access over the first 5m); Once approved such details shall be fully implemented unless agreed otherwise in writing by the Local Planning Authority.
- 4) Prior to the commencement of any works on site, including the bringing of any equipment, machinery or materials onto the site for the purposes of the development details of tree and hedge protection measures for all hedges, hedgerows and trees immediately adjoining the development site, shall be submitted to and approved by the Local Planning Authority. There shall be no alteration to ground levels nor shall any excavation be made, without the written consent of the Local Planning Authority. The approved measures shall remain for the duration of the development and until all equipment; machinery and surplus materials have been removed from the site.



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## Appeal Decision

Site visit made on 29 May 2018

by **C Cresswell BSc (Hons) MA MBA MRTPI**

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

Decision date: 21 June 2018

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**Appeal Ref: APP/R3325/W/17/3190400**

**North Street Trading Estate, North Street, Crewkerne, Somerset TA18 7AW**

- 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 Stonewater Ltd against the decision of South Somerset District Council.
  - The application Ref 15/04770/FUL, dated 21 October 2015, was refused by notice dated 26 July 2017.
  - The development proposed is the erection of 42 No. dwellings and associated works including access improvements onto North Street, parking for Ashlands School and separate footpath link to North Street via Ashlands School.
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### Decision

1. The appeal is allowed and planning permission is granted for 'the erection of 42No dwellings and associated works including access improvements onto North Street, parking for Ashlands School and separate footpath link to North Street via Ashlands School' at North Street Trading Estate, North Street, Crewkerne, Somerset TA18 7AW in accordance with the terms of the application, Ref 15/04770/FUL, dated 21 October 2015, subject to the conditions set out in the Schedule at the end of this Decision.

### Application for costs

2. An application for costs was made by Stonewater Ltd against South Somerset District Council. This application is the subject of a separate Decision.

### Procedural Matter

3. The description of the development in the heading above is taken from the Appeal Form as it more accurately describes the proposal which was before the Council when the planning application was determined.

### Main Issue

4. The main issue is the effect of the proposal on the safe and efficient operation of the highway network in the vicinity of the appeal site.

### Reasons

5. The appeal concerns a site on the edge of Crewkerne which was previously used as a trading estate. I understand that it contained a number of buildings which have now been demolished, although much of the site is now overgrown with trees and mature vegetation. However, there remains a sizeable area of

hardstanding which appears to be used for parking. Vehicular access is from North Street via a single lane which runs between existing dwellings. Towards the end of the lane nearest the site there are also commercial units. Adjoining land has been designated as a Site of Special Scientific Interest (SSSI) and a County Wildlife Site due to its ecological interest. The site also adjoins Ashlands Church of England First School, which is Grade II listed.

6. It is proposed to construct 42 dwellings on the site, with vehicular access from the existing lane. There would also be a separate pedestrian only footpath onto North Street next to the school. Although the site previously had planning permission for 24 dwellings, this lapsed on 30 July 2017 and hence there is no fallback position in the event of this appeal being dismissed. The fact that the Council has granted permission for housing on the site in the past has very little bearing on the current appeal, which is for an entirely different proposal supported by a different evidence base.
7. A number of measures are proposed to improve the ability of the access road to accommodate the traffic generated by the proposed housing. This includes road widening works combined with built out areas of kerb to help improve visibility. The plans indicate that the modified access road would be at least 4.8 metres wide, apart from an intentionally narrowed section which would be introduced for traffic calming purposes. According to the *Manual for Streets*<sup>1</sup> this is a sufficient width to allow two cars to pass, or for a lorry and a car to pass. Although neighbouring occupiers question whether the land necessary for these alterations is under the appellant's control, these are private matters between the relevant parties. Planning permission does not negate any legal rights relating to land ownership or damage to property.
8. Detailed highways objections are set out in the appeal statement prepared by Mark Baker Consultants (MBC) on behalf of the Council and dated March 2018. This argues that the access arrangements would compromise highway safety, both within the existing lane and also within North Street. This is refuted by the appellant's own highway consultants, Peter Evans Partnership (PEP) whose most recent statement is also dated March 2018. I have had close regard to both sets of technical evidence in reaching my decision in this appeal.
9. The ability of the lane to provide safe access is partly contingent on the volume of traffic that would be generated as a result of the proposed development. With this in mind, MBC argue that traffic flows from the proposed affordable housing units have been underestimated. However, the subsequent response from PEP directly addresses this matter and shows that differences between the methods of calculation would only have a marginal effect on the estimated traffic flows. Overall, there is little to indicate that the traffic flows from the development would be substantially higher than anticipated.
10. The Road Safety Audit was carried out by an independent auditor (Go-Surveys) on behalf of the appellant. This concludes that the access arrangements would be safe. MBC suggest that the audit is flawed because it is based on the assumption that the traffic impacts of the development would be no greater than they are at present. However, I have been supplied with an email from Go-Surveys confirming that they were aware that the development would increase total traffic movements throughout the day. It is only during certain times when traffic movements were forecast to decline.

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<sup>1</sup> *Manual for Streets*, Department for Transport, 2007.

11. I note that the auditors undertook a site visit and would have therefore been in a position to understand the characteristics of the site, together with the likely impact of vehicles and their swept paths. A local resident has informed me of a recent accident in North Street where a car emerged from the access road into the path of a motorcyclist. While I accept that accidents can occur, there is little evidence before me to indicate that this particular access is unduly dangerous. Furthermore, the auditors have based their conclusions on the modified junction which would include works to improve visibility.
12. It is accepted by both parties that lorries and service vehicles would encroach onto both sides of North Street when turning into the access and would occupy the full width of the road. This has clearly has some potential to hold up traffic in North Street as well as blocking the path of vehicles exiting the site. In the event of two vehicles being unable to pass each other, it is possible that reversing in either direction would need to take place. This may include back out onto North Street, or around the bend into the site.
13. Despite this, the evidence indicates that lorries and service vehicles would be unlikely to enter the site on a very frequent basis throughout the day and so this would not be an especially regular occurrence. I am also mindful that large vehicles already use the access to reach the commercial units and there is little before me to indicate that this had led to rear end shunts or other safety problems in the past. Although traffic flow would increase as a result of the development, the road would also be widened and overall visibility would be improved. This would include at the junction along North Street and where the access road bends in to the site. Hence, overall safety would not be compromised as a result of the proposal. Furthermore, there is little before me to indicate that emergency services could not access the site.
14. I am aware that vehicles need to reverse onto the access road from existing housing. However, drivers reversing from these properties would benefit from the improvements to visibility. Considering that traffic would be travelling at low speeds with less than 100 vehicles per hour each way at peak times, this arrangement would not be unduly harmful. Similarly, the Manual for Streets indicates that such a route could be safely shared by vehicles, cyclists and pedestrians. It is likely that a good deal of pedestrians would make use of the proposed footpath next to the school and this would further reduce the potential for conflicts between users of the access road.
15. I have been provided with a letter from the Highway Authority in connection with an application which sought to lawfully establish the use of the site as a car park for the school. Although the road is described as narrow and having a poor quality access, these comments were not made on the basis of the widening works currently being proposed.
16. The site is currently accessed by vehicles in order to drop children off to school. According to MBC, around 50% of those currently using the site to collect and drop off children would continue to use it. However, this would still result in peak traffic flows of less than 100 vehicles per hour each way. While it could not be guaranteed that the remaining 50% would make use of the North Street car park, it would nonetheless offer some alternative to vehicles stopping on the main road and disrupting the flow of traffic. I also understand that the current use of the site for school parking and dropping off is an informal arrangement which could potentially be withdrawn at any time.



17. This leads me to conclude on the main issue that the proposed development would have an acceptable effect on the safe and efficient operation of the highway network in the vicinity of the appeal site. There would be no conflict with Policy TA5 of the South Somerset Local Plan 2015 or paragraph 32 of the National Planning Policy Framework (the Framework) in this regard. These seek to ensure safe and suitable access arrangements.

#### *Other matters*

18. I am aware that the site is overgrown with mature vegetation and is likely to contain wildlife. However, conditions could be imposed to ensure that the site is surveyed and appropriate mitigation measures are put in place to protect valued species. Similarly, fencing and other measures can be used to ensure adequate separation of the site from the adjacent SSSI.
19. Whilst the site is within Flood Zone 2, the evidence before me suggests that engineering measures can be put in place to help minimise the risk of flooding taking place. Although the school is Grade II listed, the proposed housing would be set below the building. As such, the visual setting of school would not be harmed as a result of the development.

#### *Planning Obligation*

20. I have been provided with a signed and dated unilateral undertaking. This proposes that the development comprises at least 35% affordable housing to be retained in perpetuity. A financial contribution of £24,000 is also proposed towards improvements of the Henhayes Recreation Ground. Such contributions are necessary to comply with the relevant development plan policies.
21. The Officer Report advises that the proposed development should make a contribution of £171,798 towards leisure facilities. However, the appellant argues that a contribution of no more than £24,000 should be made in order to ensure the scheme remains viable. I understand that the District Valuer agrees with this assessment. Yet while the unilateral undertaking proposes a contribution of £24,000 towards leisure facilities, the Council say that it should contain a clause that would enable a larger contribution to be made in the event of market conditions improving.
22. Although paragraph 205 of the Framework advises that account should be taken of changing market conditions where obligations are being sought, this is in the context of preventing planned development from being stalled. Of more direct relevance is paragraph 17<sup>2</sup> of the National Planning Practice Guidance which states *that viability assessment in decision-taking should be based on current costs and values. Planning applications should be considered in today's circumstances. However, where a scheme requires phased delivery over the medium and longer term, changes in the value of development and changes in costs of delivery may be considered.* In this particular case, a phased delivery is not being proposed and therefore I consider that the clause suggested by the Council is unnecessary.
23. The Council in their letter dated 23 March 2018 say that a 45% affordable housing contribution is required. I am informed that this was an error and the Council would be satisfied with a 35% affordable housing contribution as referred to in the Officer Report and other appeal documents.

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<sup>2</sup> Reference ID: 10-017-20140306

24. The Council also argue that a financial contribution should be made towards a travel plan. However, both parties agree that the residual cumulative impacts of the development would not be 'severe'. Hence, in my view the objectives of Local Plan Policy TA4 would not be compromised if a travel statement were to be secured through a condition, such as that suggested by the Council.
25. Overall, I consider the proposed planning obligation to be necessary, directly related to the development and fairly related in scale and kind. It would therefore meet the statutory tests.

### **Conclusion**

26. I do appreciate that there is local opposition to the proposed development and have carefully considered the objections lodged during both the application stage and the appeal stage. However, the evidence has led me to conclude that the appeal should be allowed.

### **Conditions**

27. In the interests of clarity, standard conditions requiring the development to be carried out in accordance with the plans and within a time limit have been imposed. To protect the character and appearance of the area there are conditions requiring further details of materials and other elements of the proposal including landscaping. For similar reasons, some permitted development rights are also removed. There are also conditions to protect the site from flooding, including conditions requiring details of flood alleviation measures and surface water drainage. Given the former use of the site as a trading estate, potential contamination risks are also addressed.
28. In the interests of wildlife protection, there are conditions to safeguard the adjacent SSSI, including further details of fencing and hydrological measures. There are also conditions requiring wildlife surveys of the existing site and appropriate mitigation measures to ensure valued species are not unduly harmed. To protect local residents during construction there is a condition requiring a construction management plan. For highway safety reasons, there are conditions requiring the proposed road improvements to be implemented, with further details to be approved by the Council. There is also a condition to ensure car park space is reserved for school use. As discussed above, a condition is imposed requiring a travel statement. Other conditions require details of refuse collection arrangements and boundary treatments.

*C Cresswell*

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:
  - 3609/PL/30 (Topographical Survey)
  - 3609/040 (Plots 2 & 3 Floor Plans)
  - 3609/041 (Plots 2 & 3 Elevations)
  - 3609/074 (Retaining Wall Details)
  - CLD55 Rev A (Landscaping)
  - CLD55/02 (Nature Reserve Planting Plan)
  - 3609/001 Rev C (Location Plan)
  - 3609/PL/27 Rev H (Street Scenes / Sections)
  - 3609/042 Rev A (Plot 5, 6, 7, 15, 16, 25, 26, 27, 30, 31 - Floor Plans),
  - 3609/043 Rev A (Plot 5, 6, 7, 15, 16, 25, 26, 27, 30, 31 - Elevations),
  - 3609/044 Rev A (Plot 21, 22, 23 - Floor Plans)
  - 3609/045 Rev A (Plot 21, 22, 23 - Elevations)
  - 3609/046 Rev A (Plot 1, 17, 18 - Plans)
  - 3609/047 Rev A (Plot 1, 17, 18 - Elevations)
  - 3609/048 Rev A (Plot 4, 8, 24, 29, 32 - Plans and Section)
  - 3609/049 Rev A (Plot 4, 8, 24, 29, 32)
  - 3609/050 Rev A \*Plot 20, 28 - Floor Plans and Section)
  - 3609/051 Rev A (Plot 20, 28 - Elevations)
  - 3609/052 Rev A (Plot 19 - Floor Plans and Section)
  - 3609/053 Rev A (Plot 19 - Elevations)
  - 3609/054 Rev A (Plot 9 - 14 - Floor Plans 1)
  - 3609/055 Rev A (Plot 9 - 14 - Floor Plans 2)
  - 3609/056 Rev A (Plot 9 - 14 - Elevations)
  - 3609/057 Rev A (Plot 9 - 14 - Elevations 2)
  - 3609/058 Rev A (Plot 33 - 38 - Floor Plans 1)
  - 3609/059 Rev A (Plot 33 - 38 - Floor Plans 2)
  - 3609/060 Rev A (Plot 33 - 38 - Elevations 1)
  - 3609/061 Rev A (Plot 33 - 38 - Elevations 2)
  - 3609/062 Rev B (Plot 39 - 42 - Floor Plans)
  - 3609/063 Rev B (Plot 39 - 42 - Elevations 1)
  - 3609/064 Rev B (Plot 39 - 42 - Elevations 2)

- 2801.01 Rev H (Proposed Vehicular Access)  
3609/PL/10 (Rev BB Site Plan)  
3609/082 Rev D (Proposed Footpath Layout)  
3609/083 Rev A (Footpath Sections).
3. No building operations above damp proof course level of the dwellings shall take place until details of the materials to be used in the construction of the external surfaces, doors, windows, stonework, render, brick and roof finish of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
  4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 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.
  5. The development hereby permitted shall not be occupied until a scheme for the maintenance of the Nature Reserve (Drawing No. CLD 55/02) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.
  6. All planting, seeding, turfing or earth moulding comprised in the approved details of landscaping (Landscaping Scheme received 27 May 2016; Arboricultural Report and Method Statement by Clarke Design dated September 2016; Landscape Statement by Clark Landscape Design dated September 2016; Landscape Schedule and Specification Rev A by Clark Landscape Design dated September 2016; Drawing No.'s CLD 55/02 and CLD 55 Rev A) shall be carried out in the first planting and seeding season following the completion of the development; and 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.
  7. No development shall be commenced until details of the surface water drainage design together with 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. Such works shall be carried out in accordance with the approved details. Those details shall include:
    - (a) 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 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.
    - (b) 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. Including detailed calculations and assessment of downstream affects from the upsizing of the culverted watercourse sections within the site boundary.

- (c) Flood water exceedance routes, both on and off site, note: no part of the site must be subjected to flooding unless specifically designed to do so.
  - (d) 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, including notification of riparian ownership and associated responsibilities, to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development.
8. No development approved by this permission shall be commenced until a scheme for the provision; implementation and future maintenance of flood alleviation works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved programme and details.
9. No development approved by this permission shall be commenced until a scheme for maintaining the flow conveyance of the watercourse during construction of this proposal has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.
10. The detailed drawings to be submitted for approval include a topographical survey related to Ordnance Datum of existing ground levels contoured at 0.25 metre intervals, together with details of proposed finished levels.
11. Finished floor levels should be set at least 600mm above the 1 in 100 year flood level of there-engineered brook through the site.
12. No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
- (a) A preliminary risk assessment which has identified:
    - all previous uses
    - potential contaminants associated with those uses
    - a conceptual model of the site indicating sources, pathways and receptors
    - potentially unacceptable risks arising from contamination at the site.
  - (b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  - (c) The results of the site investigation and the detailed risk assessment referred to in (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  - (d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

- Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.
13. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
  14. No infiltration of surface water drainage into the ground at the site is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.
  15. The development shall not commence until full details of fencing to provide protection to the SSSI, including a plan and timing of installation, has been submitted to and approved in writing, following consultation with Natural England and the site owner, by the local planning authority. The fencing shall be installed in accordance with the approved details and timing.
  16. The development shall not commence until full details of measures for the protection of the hydrological conditions and features of the Millwater Site of Special Scientific Interest have been submitted to and approved in writing, following consultation with Natural England, by the local planning authority. The measures shall be informed by an appropriately qualified hydrological consultant. The drainage plans for the development will need to accord with the protective measures for the SSSI. The approved measures shall be implemented in full.
  17. The development hereby permitted shall not commence (including any tree, scrub or vegetation clearance) until there has been submitted to and approved in writing by the Local Planning Authority, full details of a Dormouse Mitigation Plan detailing timing restrictions and protective measures to avoid and mitigate for harm to dormice, and details of replacement habitat to compensate for loss of dormouse habitat connectivity. The works shall be implemented in accordance with the approved details and timing, as modified to meet the requirements of the 'European Protected Species Mitigation Licence' issued by Natural England, unless otherwise approved in writing by the local planning authority.
  18. The development hereby permitted shall not commence (including any tree, scrub or vegetation clearance, site clearance nor ground works) until there has been submitted to and approved in writing by the Local Planning Authority, full details of a Great crested newt Mitigation Plan detailing timing restrictions and protective measures to avoid, mitigate and compensate for harm to great crested newts. The works shall be implemented in accordance with the approved details and timing, as modified to meet the requirements of the 'European Protected Species Mitigation Licence' issued by Natural England, unless otherwise approved in writing by the local planning authority.
  19. The development hereby permitted shall not be commenced (including any ground works or site clearance) until a mitigation plan detailing measures to avoid harm to reptiles, has been submitted to and approved in writing by the

local planning authority. The works shall be implemented in accordance with the approved details and timing of the mitigation plan.

20. No removal of vegetation that may be used by nesting birds (trees, shrubs, hedges, bramble, scrub) shall be carried out between 1st March and 31st August inclusive in any year, unless recently checked by a consultant ecologist for the presence of nesting birds. If nests are encountered, the nests and eggs or birds, must not be disturbed until all young have fledged.
21. No removal of vegetation that may be used by nesting birds (trees, shrubs, hedges, bramble, scrub) shall be carried out between 1st March and 31st August inclusive in any year, unless recently checked by a consultant ecologist for the presence of nesting birds. If nests are encountered, the nests and eggs or birds, must not be disturbed until all young have fledged.
22. 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 of the development. The content of the LEMP shall include the following:
  - (a) Description and evaluation of features to be managed.
  - (b) Aims and objectives of management.
  - (c) Management prescriptions and work schedule.
  - (d) Details of the body or organization responsible for implementation of the plan.
  - (e) Ongoing monitoring and remedial measures.
  - (f) The roles and responsibilities and operations that will be overseen by an Ecological Clerk of Works.

The approved plan will be implemented in accordance with the approved details.

23. No work shall commence on the development hereby permitted until the works to North Street have been carried out in accordance with a design and specification to be approved in writing by the Local Planning Authority and to be fully implemented in accordance with the approved details.
24. No work shall commence on the development hereby permitted until a scheme of works for the access road has been submitted to and approved in writing by the Local Planning Authority. Such works shall then be fully implemented in accordance with the approved details, prior to the development hereby permitted first being occupied. The provision of these works will require a legal agreement and contact should be made with the Highway Authority as soon as is practicable to commence this process.
25. 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 plans shall include:
  - (a) Protection of ecology assets (based on example in British Standard 42020)
  - (b) Construction vehicle movements;
  - (c) Construction operation hours;
  - (d) Construction vehicular routes to and from site;

- (e) Construction delivery hours;
  - (f) Expected number of construction vehicles per day;
  - (g) Car parking for contractors;
  - (h) Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;
  - (i) A scheme to encourage the use of Public Transport amongst contractors;
  - (j) Measures to avoid traffic congestion impacting upon the Strategic Road Network.
26. The proposed estate roads, footways, footpaths, tactile paving, cycleways, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking and street furniture shall be constructed and laid 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.
27. 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.
28. None of the dwellings hereby permitted shall be occupied until a scheme of street lighting has been installed in accordance with a design and specification to be approved in writing by the Local Planning Authority.
29. No work shall commence on the development site until an appropriate right of discharge for surface water has been obtained before being submitted to and approved in writing by the Local Planning Authority. A drainage scheme for the site showing details of gullies, connections, soakaways and means of attenuation on site shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be carried out in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.
30. The area allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.
31. No work shall be carried out to erect any boundary treatment and lighting along the pedestrian footpath to the south of Ashlands School unless full details of the boundary treatments, including walls, fences, railings, gates, gateposts and lighting have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the agreed details, and permanently retained and maintained.
32. The school car park hereby permitted shall only be used as parking/dropping off point in association with Ashlands School. Prior to the occupation of any dwelling on site a scheme shall be submitted to and approved in writing by the Local Planning Authority describing how the school car park will be controlled and how to prevent unauthorised parking. The car park shall be operated in



accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.

33. Prior to the occupation of any of the dwellings hereby approved adequate provision for the storage and collection of wheeled refuse and recycling bins shall be provided on the site in accordance with details to be submitted and approved in writing by the Local Planning Authority. Such approved details, once carried out shall not be altered without the prior written consent of the Local Planning Authority.
34. No buildings shall be constructed over the top of the culverted main river.
35. Prior to the commencement of development, a travel statement is to be submitted to and approved in writing by the Local Planning Authority. This should include measures to promote sustainable travel along with a timetable for the implementation of the measures. The development shall not be occupied unless the agreed measures are being implemented in accordance with the agreed timetable. The measures should then continue to be implemented as long as any part of the development is occupied.



## Costs Decision

Site visit made on 29 May 2018

by **C Cresswell BSc (Hons) MA MBA MRTPI**

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

Decision date: 21 June 2018

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### **Costs application in relation to Appeal Ref: APP/R3325/W/17/3190400 North Street Trading Estate, North Street, Crewkerne, Somerset TA18 7AW**

- 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 Stonewater Ltd for a full award of costs against South Somerset District Council.
  - The appeal was against the refusal of the Council to grant planning permission for the erection of 42 No. dwellings and associated works including access improvements onto North Street, parking for Ashlands School and separate footpath link to North Street via Ashlands School.
- 

### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. Paragraph 028 of the National Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. It is argued that the Council did not give adequate weight to the planning history of the site and hence acted unreasonably. I understand that the site originally gained permission for 24 dwellings in 2005, with subsequent approval of reserved matters. Although this scheme was never implemented, the Council granted extensions of time. The most recent permission was dated 30<sup>th</sup> March 2012, which lapsed on 30<sup>th</sup> March 2017.
4. The weight given to a lapsed planning permission is a matter of planning judgement, which the Council is entitled to take view on. In this particular case, the lapsed permission was for 24 dwellings whereas the appeal proposal was for 42 dwellings. This represents a considerable change from what was previously being proposed. I also note that a new Local Plan was adopted in the intervening period. Given these changing circumstances, the Council were in no way compelled to approve the appeal proposal on the basis of a lapsed permission for an alternative form of development.
5. It is also argued that the final reports by Mark Baker Consulting (MBC) were directly influenced by the Council and hence were not founded on independent, objective evidence. In this regard, my attention has been drawn to a report dated June 2017 (MBC1 in the appellant's evidence). This contains a different wording from later reports and I am informed that it was withdrawn shortly after it was published on the Council's website.

6. Paragraph 59 of MBC1 says *overall, on highways issues there are some grounds albeit weak to maintain a highway objection on the basis that a safe and suitable access for all users may not be achieved although the argument is weakened by the provision of the alternative pedestrian link. As you are aware, the extant consent expired at the end of March 2017. That consent having expired, and as such there is no longer a "fall back" position. In our opinion, the previous consent is a material consideration that should be afforded appropriate weight by the Council especially as the consent expired during the consideration of this planning application. If the Council do not agree with that assessment of the "fall back" position then in our opinion there are sufficient grounds in the absence of a "fall back" use to maintain a highways objection.*
7. In my view, the consultant's opinion that the highway objection was 'weak' was based on the assumption that a high degree of weight should be given to the lapsed planning permission for residential development. However, that is a judgement which was for the local planning authority to make as the statutory decision makers. As the Council did not consider that it was appropriate to give much weight to the lapsed permission, the highways objection carried more significance and later MBC reports were written to reflect this. The technical evidence relating to highways matters remained essentially unchanged throughout.
8. As such, I do not consider that paragraph 59 of MBC1 contradicts later reports or indicates that more weight should have been given to the lapsed permission. Nor is it evidence of inappropriate Council interference. I am also mindful that costs may only be awarded where a party has behaved unreasonably during the appeal process. The MBC report dated March 2018 forms the basis of the Council's appeal evidence and clearly substantiates the reason for refusal.
9. For the reasons set out above, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

*C Cresswell*

INSPECTOR



## Appeal Decision

Site visit made on 29 May 2018

by **C Cresswell BSc (Hons) MA MBA MRTPI**

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

Decision date: 18 June 2018

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**Appeal Ref: APP/R3325/W/18/3193856**

**Manor Farm, Stibbear Lane to Church Street, Donyatt, Ilminster TA19 0RG**

- 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 R J McHardy against the decision of South Somerset District Council.
  - The application Ref 16/02939/FUL, dated 5 July 2016, was refused by notice dated 27 July 2017.
  - The development proposed is removal of redundant agricultural buildings, conversion and alterations of existing barns to provide 4 no. dwellings and the erection of 2 no. new build dwellings at Manor Farm, Donyatt. Proposals to include the provision of 2 no. intermediate affordable units.
- 

### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr R J McHardy against South Somerset District Council. This application is the subject of a separate Decision.

### Main Issue

3. The main issue in this case is whether adequate provision would be made for affordable housing.

### Reasons

4. The appeal concerns a group of agricultural buildings within a disused farmyard on the edge of Donyatt. It is proposed to clear parts of the site, construct two new dwellings and convert the existing barns to provide an additional four new dwellings. Two of the proposed dwellings are described by the appellant as intermediate affordable units and would be in the form of discounted market housing. The level of market discount would be 20%.
5. Policy HG3 of the South Somerset Local Plan 2015 (the Local Plan) specifies a target figure of 35% affordable housing in developments of six dwellings or more. The Council are satisfied that the target would be achieved, insofar as two of the six dwellings proposed would be discounted. However, it is argued that a 20% discount would be insufficient to meet local housing needs and would therefore not constitute affordable housing.

6. The National Planning Policy Framework (the Framework) defines affordable housing as *social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices.* According to paragraph 159 of the Framework, such local needs should be determined through a Strategic Housing Market Assessment (SHMA).
7. Intermediate housing is defined in Appendix 2 of the Framework as *homes for sale or rent provided at a cost above social rent, but below market levels.* However, this is subject to the intermediate housing meeting the broader definition of affordable housing as quoted above. The Framework makes it clear that homes which do not meet that definition may not be considered as affordable housing for planning purposes.
8. Hence, while the Local Plan does not stipulate any particular level of market discount, it must be evident that the proposed intermediate housing would meet local needs if it is to be treated as 'affordable' under Policy HG3. Both the Local Plan and Framework indicate that the appropriate method of determining this is through reference to the SHMA.
9. The most recent version of the SHMA was published in 2016<sup>1</sup>. My attention has been drawn to Figure 6.11 of this report and the 'key messages' which are set out on page 147. This indicates that of the households in South Somerset unable to purchase a dwelling on the open market, only 3.6% would be able to afford a starter home (defined as a 20% discount on open market value). Although the SHMA is based on aggregated data, this nonetheless suggests that the proposed intermediate units would only be affordable to a limited number of households that are unable to purchase on the open market. Furthermore, these households would be able to rent at market values and hence would not be eligible for affordable housing.
10. According to the appellant's evidence, the discounted value of the one bed unit would be £112,000 to £120,000 with the two bed unit being in the range £172,000 to £200,000. On the basis of a 10% deposit and a mortgage provider lending 5 times household income, it is stated that the one bed unit could be purchased by a household with an income of between £20,100 and £21,600. Aside from the fact that not all mortgage lenders may be prepared to lend 5 times household income, the SHMA indicates that households able to afford to purchase the proposed one bed unit at the higher end of its valuation would be able to access the private rented market. The same calculations applied to the two bedroom unit would indicate that a household income in excess of £30,000 would be needed.
11. While the appellant provides evidence to show that median earnings in the south-west were £27,000 in April 2017, the SHMA indicates that a household earning that amount could afford to rent privately. In fact, Figure 6.8 of the SHMA indicates that many households in need have incomes well below the median figure quoted, with around a third of households in Somerset having incomes below £20,000 per year. Based on the above, it therefore seems to me that the intermediate units would not meet the Framework's definition of affordable housing if they were sold with a 20% discount.

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<sup>1</sup> Mendip, Sedgemoor, South Somerset and Taunton Deane Strategic Housing Market Assessment (Oct 2016).

12. The market rental for the proposed one bedroom unit is estimated to be between £475 and £500 per month, with the two bedroom unit being within the range £550 to £600 per month. This indicates that, when a 20% discount is applied, the one bed property may rent for between £380 and £400 per month, with the two bed unit costing between £440 and £480. It is not explicit from the information before me whether eligible households would be able to afford these rents or to what extent they could help to address local needs. However, it is clear that the units would be more affordable to rent than they would be to purchase and would therefore be accessible to a wider range of households in the area. Indeed, my attention has been drawn to rental properties advertised elsewhere in the area costing somewhat more than this. Nonetheless, given that the proposed units would be for sale or rent, this does not overcome my concerns regarding the discounted purchase price.
13. The Framework states that 'affordable rent is subject to rent controls that require a rent of no more than 80% of the local market rent'. However, it is also made clear that housing is not affordable in planning terms unless it is open to eligible households whose needs are not met by the market.
14. Despite this, there appears to be limited opportunities to provide discounted housing in the immediate area, which is rural in nature. I am informed that there were no properties available to rent in Donyatt when the appellant's statement was written. The appeal proposal would contribute to the housing supply and clearly *any* level of discounting would help to make housing more affordable to local people. The development would therefore provide tangible benefits and I note that Policy SS2 of the Local Plan supports proposals which meet identified housing needs in rural areas.
15. According to the Local Plan, affordable housing contributions should be negotiated on a site by site basis. Although the Council has sought a market discount of 35% in this case, the appellant informs me that such a discount has only been negotiated on one previous occasion (a site at Compton Dundon<sup>2</sup>). Indeed, examples have been provided where discounts below 20% have gained approval. However, as I am not party to all the information that was before the Council when reaching these decisions, I am unable to conclude that a convincing precedent has been established. Nevertheless, I am very mindful of paragraph 173 of the Framework which states *to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.*
16. I recognise that the proposal involves the demolition and conversion of existing buildings and structures within the site and I have no doubt that this would add to the costs of development, particularly in comparison to a greenfield site where build costs are likely to be lower. However relatively little information has been provided to show that the 35% discount being sought by the Council would result in the proposal becoming unviable. In the absence of compelling evidence (such as a residual valuation or similar estimates of land and build costs) I am unable to determine with any certainty that the proposed 20% market discount would be reasonable in this instance.

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<sup>2</sup> Council Ref: 07/04651/FUL

## **Conclusion**

17. Overall it has not been demonstrated that adequate provision would be made for affordable housing. Hence there would be conflict with Policy HG3 of the Local Plan which seeks to meet identified housing needs. Therefore, despite the benefits of the proposal in contributing to rural housing supply, it would not represent sustainable development for which the Framework says there is a presumption in favour.
18. For the above reasons, and having regard to all other matters raised, the appeal should therefore be dismissed.

*C Cresswell*

INSPECTOR



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## Costs Decision

Site visit made on 29 May 2018

by **C Cresswell BSc (Hons) MA MBA MRTPI**

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

Decision date: 18 June 2018

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### **Costs application in relation to Appeal Ref: APP/R3325/W/18/3193856 Manor Farm, Stibbear Lane to Church Street, Donyatt, Ilminster TA19 0RG**

- 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 J McHardy for a full award of costs against South Somerset District Council.
  - The appeal was against the refusal of the Council to grant planning permission for removal of redundant agricultural buildings, conversion and alterations of existing barns to provide 4 no. dwellings and the erection of 2 no. new build dwellings at Manor Farm, Donyatt. Proposals to include the provision of 2 no. intermediate affordable units.
- 

### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. The main thrust of the appellant's costs application is that the Council behaved unreasonably by not adequately substantiating the single reason for refusal, which cited conflict with Policy HG3 of the South Somerset Local Plan. It is also suggested that by defending the appeal, development was prevented which should clearly have been permitted, having regard to the development plan, national policy and any other material considerations.
3. The Council sought a discount of 35% below market prices for the intermediate housing units, although the evidence indicates that this is not common practice and this rate of discount has only ever been achieved on one site. However, while none of the planning policies I have been referred to specify particular market discount rates, the Local Plan does indicate that negotiations should take place on a site by site basis. As such, it may be expected that different market discounts may be applied to different sites.
4. Nonetheless, a discount of 35% appears a somewhat arbitrary starting point for the negotiations given that no calculations appear to have been carried out to justify this particular figure. However, I am mindful that costs may only be awarded where a party has behaved unreasonably during the appeal process. It seems to me that the negotiations leading up to the Council's decision to refuse were generally confined to the application process.
5. The scheme before me in this appeal proposed a 20% market discount and was refused by the Council on the basis that it would not address an identified housing need. In this regard, the Council substantiated its reasons with reference to the Strategic Housing Market Assessment, which national planning policy identifies as an appropriate way of assessing affordability.



6. While the appellant had evidence of lower discounts being applied to other sites, the Council note that no information regarding site viability had been presented in order to help justify a discount of 20%. The Council also made it clear that the Strategic Housing Market Assessment favoured social rented housing and hence the acceptance of intermediate housing in this proposal was something of a concession. Therefore, even though the Council did not provide many details of why a 35% market discount was considered appropriate, the reasons for refusing the proposed 20% discount were reasonably well substantiated within the appeal evidence.
7. Overall, I consider that the Council has justified its actions and hence acted reasonably. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

*C Cresswell*

INSPECTOR

# Agenda Item 11

## Schedule of Planning Applications to be Determined by Committee

*Director:* Martin Woods, Service Delivery  
*Service Manager:* Simon Fox, Lead Specialist - Planning  
*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 West Committee at this meeting.

### Recommendation

Members are asked to note the schedule of planning applications.

***Planning Applications will be considered no earlier than 6.30pm.***

Members of the public who wish to speak about a particular planning item are recommended to arrive for 6.20 pm.

SCHEDULE					
Agenda Number	Ward	Application	Brief Summary of Proposal	Site Address	Applicant
12	DONYATT	16/02289/S73A	Application to vary condition 02 (approved plans) of planning permission 12/02295/FUL to amend site layout	Donyatt Garage Donyatt Ilminster	Mr Fred Coate

Further information about planning applications is shown below 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 had 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.

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# Agenda Item 12

## Officer Report On Planning Application: 16/02289/S73A

<b>Proposal :</b>	Application to vary condition 02 (approved plans) of planning permission 12/02295/FUL to amend site layout
<b>Site Address:</b>	Donyatt Garage Donyatt Ilminster
<b>Parish:</b>	Donyatt
<b>NEROCHE Ward (SSDC Member)</b>	Cllr L P Vjeh
<b>Recommending Case Officer:</b>	Linda Hayden
<b>Target date :</b>	11th July 2016
<b>Applicant :</b>	Mr Fred Coate
<b>Agent: (no agent if blank)</b>	Mr Jim Bletcher 44 Mount Street Bishops Lydeard Taunton TA4 3LH
<b>Application Type :</b>	Minor Dwellings 1-9 site less than 1ha

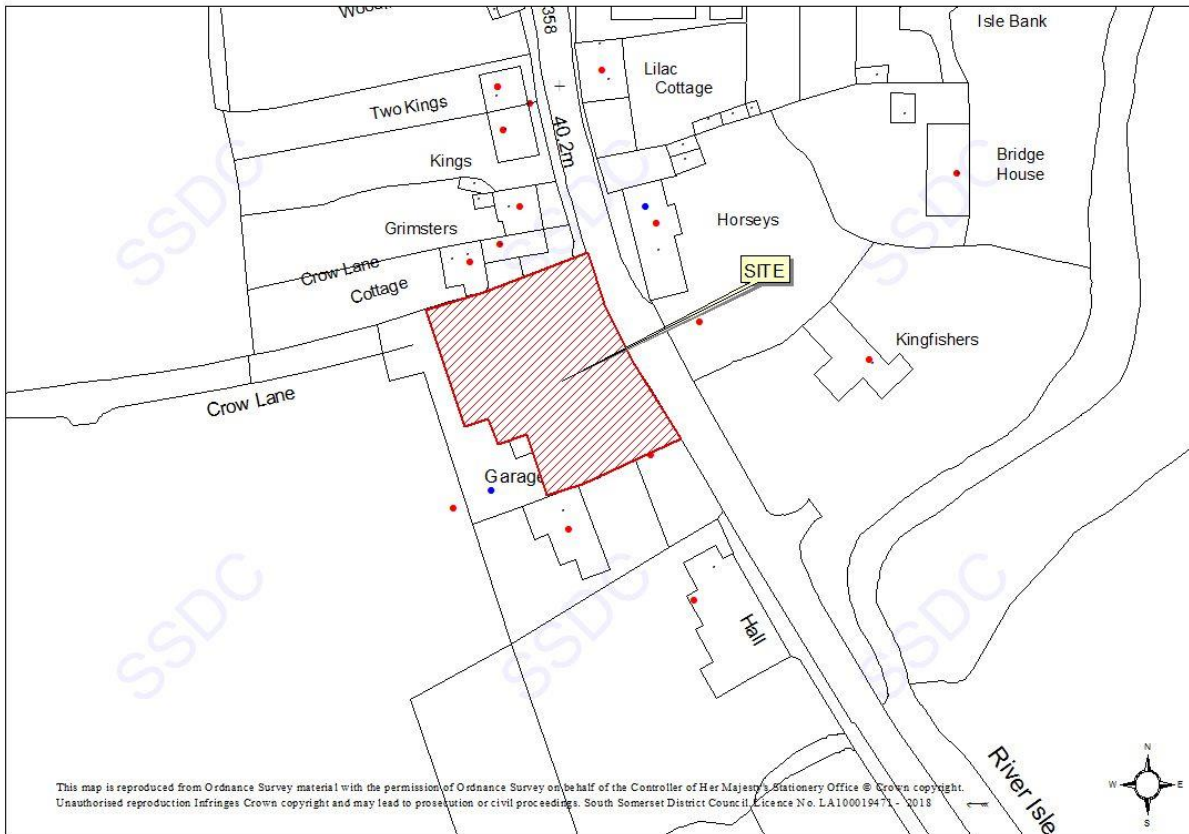
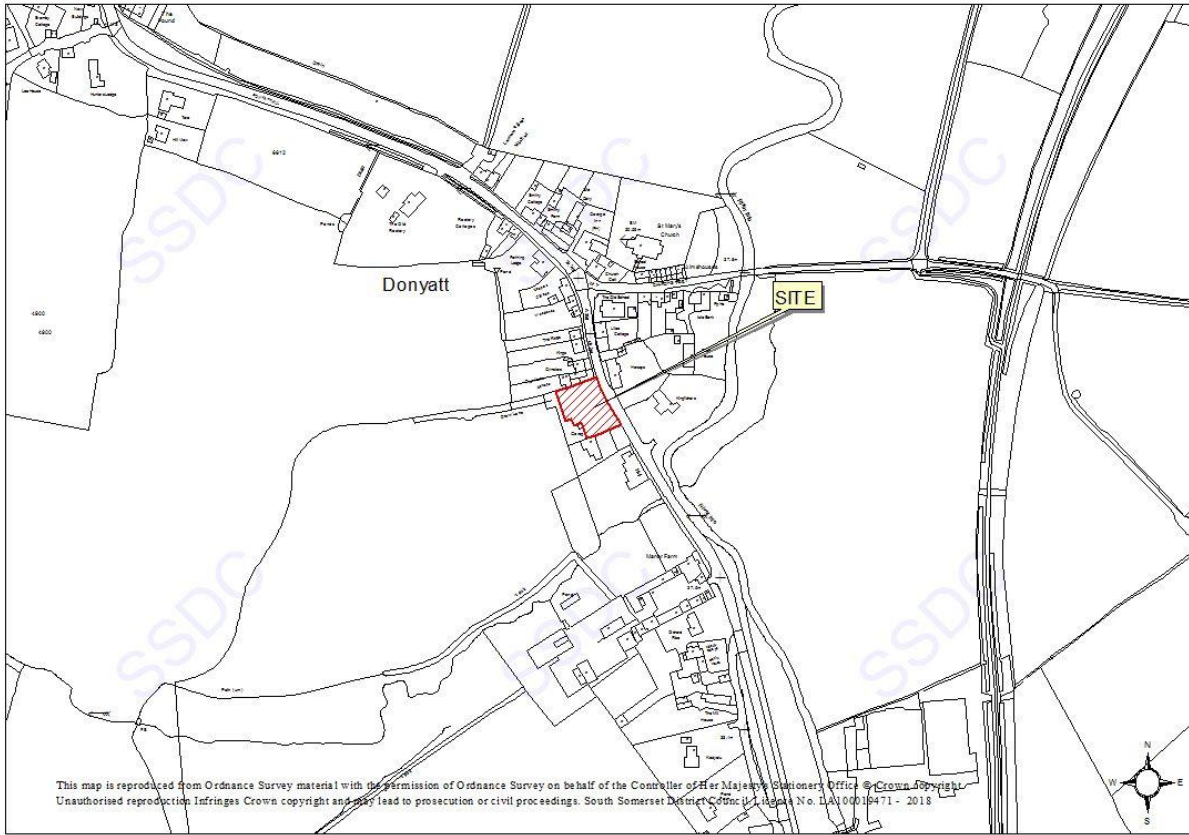
### APPLICATION HISTORY

Members will recall that this application was discussed at the last Area West Committee on 20th June 2018 at the request of the Ward Members, and with the agreement of the Area Chair, in order to allow discussion of the planning issues. The Committee resolved to defer the application to allow further discussions with the applicant and the County Highway Authority to consider amendments to the height of the front wall and relocation of the air source heat pump from the side elevation of Plot 1.

A meeting has therefore been held with the applicant and the County Highway Authority to discuss the Committee's requests. In terms of the front wall, the County Highway Authority advises that reducing the wall in height does not change the visibility splay. In addition, there is concern from the County Highway Authority that amendments to the front wall could have an effect on its structural integrity as it is a retaining structure. Furthermore, as the dwellings sit at a raised height it is understood that an appropriate boundary must be provided between the front path for the dwellings and the lower land adjacent to the road. The County Highway Authority has reconfirmed their view that there is sufficient visibility at the access with the wall at its current height and location; this has been confirmed through a number of visits by them to the site.

With regard to the air source heat pump, plans have been submitted showing this relocated onto the front elevation and screened by a timber enclosure.

# SITE DESCRIPTION AND PROPOSAL



This application relates to the former Donyatt Garage site which has been redeveloped to provide three dwellings, situated in the centre of Donyatt on the western side of the A358. Permission was granted in 2012 for the removal of all existing buildings on the site and the erection of three four-bedroom dwellings along with a covered parking area at the rear which is accessed from Crow Lane (12/02295/FUL).

The site sits just outside of the village Conservation Area.

The proposal seeks consent to vary condition 02 (approved plans) of planning permission 12/02295/FUL to allow the substitution of plans to accommodate alterations to the boundary wall and site layout. The plans have been amended to remove part of the boundary wall and re-site the electricity pole. In addition, a revised ownership certificate has been submitted confirming that an Article 14 Notice has been sent to Somerset County Council as it became apparent through the course of the application that some of the land adjoining Crow Lane was within the ownership of the County Council.

## **HISTORY**

Relevant history:

16/02808/FUL - Alterations to include the erection of extensions to rear of dwelling to accommodate additional residential accommodation and hydrotherapy unit for dogs. Approved 02/08/2016.

15/03963/FUL - The erection of 1 No. detached dwellinghouse (revised application). Approved 28/2/2017.

14/05208/FUL - Renewal of temporary permission for the change of use of part of land to hydrotherapy unit and the retention of 2 No. associated buildings. Approved 19/12/2014.

13/00088/FUL - Temporary change of use of part of land to hydrotherapy unit and the erection of 2 No. associated buildings. Approved 15/3/2013.

12/02296/FUL - The erection of extension to dwelling to accommodate a hydrotherapy unit for dogs and the erection of a detached double garage to be used as ancillary accommodation to dwelling. Approved 31/7/2012.

12/02295/FUL - Redevelopment of garage to include the erection of 3 No. detached dwellinghouses and the erection of a car port. Approved 26/7/2012.

05/02391/FUL - Demolition of existing buildings and erection of 6 houses and 2 bungalows with associated garages and parking (renewal 01/01654/FUL). Approved 12/10/2005.

01/01654/FUL - Demolition of existing buildings and erection of 6 houses with associated garages and parking. Approved 29/5/2002.

97/02836/COU - Use of garage building as offices and storage in connection with heating and plumbing business. Approved 9/2/1998.

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decisions must be made in accordance with relevant Development Plan documents unless material considerations indicate otherwise.

## Relevant Development Plan Documents

South Somerset Local Plan 2006:

Policies:-

SD1 - Sustainable Development

SS1 - Settlement Strategy

EQ2 - General Development

EQ3 - Historic Environment

TA5 - Transport Impacts of New Development

Section 72 of the Listed Buildings Act requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area. This requirement extends to all powers under the Planning Acts, not only those that relate directly to historic buildings. The desirability of preserving or enhancing the area should also, in the Secretary of State's view, be a material consideration in the planning authority's handling of development proposals that are outside the conservation area but would affect its setting, or views into or out of the area.

## National Planning Policy Framework (March 2012):

Chapter 4 - Promoting sustainable transport

Chapter 7 - Requiring good design

Chapter 12 - Conserving and enhancing the historic environment

National Planning Practice Guidance:

- Conserving and enhancing the historic environment
- Design

## CONSULTATIONS

### Donyatt Parish Council:-

#### Initial response (23/6/2016):

'Donyatt Parish Council strongly does not support this application on the following grounds:

Thorough and detailed investigations must be carried out to ascertain whether Crow Lane has been narrowed as a result the recent development of the new dwelling's boundary wall that the Council is convinced has not been built according to the original plans. The Council visited the site and measured the width of Crow Lane at its access to the A358 which is now 4.95m. The Council has seen evidence that Crow Lane previously, when a garage site, was 6.4m in total. (Please see Land Registry Document attached) This development has caused immense difficulties for all users of Crow Lane and is potentially dangerous for a serious accident to occur when accessing onto the very busy A358 or accessing into Crow Lane from the A358. Issues are as follows:

- Vehicles egressing Crow Lane, especially turning to Chard do not have sufficient visibility to exit Crow Lane safely as they must protrude onto the A358 to see if it is clear to proceed. The situation is exacerbated by a telegraph pole in the line of sight and black railings on top of a wall in front of the new development
- Large vehicles especially farm vehicles cannot access Crow Lane from the south without going onto the northern carriageway facing oncoming traffic to 'swing' into the Crow Lane. Crow Lane is regularly used by a tenant farmer so movements will be high. Drivers of large delivery vehicles will also suffer the same problem.

- The Council, together with Somerset Highways are monitoring the speed of traffic along the A358; the speed limit through the village is 30mph. There is substantial evidence of a continuing problem with vehicles travelling well in excess that limit, with SID data showing the median speed to be 37 mph and an average of some 30 vehicles per day travelling through the village at greater than 50 mph.
- The vehicle flow for Crow Lane will increase substantially when all the houses are occupied together with the hydrotherapy business and other residents along Crow Lane which will only exacerbate the problem. Most families have at least two cars and households will have visitors and deliveries with resulting increased traffic flow There is a strong possibility that cars will be parked along Crow Lane which will make the present situation worse and there could be a situation where a vehicle has to reverse out of Crow Lane onto the A358 because there is nowhere to turn
- There is also a problem for the tenant farmer at the rear of Crow Lane as a wall has been built directly in front of the access which leaves insufficient room to access and exit his fields.
- It would be extreme to demolish the present buildings if found that the development of 12/02295/FUL was not built according to the plans however this present situation must be rectified. The Council suggest that the developer should be made to:
  - Remove the perimeter wall along the entire length along Crow Lane and reinstate the original boundary along its length and its access onto the A358
  - The air conditioning unit will also have to be moved
  - Move the telegraph pole, but not on to Crow Lane itself
  - Take down the black railings along the top of the front wall.
  - Remove the wall around the parking spaces at the back of the development so the farmer can access his fields in the appropriate manner

If the developer is not willing to implement the above, then the variation of condition 2 should not be granted.'

**Response to additional information dated 27/6/2016 from applicant's agent (22/7/2016):**

'Donyatt previous response, dated 23.6.16, still stands and the Parish Council concurs with the SSDC Highways Office's response of 17.7.16.'

**Response to amended plans dated 22/12/2017 (1/2/2018):**

'Donyatt Parish Council does not support this application on grounds that the amendments have not addressed the serious safety issues

In June 2016 the Council responded to this application to vary condition 2 as follows: (in italics)

1) Thorough and detailed investigations must be carried out to ascertain whether Crow Lane has been narrowed as a result the recent development of the new dwelling's boundary wall that the Council is convinced has not been built according to the original plans. The Council visited the site and measured the width of Crow Lane at its access to the A358 which is now 4.95m. The Council has seen evidence that Crow Lane previously, when a garage site, was 6.4m in total. (Please see Land Registry Document attached)

**The Council is still convinced that part of the Highway, Crow Lane, has been built onto with the end of the dwellings wall and the stone wall.**



2) This development has caused immense difficulties for all users of Crow Lane and is potentially dangerous for a serious accident to occur when accessing onto the very busy A358 or accessing into Crow Lane from the A358. Issues are as follows:

- Vehicles egressing Crow Lane, especially turning to Chard do not have sufficient visibility to exit Crow Lane safely as they must protrude onto the A358 to see if it is clear to proceed. The situation is exacerbated by a telegraph pole in the line of sight and black railings on top of a wall in front of the new development
- Large vehicles especially farm vehicles cannot access Crow Lane from the south without going onto the northern carriageway facing oncoming traffic to 'swing' into the Crow Lane. Crow Lane is regularly used by a tenant farmer so movements will be high. Drivers of large delivery vehicles will also suffer the same problem
- The Council, together with Somerset Highways are monitoring the speed of traffic along the A358; the speed limit through the village is 30mph. There is substantial evidence of a continuing problem with vehicles travelling well in excess that limit, with SID data showing the median speed to be 37 mph and an average of some 30 vehicles per day travelling through the village at greater than 50 mph.
- The vehicle flow for Crow Lane will increase substantially when all the houses are occupied together with the hydrotherapy business and other residents along Crow Lane which will only exacerbate the problem. Most families have at least two cars and households will have visitors and deliveries with resulting increased traffic flow There is a strong possibility that cars will be parked along Crow Lane which will make the present situation worse and there could be a situation where a vehicle has to reverse out of Crow Lane onto the A358 because there is nowhere to turn

**Unfortunately, over 18 months on, the Council's concerns are justified as follows.**

- **Vans have entered Crow Lane in a forward gear on several occasions and then find that they cannot turn around, their only option is to reverse out onto the A358.**
- **The speed of traffic has increased with evidence that vehicles travel at median speed of 45mph**
- **It is noted that the telegraph pole is proposed to be moved but there is still not sufficient visibility for vehicles to access Crow Lane safely**
- **When all of the dwellings are occupied which they are not at present, more vehicles will be using Crow Lane with most families having two cars, households will have visitors and there will be more delivery vehicles.**
- **Vehicles are parking along Crow Lane presumable on a visit and, as Crow Lane has been made narrower, larger vehicles will not be able to access the lane at all**

3) There is also a problem for the tenant farmer at the rear of Crow Lane as a wall has been built directly in front of the access which leaves insufficient room to access and exit his fields.

**The wall around the parking area at the rear of Crow Lane is causing problems with farm vehicles blocking six of the seven residences for some considerable time. If the wall was not there, the vehicle could have reversed up to the gate of the field.**

**In June 2016 the Council made the following recommendations for the Council to approve the application**

- Remove the perimeter wall along the entire length along Crow Lane and reinstate the original boundary along its length and its access onto the A358
- The air conditioning unit will also have to be moved
- Move the telegraph pole, but not on to Crow Lane itself
- Take down the black railings along the top of the front wall.
- Remove the wall around the parking spaces at the back of the development so the farmer can access his fields in the appropriate manner

**The Council are now recommending:**

- Remove the perimeter wall along the entire length along Crow Lane and reinstate the original boundary along its length and its access onto the A358. The boundary of the development site should be along the end wall of the dwellings
- Remove the air conditioning unit as this is unsightly adjacent to a Conservation Area. The Conservation Area boundary runs along Crow Lane so it could be said that the air conditioning unit and the perimeter wall on Crow Lane actually jut out into the Conservation Area.
- Move the telegraph pole, but not on to Crow Lane itself
- Remove the boundary wall as indicated on the plan and also approximately 10 metres of the front wall with the railing so to create the necessary visibility splay
- Remove the wall around the parking spaces at the back of the development so the farmer can access his fields in the appropriate manner

If the developer is not willing to implement the above, then the variation of condition 2 should not be granted.'

In response to an email from the County Highway Authority in response to the Parish Council's comments of 1/2/2018, the Parish Council commented:

'...the Parish Council has agreed that the response made on 1.2.2018 still stands.

**Response to amended plans (14/5/2018)**

The Parish Clerk has advised that the Parish Council have not yet held a meeting to discuss the changes but councillors have said by email that 'they welcome the removal of the boundary wall and whether Crow Lane has been built upon or not - we are now leaving this to the experts to decide'. The Parish Clerk has advised that a further consultation with the councillors has taken place and they would like to add that the heat exchanger is sited in a conservation area and would like it moved.

**County Highway Authority:-****1st response (22/6/2016):**

'It is self-evident that there are no visibility splays provided with the amended plans package as submitted to the LPA, showing what actual visibility splays that can be achieved on site at this point in time. As this is an application seeking to vary a highway related condition, then there is a possibility that there will be an impact on highway safety and visibility.

As such I would require the developer to submit a revised plan showing the visibility splays that can be achieved on site at this point in time so that they can be formally assessed. If these are not provided, I would have no alternative other than to recommend a refusal on lack of information.'

**2nd response (6/7/2016):**

'...following a site visit on the same day have the following observations on the highway and transportation aspects of this proposal:-

The application is to vary condition 2, which is to amend the boundary wall and the site layout.

It is the opinion of the Highway Authority that if the variation of condition 2 is allowed this will mean that there is a potential highway safety concern with the junction with Crow Lane and the A358. The variation of the condition will also narrow the width of Crow Lane. This could obstruct the flow of traffic which again could cause a potential highway safety concern. If the variation of conditions is allowed it will also mean that the width of Crow Lane will be narrowed. This will have an impact on road users as well as highway safety. The narrowed lane would not allow vehicles to pass one another. As such

any vehicle wishing to turn into Crow Lane while a vehicle has parked or is waiting to exit the junction will cause an obstruction on the A358, again which could be a potential highway safety concern.

The proposed variation of condition has also meant that visibility has been reduced. The A358 has a speed limit of 30mph and using Manual for Streets (MfS) the required visibility for a 30mph speed limit would be 2.4x43metres. Drawing titled "As Built Site Layout" shows that the visibility that can be achieved is only 2.4x20metres, less than half of the required amount and this could potentially lead to a highway safety concern.

The Highway Authority would recommend that the variation of condition is not approved due to the implications that the proposal would have on highway safety and the proposal is contradictory to section 4 of the National Planning Policy Framework (NPPF).'

### **3rd Response (19/1/2017):**

'After our meeting on site on Tuesday 22 November 2016 and meetings with Somerset County Council Property Services the Highway Authority has the following comments as agreed during our site visit.

The Highway Authority does have concerns over the works that have been undertaken on Crow Lane on the site of the former Donyatt Garage. Further conversations with Somerset County Councils Property Services have also raised concerns over land ownership and a conflict between the dwellings that have been constructed as Somerset County Council owns some of the land beyond the adopted Highway.

From onsite observations, there are safety concerns with the access onto the A358 from Crow Lane, including the location of the telegraph pole and the newly constructed wall that are both directly in the visibility splay. The restricted visibility poses a severe highway safety concern especially taking into consideration that the A358 has such a high traffic flow. The junction should have sufficient visibility to allow safe movement to and from Crow Lane and it is apparent the wall that has been constructed has not allowed for visibility.

The Highway Authority deemed that the visibility from the access in application 12/02295/FUL would have been sufficient taking into account that the wall both on Crow Lane and the A358 was to be set further back, there was sufficient radii on the junction with the A358 and the plan shows that there was no wall after the access into the parking area on Crow Lane and these are shown in the original plans, Drawing Number 1206.05. Taking this into account, the telegraph pole would have to be moved and the wall either splayed at 45 degrees or altogether removed as this would open up the visibility splays to enable the required visibility from the junction.

The details for visibility can be found in Manual for Streets (MfS) where the Highway Authority would require 2.4x43metres with no obstruction greater than 300mm

It was also noted that the wall leading from the parking area has a wooden fence above which increased the height and this also represents an obstruction to visibility and was not part of the original planning conditions. When leaving the area that has been allocated for car parking, the wooden fence now obstructs the level of visibility that can be achieved and as such would need to be removed to allow vehicular visibility along Crow Lane.

From onsite observations it was apparent that the developer has constructed a wall that runs adjacent to Crow Lane to the allocated parking area from the junction with the A358. The original plans showed that this wall was set back from the edge of the carriageway which would have a margin on the side of the carriageway. The applicant should be aware that although the wall has been constructed on or adjacent to the edge of the adopted highway, any construction should be set back from the edge of the highway a minimum of 450mm and would need a license from the Highway Authority to undertake such works on or adjacent to the highway.

When observing Crow Lane it was apparent that patched resurfacing had taken place and there was considerable damage to the carriageway surface. The developer would have to resurface Crow Lane along its entirety to have a fully consolidated surface. It is also noted that the works to resurface Crow Lane were not done so with an appropriate agreement, consent or license. The applicant must ensure that any future works on the highway are done so with the appropriate agreement, consent or license in place.

Ultimately the encroachment onto and adjacent with the highway represents a severe highway safety issue and as such this would need to be addressed in order for the Highway Authority to be satisfied that the highway safety element has been satisfactorily remedied and would allow for the safer movement of vehicles to and from Crow Lane.

Having consulted colleagues and the land registry office, it is apparent that the end dwelling is on land that is owned by Somerset County Council, although it is not Highway Land. As such the applicant should:

- Move the wall on Crow Lane back
- Move the telegraph pole out of the visibility splay with the junction with the A358
- Change the access to the parking area to allow sufficient visibility along Crow Lane
- The Developer would have to liaise with Somerset County Councils Property Services with regards to the acquisition of land.

Taking the above into account, there are concerns from the Highway Authority over the access and highway safety implications of the access and from Somerset County Councils Property Services over land the developer has built on that was not (and is still not) under the control of the developer.'

**4th response (24/1/2018) following receipt of amended plans and new ownership certificate:**

'There are still land ownership issues that the applicant will need to address with Somerset County Council Property services.

When looking at the highway related aspects of this planning application, the submitted plans would appear to have taken into consideration the concerns that were raised by the Highway Authority and therefore would not raise an objection to application to vary the condition.'

The County Highway Authority has also responded to a number of emails from a local resident and have stated the following:

- 'The Highway Authority cannot give a definitive position statement to confirm (or deny) if the development (boundary wall) has been built on the adopted public highway. It is however clear that the wall has not been set back from the edge of the carriageway as originally intended.
- It is however clear that the development has been built on land in the ownership of the County Council (which is not adopted public highway). The land issue is being dealt with by Somerset County Council's property services team.
- The telegraph pole is proposed to be moved (again) and the wall reduced in height as part of the S73 planning application 16/02289/S73A and the visibility increased to 2.4x22metres. However, Manual for Streets 2 (MfS2) does allow for the 'X' distance to be 2.0m rather than 2.4m in some circumstances which would provide visibility of 2.0x43m.
- As part of the S73 proposal, the telegraph pole has been moved and the wall splayed (rather than being at right angles) which will aid vehicles entering and exiting Crow Lane. This will help to reduce conflicting traffic movements at this junction.

- The Highway Authority cannot recommend to the Local Planning Authority that visibility splays greater than the posted speed limit are provided. The Highway Authority cannot insist on greater visibility splays, as a result of illegal activity. It would be a police enforcement matter if there is regular speeding concerns.
- It is anticipated that the traffic generated by the permitted dwellings will not be significantly different to that from the former garage. With regard to indiscriminate parking, should there be vehicles blocking or obstructing the highway, this is a police enforcement matter.
- The adopted highway on Crow Lane has never had the benefit of a turning head as part of the highway. Whilst it is acknowledged that vehicles were able to turn on private land prior to the residential development being constructed, the situation now with the adopted highway is no different than it has been historically.
- It should be noted that the average dwelling generates 6-8 vehicle movements per day which would mean that the site would generate an additional 24 vehicle movements which equates to approximately 2 in the peak hours. This is likely to be similar to (or less than) the traffic generated by the garage when it was in operation.
- It must be remembered that the development has been built on county council owned land but (probably) not on the adopted highway land. It is acknowledged that with the wall being built on or at the edge of the adopted highway, the effective width of the carriageway is narrower, but the actual width is likely to be unchanged or only minimally altered.
- The wall defines the boundary of the private land. If the farmer had the benefit of use of private land previously, then this is not a consideration through the planning process. It should however be noted that the wall 'regularises' the parking arrangements and would prevent vehicles from parking too far across and potentially creating an obstruction on the access to the rear of the site.'

**5th response (16/6/2018) following receipt of amended plans showing removal of side boundary wall (received after June report was finalised):**

'Further to receipt of the additional amended plans for the above application (dated by SSDC 14 May 2018), I am now able to respond with the view of the Highway Authority.

I apologise for the delay in this reaching you and the response being provided so close to committee, but I have just returned from annual leave.

The removal of the boundary wall adjacent to Crow Lane is acceptable to the Highway Authority and gives more available width for vehicles.

With regard to the visibility at the junction, the relocated pole is in an acceptable location and it is anticipated that once the 'old' pole closest to the A358 is removed, the visibility will be acceptable. The available visibility of 2m x 43m is in accordance with Manual for Streets, for 30mph traffic. I note the Parish Council concerns regarding the speed of vehicles past the site; however it is not appropriate or reasonable to ask the developer to provide a visibility splay that caters for unlawful driver behaviour.

If the air conditioning unit is to remain in place, this may need to be protected by the installation of a post or bollard either side of the unit, to ensure that this is not a hazard to pedestrians or will be subject to vehicle strikes. The detail of these should be submitted for approval, to ensure that they are correctly located to avoid impacting on the visibility splay or function of the highway.

Given the emotive nature of this application and its history, it is my intention to attend the committee to assist members with their deliberations and answer any questions that I am able.'

**Rural Estates Manager (Somerset County Council) (15/6/2016):**

'I wish to object on behalf of Somerset County Council as an adjacent landowner, to the proposals to vary condition 02 of planning reference 12/02295/FUL, to amend the boundary wall and site layout.

As you know there has been a lot of agitation caused by this development which is clearly not in line with the plans that were originally submitted. The width of Crow Lane is crucial to access over 40 acres of land that is primarily used silage making in the summer and grazing in the winter. Grass cutting could easily amount to 3 separate cuts over the season and the production and removal of about 500 tonnes of silage from the land for winter storage. This will involve between 70 and 100 trailer loads using the lane. The fact that it has now been restricted by almost a metre and a half has meant considerable hardship for the Council's farming tenant who has difficulty in carrying on with his usual business to the extent that he has suggested to me that he would have to give it up if the situation continues.

This seems to be a very unfair position for both the landowner and tenant, when a clear breach of planning conditions has resulted in this situation. I believe a solution has been suggested whereby the boundary wall is removed and the house wall becomes the new boundary in relation to the road, so that the width is restored. The parking area also now has walls that were not in the original plans and these directly impinge on the field access. Removal of all these walls would cause no hardship to the residents compared to the current situation, which now seriously affects all users of Crow Lane. I would also ask that the AC unit is placed in a different location as it too causes an unnecessary obstruction to what is in effect a public highway.

I believe the original plans were deliberately drawn to show measurements that differed with the scale drawings. The new plans do not have enough detail (no measurements) and when scaled, do not reflect the position on the ground. This is very easy to verify.

I believe Crow Lane should be restored to an acceptable width so that the existing and new residents and workers in Donyatt can continue about their business as before without this imposed and unnecessary restriction.'

**Estates Manager, Corporate Property (Somerset County Council) (3 July 2018):**

'I confirm the County Council as land owner has no objection to the revised application, having reached agreement to sell (subject to contract) the necessary land to accommodate the development.

We will need a plan that is land registry compliant, I suspect this will need to be surveyed, but I will speak to Greenslade Taylor Hunt who produced a plan earlier this year.'

Senior Historic Environment Officer:

'As far as we are aware there are limited or no archaeological implications to this proposal and we therefore have no objections on archaeological grounds.'

**REPRESENTATIONS**

There has been considerable correspondence received in response to this application which includes exchanges of emails between an objector and the County Highway Authority.

In response to the original submission, the following comments (summarised were made):

- The new build makes exiting Crow Lane onto the A358 difficult as; the road is narrower than planned; there are railings that interfere with visibility; a telegraph pole has been placed in the

visibility splay. If the telegraph pole is moved on to the lane this will further reduce its width.

- Visibility is below that required on a 30mph road. Average vehicle speeds through the village are 45mph.
- The narrowness of the lane could lead to vehicles queueing on the A358 or having to reverse up the lane. Also results in; vehicles driving over private land to pass each other and park/turn; damage to neighbours vegetation; damage to neighbours vehicles; near misses at junction.
- The vehicle flow along the lane has increased substantially as there are 7 houses, an annexe, a hydrotherapy business and a farm access. Situation will worsen once all properties are occupied.
- Parking along the lane causes difficulties with access; inadequate parking is provided.
- There is no pedestrian path as required by the approved plans. The development is therefore less safe for pedestrians
- Dispute the information given in the application documentation; drawings are not to scale.
- There is a large and ugly air conditioning unit on the side of the property.
- The problems at the site will cause a devaluation of neighbouring property prices.
- Do not require that the development be demolished but that the boundary wall be sited in accordance with original approved plans.
- Perimeter wall should be removed; air conditioning unit should be relocated; edge of the house should form the boundary; pavement should be reinstated; walls removed from parking area; railings and telegraph pole moved from visibility splay.
- Narrowness of lane causes difficulties for farm vehicles using the farm access along the lane.
- The lane has always provided a right of access to the county land at the rear of the application site.
- Wall has been constructed on the highway owned by the County Council; the original deeds show the boundary of the garage with the lane being 5.5m wide. The planning authority should take responsibility for ensuring that the wall is removed from the highway. Legislation allows the highway authority to seek the removal of obstructions on the highway
- The planning authority has failed in its responsibility to; fully consider the original plans where there was a discrepancy between the written measurement and the actual plan; failed to notify the highway authority that the wall was being built in their land; did not comply with the parking strategy as advised by the County Highway Authority.
- The original plan should have been followed and the developer should not be allowed to ignore the original requirements.
- Lane needs to be resurfaced.
- Neighbour has had to provide additional parking provision for their property as it is no longer possible to park on the lane, resulting in a smaller garden and expense resulting from the unauthorised development.

A letter making general comments on the application from the previous site owner advises that discussions took place with the County Highway Authority to establish the extent of the highway and a plan was agreed. They state that their plan is a more accurate guide to the boundary than the land registry plan supplied by the Parish Council. Also includes wayleave payments to show that the electricity pole was on private land. Express concern that the removal of the railings would be a health and safety issue.

In response to the first set of amendments (with new ownership certificate) and highways responses, further responses were received repeating the concerns expressed above and making the following additional comments (summarised):

- Crow Lane is wider than Highways have stated and they are breaking the law by not maintaining the original width of the road. There is a road drain that showed the extent of the highway but this has now been built upon. It is unacceptable for the highway authority to not give a definitive response on the extent of the adopted public highway; they should err on the side of caution.
- The County Council may have the right to sell the land to the developer but cannot give up the highway rights over the land.

- A new application for a dwelling in the village was required to provide a 60m visibility splay. Question why is it acceptable for the development at the garage site to have a reduced splay which is not in accordance with guidance.
- The splay should be based on actual speeds through the village not on the basis of the speed limit. The effective carriageway width is 3.95m; highways advise that the minimum width of a two lane carriageway is 4.5m.
- The highway authority has previously stated that the encroachment of the development onto and adjacent the highway represents a severe highway safety issue question how they can now have no objection to the application.
- The highway authority appear to have ignored their previous requirement that the lane be resurfaced.
- Highways can require additional visibility splays to deal with real-world situations such as where speed limits are broken.
- Query the highways assessment of the number of traffic movements that will be generated; this will be more than that generated by the previous garage use when combined with the existing houses and businesses that also use the lane.
- Query if the calculations regarding pedestrian visibility (particularly children) have been applied.

Additional correspondence was received between the preparation of the previous report and date of the meeting. This included a further email exchange between an objector and the County Highway Authority. The correspondence relates to further concerns regarding the position of drain which the objector believes was on a highway land and the levels of visibility at the access.

## **CONSIDERATIONS**

Approval was granted in 2017 for this scheme and work has commenced on site.

With an existing permission remaining extant, the principle of development is considered to be established. The only matters that need to be considered here are those that the current application seeks to amend which relate to the alterations to the siting of the dwellings and the boundary wall. It should be noted that amended plans have been received showing the boundary wall alongside Plot 1 removed (this work has now been completed). In addition, the telegraph pole is in the process of being re-sited so that it will be located adjacent to Plot 1.

### **Highways Issues**

Amended plans have been received showing the removal of the boundary wall that had caused the concerns about the narrowing of Crow Lane. In addition, the telegraph pole is in the process of being re-sited adjacent to Plot 1 (outside of the visibility splay). These changes will allow the width of the lane to be widened to at least 5.5m from the junction with the A358 to the rear parking area. As such, it is considered that these amendments have improved access along this part of the lane.

With regard to the visibility splay, the relocation of the telegraph pole means that the visibility will be as agreed in the original approved plans and the County Highway Authority have indicated that they are satisfied with the levels of visibility provided.

In terms of the levels of traffic activity, there has been no change to the amount of development at the site and as such this application will not result in any additional movements. The additional developments near the site that use the lane were considered in full knowledge of the housing development.

In terms of the extent of the highway, this is a matter for the County Council to establish and enforce. The applicant has submitted the necessary ownership certificate to confirm that notice of the



application has been served upon Somerset County Council and as such it would not be appropriate to refuse the application on this basis. It should be noted, however, that the grant of planning permission in this case would not override the relevant legislation covering obstructions on an adopted highway or prevent enforcement by the County Council.

In terms of parking levels, these are as shown on the original approved plans and this application would not alter the agreed arrangements.

In terms of the resurfacing of the lane, this will be a matter for the County Council to resolve with the developer as the lane is adopted highway. The fact that the lane is adopted also means that the access to the farm remains available.

In summary, the amended plans show the removal of the boundary wall and the relocation of the telegraph pole that had caused the concerns regarding the width of the road and visibility. The County Highway Authority do not object to the proposals and are satisfied with the levels of visibility at the access. In the circumstances, it is not considered that the revised proposals could reasonably be refused on the grounds of highway safety. The proposal therefore accords with Policies TA5 and TA6 of the South Somerset Local Plan 2006-2028.

### **Impact upon setting of Conservation Area**

The amended proposals show that the dwellings have been sited 0.8m (approximately) closer to Crow Lane than the original approved scheme. Due to the relatively minor nature of the change, it is not considered that this variation has resulted in an unacceptable impact upon the setting of the conservation area.

The application therefore complies with policy EQ3 of the South Somerset Local Plan 2006-2028.

### **Impact upon residential amenity**

The proposals have brought the end elevation of Plot 1 0.8m (approximately) closer to the existing dwelling opposite. However, it is not considered that this relatively modest change has resulted in such a significant loss of amenity as to justify refusal of the application. It is noted that the side window on the plot was required to be obscurely glazed prior to occupation under the original scheme but clear glass has been installed. Given that this is a landing window that only serves the staircase it is not considered reasonable to require that this be obscurely glazed.

The recent amended plans, submitted to address the concerns about the narrowing of the lane, have now ensured that the lane is at least 5.5m wide from the junction with the A358 to the rear parking area.

The application therefore complies with policy EQ2 of the South Somerset Local Plan 2006-2028.

### **Other Issues**

Air source heat pump (Plot 1) - Amended plans have been received showing this relocated to the front of the dwelling with a timber screen. This is considered to be an improvement on the existing situation that ensures that the unit still functions in an effective manner (relocating the unit to the rear of the property would reduce its efficiency). Whilst not ideal, this is considered to be an acceptable compromise given the relocated telegraph pole that sits adjacent to the revised site which provides further screening. A condition is recommended requiring that the unit be relocated within three months of the grant of permission.

## Summary

As requested by Committee, discussions have taken place with the applicant regarding the front boundary wall and the air source heat pump on Plot 1. The County Highway Authority has advised that a reduction in height of the front wall would not improve visibility and they have restated their view that the visibility at the entrance is acceptable. In terms of the air source heat pump, revised plans have been submitted showing this relocated and appropriately screened.

Whilst it is unfortunate that works have taken place that were not in accordance with the approved plans, it is considered that the application has adequately addressed the concerns regarding the width of the access. Furthermore, the telegraph pole will be taken out of the visibility splay. Given that the County Highway Authority does not object to the plans, it is not considered that it would be reasonable to refuse the application on the grounds of highway safety as the visibility at the access is now in accordance with the original approved plans. The issue regarding the extent of the adopted highway is one for the County Council to address as the appropriate certificate has been submitted with this planning application.

It is not considered that the changes have resulted in demonstrable harm to residential amenity or the setting of the conservation area.

## RECOMMENDATION

Approve

01. The proposal variations to the approved plans are considered to respect the setting of the conservation area and cause no demonstrable harm to residential amenity or highway safety in accordance with the aims and objectives of policies EQ2, EQ3, TA5 and TA6 of the South Somerset Local Plan and the provisions of the National Planning Policy Framework.

## SUBJECT TO THE FOLLOWING:

01. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan (1:1250), Drawing No.'s 1206.06, 1206.07, 1206.08, 1206.09, 1206.10, 1206.11, 1206.12, 1206.13A, 1206.14, 1206.15, 1206.16, 1206.17, 1206.18, 1206.19, 276/C2, 276/L2B and 276/C.

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

02. No infiltration of surface water drainage into the ground at the site is permitted other than with the express written consent of the LPA, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason: The use of SUDs in contaminated areas has the potential to cause mobilisation of contamination. Therefore this condition should be applied to areas in the site where contamination has been identified to protect controlled water.

03. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no garages or outbuildings shall be erected other than those expressly authorised by this permission.

Reason: To safeguard the character and appearance of the setting of the conservation area and to accord with policies EQ2 and EQ3 of the South Somerset Local Plan 2006-2028.

04. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without

modification), no additional windows, including dormer windows, or other openings (including doors) shall be formed in the building, or other external alteration made without the prior express grant of planning permission.

Reason: To safeguard the character and appearance of the setting of the conservation area and to accord with policies EQ2 and EQ3 of the South Somerset Local Plan 2006-2028.

05. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no extensions to these buildings without the prior express grant of planning permission.

Reason: To safeguard the character and appearance of the setting of the conservation area and to accord with policies EQ2 and EQ3 of the South Somerset Local Plan 2006-2028.

06. The parking areas and car port allocated for parking on the submitted plan shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby approved.

Reason: In the interests of highway safety and to accord with Policy TA5 and TA6 of the South Somerset Local Plan 2006-2028.

07. Within three months of the date of this permission, the air source heat pump currently located on the side elevation of Plot 1 shall be relocated to the front of the dwelling in accordance with the details shown on Drawing No. 276/C.

Reason: To safeguard the character and appearance of the setting of the conservation area and to accord with policies EQ2 and EQ3 of the South Somerset Local Plan 2006-2028.

#### **Informatives:**

01. The applicants attention is drawn to the comments of the Environment Agency in their letter dated 6 July 2012:-

'The site must be drained by a separate system of foul and surface water drainage, with all clean roof and surface water being kept separate from foul water.

Oil storage facilities should be sited in bunded areas. The capacity of the bund should be at least 10% greater than the capacity of the storage tank or, if more than one tank is involved, the capacity of the largest tank within the bunded area. Hydraulically inter-linked tanks should be regarded as a single tank. There should be no working connections outside the bunded area.

During construction the following comments apply: -

Discharge of silty or discoloured water from excavations should be irrigated over grassland or a settlement lagoon be provided to remove gross solids. This Agency must be advised if a discharge to a watercourse is proposed.

This Agency must be notified immediately of any incident likely to cause pollution.

Any movements of waste off or on to site must comply with the Duty of Care Regulations 1991. Any activity that uses waste materials on site must also comply with the Environmental Permitting Regulations 2010.'